Volume 40, No. 6, Pages 4737 to 5717,
July 11 – August 3, 2025

FCC Record

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FCC Record Volume 40, No. 6, Pages 4737 to 5717, July 11 – August 3, 2025

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



FEDERAL COMMUNICATIONS COMMISSION

Brendan Carr, Chairman
Anna M. Gomez
Olivia Trusty

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Citation Form: 40 FCC Rcd 1 (2025)

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Federal Communications Commission Record

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

In re Application of	)	NAL/Acct. No. MB-202541410004
	)	
A Radio Company, Inc.	)	FRN: 0010555654
	)	
for Consent to Transfer of Control of Station	)	Facility ID No. 69853
	)	
WEGA(AM), Vega Baja, Puerto Rico	)	Application File No. 0000239561
	)	
from	)	
	)	
Ricardo Angulo (Deceased) (Transferor)	)	
	)	
to	)	
	)	
Eddie Rivera (Transferee)	)	

ORDER

Adopted: July 11, 2025 **Released: July 11, 2025**

By the Chief, Audio Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and A Radio Company, Inc. (Licensee), licensee of station WEGA(AM), Vega Baja, Puerto Rico (Station). The Consent Decree resolves issues arising from the Bureau's review of the captioned application (Application).[1]

2. In the course of processing the Application, the Bureau staff found that an unauthorized transfer of control occurred prior to the filing of the Application. Pursuant to the terms of the Consent Decree, Licensee stipulates that it violated section 310(d) of the Communications Act of 1934, as amended (the Act),[2] and section 73.3540 of the Commission's Rules (Rules).[3]

3. The Consent Decree requires, among other things, that Licensee make a five thousand dollar ($5,000) Voluntary Contribution payment to the United States Treasury. A copy of the Consent Decree is attached hereto and incorporated by reference.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau's investigation of potential violations of the Rules and the Act in connection with the Application.

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

[1] Application File No. 0000239561 (filed Feb. 21, 2024). *See Broadcast Applications*, Public Notice, Report No. PN-1-240226-01, at 7 (MB Feb. 26, 2024).

[2] 47 U.S.C. § 310(d).

[3] 47 CFR § 73.3540.

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

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

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to A Radio Company, Inc., and to its counsel, John Wells King, Esq., 4051 Shoal Creek Lane East, Jacksonville, FL 32225.

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

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

[4] 47 U.S.C. § 4(i).

[5] 47 CFR §§ 0.61, 0.283.

[6] *Id.* § 73.3526(e)(10).

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

In re Application of	)	NAL/Acct. No. MB-202541410004
A Radio Company, Inc.	)	FRN: 0010555654
for Consent to Transfer of Control of Station	)	Facility ID No. 69853
WEGA(AM), Vega Baja, Puerto Rico	)	Application File No. 0000239561
from	)	
Ricardo Angulo (Deceased) (Transferor)	)	
to	)	
Eddie Rivera (Transferee)	)	

CONSENT DECREE

I. INTRODUCTION

1. This Consent Decree is entered into by and between the Media Bureau (Bureau) of the Federal Communications Commission and A Radio Company, Inc., licensee of the above-captioned station, for the purpose of terminating the Bureau's investigation concerning compliance with section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), and section 73.3540 of the Commission's Rules, 47 CFR § 73.3540.

II. DEFINITIONS

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

(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et. seq.*;

(b) "Adopting Order" means the order of the Bureau adopting this Consent Decree;

(c) "Application" means the Voluntary Transfer Application;

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

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

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

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

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

(i) "Licensee" means A Radio Company, Inc., licensee of station WEGA(AM), Vega Baja, Puerto Rico, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest;

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

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

(l) "Violations" mean the violations of the Voluntary Transfer of Control Rule and section 310(d) of the Act;

(m) "Voluntary Transfer Application" means the FCC Form 2100, Schedule 315 application for consent to transfer of control, Application File No. 0000239561; and

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

III. BACKGROUND

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

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

The Voluntary Transfer of Control Rule implements section 310(d) of the Act.[2] The Voluntary Transfer of Control Rule states, in pertinent part, that "[p]rior consent of the FCC must be obtained for a voluntary assignment or transfer of control."[3] It is well-settled that "control" as used in the Act and the Voluntary Transfer of Control Rule encompasses all forms of control, actual or legal, direct or indirect, negative or affirmative, and that passage of *de facto* as well as *de jure* control requires the prior consent of the Commission.[4]

4. Ricardo Angulo held 100% of the Licensee's voting stock. He transferred all of the stock to Eddie Rivera, effective January 1, 2023, without prior Commission consent.[5] On February 21, 2024, Licensee filed the Voluntary Transfer Application,[6] disclosing the unauthorized transfer of control.[7]

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

IV. TERMS OF AGREEMENT

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

---

[1] 47 U.S.C. § 310(d).

[2] 47 CFR § 73.3540.

[3] *Id*. § 73.3540(a).

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

[5] *See* Voluntary Transfer Application Attach., Stock Purchase Agreement – English.

[6] *See Broadcast Applications*, Public Notice, Report No. PN-1-240226-01, at 7 (MB Feb. 26, 2024).

[7] *See* Voluntary Transfer Application Attach., Statement of the Transaction and Circumstances.

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

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

9. **Termination of Investigation**. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein.

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

11. **Admission of Facts**. Licensee stipulates that its actions described in Paragraph 4 violated section 310(d) of the Act and the Voluntary Transfer of Control Rule.

12. **Voluntary Contribution**. Licensee agrees to pay the Voluntary Contribution to the United States Treasury in the amount of five thousand dollars ($5,000), within thirty (30) calendar days after the Effective Date. Licensee acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of the Debt Collection Improvement Act of 1996.[8]

13. **Payment**. Licensee will also send electronic notification of payment to Joseph Cohen at Joseph.Cohen@fcc.gov and Olivia Hill at Olivia.Hill@fcc.gov on the date said payment is made. Payment of the Voluntary Contribution must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),[9] or by wire transfer. The Commission no longer accepts Voluntary Contribution payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:[10]

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed FCC Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor

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

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

[10] 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.

FRN).[11] 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 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. (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. **Qualifications; Agreement to Grant**. The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether the Licensee possesses the basic qualifications, including those relating to character, to hold a Commission license or authorization. Accordingly, the Bureau agrees to grant the Voluntary Transfer Application after the Effective Date, provided that the following conditions have been met: 1) the Voluntary Contribution payment, referenced in paragraph 12 of this Decree, has been fully and timely satisfied; and 2) there are no issues other than the Violations that would preclude grant of the Voluntary Transfer Application.

15. **Waivers**. Licensee agrees to waive any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If any Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, no Party will contest the validity of the Consent Decree or Adopting Order, and Licensee will waive any statutory right to a *trial de novo*. Licensee further agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[12] relating to the Consent Decree or Adopting Order.

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

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

[12] 5 U.S.C. § 504; 47 CFR §§ 1.1501-.1530.

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

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

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

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

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

22. **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.

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

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

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION



By: _____
Albert Shuldiner, Chief, Audio Division

Date: 7/11/2025

A Radio Company, Inc.

By: _____
Eddie Rivera

Date: _____

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

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

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

22. **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.

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

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

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: _____
Albert Shuldiner, Chief, Audio Division

Date: _____

A Radio Company, Inc.

By: Eddie Rivera
Eddie Rivera

Date: 06/27/2025

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

In re Application of	)	NAL/Acct. No. MB-202541410002
	)	
Om Sai Broadcasting, LLC	)	FRN: 0030273650
	)	
for Consent to Transfer of Control of Station	)	Facility ID No. 37805
	)	
WBWD(AM), Islip, New York	)	Application File No. 0000235934
	)	
from	)	
	)	
Yash Pandya (Transferor)	)	
	)	
to	)	
	)	
Sejal Dasondi (Transferee)	)	

ORDER

Adopted: July 15, 2025 **Released: July 15, 2025**

By the Chief, Audio Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Om Sai Broadcasting, LLC (Licensee), licensee of station WBWD(AM), Islip, New York (Station). The Consent Decree resolves issues arising from the Bureau's review of the captioned application (Application).[1]

2. In the course of processing the Application, the Bureau staff found that unauthorized transfers of control occurred prior to the filing of the Application. Pursuant to the terms of the Consent Decree, Licensee stipulates that it violated section 310(d) of the Communications Act of 1934, as amended (the Act),[2] and section 73.3540 of the Commission's Rules (Rules).[3]

3. The Consent Decree requires, among other things, that Licensee make a ten thousand dollar ($10,000) Voluntary Contribution payment to the United States Treasury. A copy of the Consent Decree is attached hereto and incorporated by reference.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau's investigation of potential violations of the Rules and the Act in connection with the Application.

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

[1] Application File No. 0000235934 (filed Jan. 22, 2024). *See Broadcast Applications*, Public Notice, Report No. PN-1-240124-01, at 1 (MB Jan. 24, 2024).

[2] 47 U.S.C. § 310(d).

[3] 47 CFR § 73.3540.

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

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

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Om Sai Broadcasting, LLC, and to its counsel, John Neely, Esq., 4 Simms Court, Kensington, MD 20895.

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

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

[4] 47 U.S.C. § 4(i).

[5] 47 CFR §§ 0.61, 0.283.

[6] *Id.* § 73.3526(e)(10).

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

In re Application of	)	NAL/Acct. No. MB-202541410002
	)	
Om Sai Broadcasting, LLC	)	FRN: 0030273650
	)	
for Consent to Transfer of Control of Station	)	Facility ID No. 37805
	)	
WBWD(AM), Islip, New York	)	Application File No. 0000235934
	)	
from	)	
	)	
Yash Pandya (Transferor)	)	
	)	
to	)	
	)	
Sejal Dasondi (Transferee)	)	

CONSENT DECREE

I. INTRODUCTION

1. This Consent Decree is entered into by and between the Media Bureau (Bureau) of the Federal Communications Commission and Om Sai Broadcasting, LLC, licensee of the above-captioned station, for the purpose of terminating the Bureau's investigation concerning compliance with section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), and section 73.3540 of the Commission's Rules, 47 CFR § 73.3540.

II. DEFINITIONS

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

(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et. seq.*;

(b) "Adopting Order" means the order of the Bureau adopting this Consent Decree;

(c) "Application" means the Voluntary Transfer Application;

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

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

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

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

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

(i) "Licensee" means Om Sai Broadcasting, LLC, licensee of station WBWD(AM), Islip, New York, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest;

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

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

(l) "Violations" mean the violations of the Voluntary Transfer of Control Rule and section 310(d) of the Act;

(m) "Voluntary Transfer Application" means the FCC Form 2100, Schedule 315 application for consent to transfer of control, Application File No. 0000235934; and

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

III. BACKGROUND

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

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

The Voluntary Transfer of Control Rule implements section 310(d) of the Act.[2] The Voluntary Transfer of Control Rule states, in pertinent part, that "[p]rior consent of the FCC must be obtained for a voluntary assignment or transfer of control."[3] It is well-settled that "control" as used in the Act and the Voluntary Transfer of Control Rule encompasses all forms of control, actual or legal, direct or indirect, negative or affirmative, and that passage of *de facto* as well as *de jure* control requires the prior consent of the Commission.[4]

4. Yash Pandya was the sole member of, and held 100% of the voting and equity interests in, the Licensee. Subsequently, Sejal Dasondi acquired 50% of the voting and equity interests in the Licensee, and thus negative control, without prior Commission consent. On September 27, 2023, Sejal Dasondi acquired the remaining 50% voting and equity interests in the Licensee without prior Commission consent.[5] On January 22, 2024, Licensee filed the Voluntary Transfer Application.[6]

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

IV. TERMS OF AGREEMENT

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

---

[1] 47 U.S.C. § 310(d).

[2] 47 CFR § 73.3540.

[3] *Id*. § 73.3540(a).

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

[5] *See* Application Attachs., "WBWD LLC purchase agreement and promissory note.pdf" and "WBWD APA Amendment.pdf."

[6] *See Broadcast Applications*, Public Notice, Report No. PN-1-240124-01, at 1 (MB Jan. 24, 2024).

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

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

9. **Termination of Investigation**. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein.

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

11. **Admission of Facts**. Licensee stipulates that its actions described in Paragraph 4 violated section 310(d) of the Act and the Voluntary Transfer of Control Rule.

12. **Voluntary Contribution**. Licensee agrees to pay the Voluntary Contribution to the United States Treasury in the amount of ten thousand dollars ($10,000), within thirty (30) calendar days after the Effective Date. Licensee acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of the Debt Collection Improvement Act of 1996.[7]

13. **Payment**. Licensee will also send electronic notification of payment to Joseph Cohen at Joseph.Cohen@fcc.gov and Olivia Hill at Olivia.Hill@fcc.gov on the date said payment is made. Payment of the Voluntary Contribution 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. The Commission no longer accepts Voluntary Contribution payments by check or money order. Below are instructions that payors 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 (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

[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.

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. 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 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. (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. **Qualifications; Agreement to Grant**. The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether the Licensee possesses the basic qualifications, including those relating to character, to hold a Commission license or authorization. Accordingly, the Bureau agrees to grant the Voluntary Transfer Application after the Effective Date, provided that the following conditions have been met: 1) the Voluntary Contribution payment, referenced in paragraph 12 of this Decree, has been fully and timely satisfied; and 2) there are no issues other than the Violations that would preclude grant of the Voluntary Transfer Application.

15. **Waivers**. Licensee agrees to waive any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If any Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, no Party will contest the validity of the Consent Decree or Adopting Order, and Licensee will waive any statutory right to a *trial de novo*. Licensee further agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[11] relating to the Consent Decree or Adopting Order.

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

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

[11] 5 U.S.C. § 504; 47 CFR §§ 1.1501-.1530.

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

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

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

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

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

22. **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.

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

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

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION



By: _____
Albert Shuldiner, Chief, Audio Division

Date: 7/15/2025

Om Sai Broadcasting, LLC

By: _____
Sejal Dasondi

Date: _____

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MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: _____
Albert Shuldiner, Chief, Audio Division

Date: _____

Om Sai Broadcasting, LLC

By: Sejal Dasondi
Sejal Dasondi

Date: 6/27/2025

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-579
Released: July 11, 2025

MEDIA BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING THAT THE RULES OF THE ORANGETREE OF LAKE COUNTY HOMEOWNERS ASSOCIATION, WINTER GARDEN, FLORIDA, ARE PREEMPTED BY THE COMMISSION'S OVER-THE-AIR RECEPTION DEVICES RULE

CSR 9022-O

MB Docket No. 25-214

Responses Due: August 11, 2025
Replies Due: August 26, 2025

1. By this Public Notice, the Media Bureau seeks comment on a Petition for Declaratory Ruling,[1] which asks the Commission to determine whether community rules of the Orangetree of Lake County Homeowners Association, Winter Garden, Florida that restrict the placement of antennas are preempted by section 1.4000 of the Commission's rules (the OTARD Rule).[2] According to the Petition, the Association's rules prohibiting the placement of an over-the-air antenna on the rooftop of a single-family home violate the OTARD Rule.

2. *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.[3] 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,

[1] Petition for Declaratory Ruling of Brian Smith (filed Jan. 13, 2025) (Petition).

[2] Subject to certain exceptions, the OTARD Rule prohibits governmental and nongovernmental restrictions that impair the ability of antenna users to install, maintain, or use over-the-air-reception devices. 47 CFR § 1.4000. The OTARD Rule applies to direct broadcast satellite antennas that are one meter or less in diameter or any size in Alaska; antennas that are one meter or less in diameter or diagonal measurement and are designed to receive or transmit video programming services through multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; antennas used to receive television broadcast signals; and antennas used to receive fixed wireless signals. *Id*. at § 1.4000(a)(1)(i)-(iv). For the OTARD Rule to apply, a covered antenna must be installed "on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership or leasehold interest in the property." *Id*. at § 1.4000(a)(1).

[3] 47 CFR §§ 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.

3. *Filing Requirements.* Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file responses and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using ECFS.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
    - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
    - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
    - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

4. *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).

5. *Availability of Documents*. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

6. *Additional Information*. For additional information on this proceeding, contact Kenneth Lewis, Policy Division, Media Bureau at Kenneth.Lewis@fcc.gov, 202-418-2622.

- FCC -

From: bsmithxxxxxxxxxxxxxxxx
Sent: Monday, January 13, 2025 1:25 PM
To: OTARD <OTARD@fcc.gov>
Cc: Realservice@ciramail.com; Realservice@ciramail.com
Subject: [EXTERNAL]: Re: Petition against HOA in regard to FCC C.F.R 1.4000

My apologies, the antenna on my roof is 25" not 24".

Brian Smith

From: bsmithxxxxxxxxxxxxxxx
Sent: Monday, January 13, 2025 10:23 AM
To: OTARD@fcc.gov <OTARD@fcc.gov>
Cc: Realservice@ciramail.com <Realservice@ciramail.com>; Realservice@ciramail.com <Realservice@ciramail.com>
Subject: Petition against HOA in regard to FCC C.F.R 1.4000

I am filing this petition based on a reply to my initial consumer complaint to the FCC and the information provided to me by FCC Attorney Advisor Kenneth Lewis, Kenneth.Lewis@fcc.gov. I have included his email in this thread and my initial complaint email to him.

I am sending this email to the FCC and am filing a formal petition. I am sending this email also to the Orange Tree Lake County of Florida HOA as well as recommended by Kenneth Lewis of the FCC

I live in a single-family home in the Orange Tree Lake County Florida subdivision.

I have a small 24" antenna mounted on my roof, picture is included.

The Orange Tree Lake County HOA served me with a violation notice on 1/4/25, attached, that in the second paragraph states that no antenna can be on the roof. The violation notice states I have to fill out ARC documents for it to be relocated. They are threatening a fine of $100.00 per day.

The HOA has forced homeowners to placer antennas inside the attic. In my residence, the only coaxial coupler that feeds the whole hose is outside at ground level. They expect the homeowner to drill a hole in upper level of home, run the cable and hope that they will receive a signal, if you loose a few stations they don't care.

I informed the HOA that I was waiting for the FCC to make a decision in this matter on 1/8/25.

Today, 1/13/25 a HOA representative Pierre Renee, Community Association Manager, send me an email trying to tell me that no antenna is allowed on the roof and that I must fill out ARC documents to relocate the antenna and reminding me that the rule is final. I replied in email that I will be waiting for the FCC to decide on this matter.

I believe this violation notice from the HOA is a violation of FCC rule C.F.R 1.4000 and I am requesting FCC help with this matter.

Contact Information:

The Orange Tree of Lake County HOA is managed by RealManage

Pierre Rene, Community Association Manager

270 W. Plant Street, Suite 340

Winter Garden, FL 34787

EMAIL:

Realservice@ciramail.com

ORANGETR@ciramail.com

Sincerely,

Brian Smith

bsmithxxxxxxxxxxxxxxx

---

bsmithxxxxxxxxxxxxxxxxx

•Yesterday 3:46 pm

My HOA has given me a violation citation for having a 25" tv antenna on my roof. They have been forcing people in our subdivision to mount antennas inside the attic, however my coaxial connection is outdoors and I would be forced to drill a hole into my home at attic level, feed coaxial up and into the attic and then hope after doing that I can get a signal. Satellite dishes however are allowed in the rood, my neighbor has one.

BRIAN [redacted] SMITH OR CURRENT RESIDENT

CLERMONT, FL 34714

Account Number	[redacted]
Community ID	ORANGETR
Property Address	Clermont, FL 34714
Violation Notice ID	7797291
Notice Type	Violation Notice

January 04, 2025

RE: Antenna or dish are not allowed on rooftop. Please complete an ARC to relocate it.

Dear BRIAN & [redacted] SMITH OR CURRENT RESIDENT:

Orangetree of Lake County Homeowners' Association, Inc. is a planned community governed by covenants, conditions and restrictions. Compliance with these rules benefits the community as a whole and all property owners are responsible for protecting the aesthetics and harmony of the neighborhood.

It has been reported or observed during a routine site inspection on 1/4/2025 that the property was out of compliance with the community rules and regulations. **This violation specifically regards the following item(s): Antenna or dish are not allowed on rooftop. Please complete an ARC to relocate it.** It was noted that this violation occurred in the following location: Roof. **Please correct the issue before Saturday, January 18, 2025.**

The Governing Documents, specifically **DCCR Article VI 6.17** of the Declaration of Covenants, Conditions, and Restrictions (Deed Restrictions) for Orangetree of Lake County Homeowners' Association, Inc. states, in part:

"No television or radio antenna shall be constructed or placed on the roof of any dwelling. No free-standing television or radio antenna shall be permitted on any lot unless (i) the location of such free-standing antenna is approved by the Architectural Control Committee and (ii) such free-standing antenna does not exceed five (5) feet in height above the highest point of the roof of the dwelling. Further, no television or radio dish antenna shall be permitted on any lot unless the appearance and location of such dish antenna is approved in advance by the Architectural Control Committee."

To bring this property into compliance, please submit written plans for your antenna installation specifying the overall height and proposed location to the Architectural Control Committee as soon as possible.

Failure to comply fully with this request may result in fines of $100.00 per violation each day up to $1000.00 in aggregate as outlined in the State Statutes, your Community's Covenants, Bylaws and/or Board Resolutions.

If you have already corrected the violation(s) listed above, we thank you for helping us to maintain your community's standards. Please follow the instructions below.

- Send an email to ORANGETR@ciramail.com with the following: Subject (Community Name - Address - Violation Type - Compliance). Then attach the picture of the resolved violation if applicable.

Thank you for your cooperation in maintaining the appearance and value of Orangetree of Lake County **If you have any questions, please contact us via our Resident Portal at www.realmanage.com** or call us at 866-4-REALSERVICE or 866-473-2573.

Orangetree of Lake County Homeowners' Association, Inc.

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

In re Application of	)	
	)	
KM LPTV of Atlanta, L.L.C.	)	Acct. No. 202541420009
For Renewal of License of Station WSKC-CD,	)	FRN: 0005014766
Atlanta, Georgia	)	Facility ID No. 35090
	)	LMS File No. 0000127304

ORDER

Adopted: July 29, 2025 **Released: July 29, 2025**

By the Chief, Video Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and KM LPTV of Atlanta, L.L.C. (KM or Licensee), licensee of Class A television station WSKC-CD, Atlanta, Georgia (Station). The Consent Decree resolves issues arising from the review of the Station's pending license renewal application.[1] In particular, the Consent Decree resolves the Bureau's investigation of the Licensee's apparent failure to comply with sections 73.3526(e)(11)(i), (ii), and (iii) of the Commission's rules (Rules), which require Class A television stations maintain an online public inspection file (OPIF) and place issues/programs lists, records concerning commercial limits during children's programming, and children's television programming reports into the Station's OPIF at the required intervals.[2] We find that through adoption of the Consent Decree grant of the Station's Renewal Application is in the public interest, subject to the terms and conditions set forth in the Consent Decree.

2. The Bureau and the Licensee have negotiated the attached Consent Decree in which the Licensee agrees, among other things, to make a voluntary contribution to the United States Treasury in the amount of Ten Thousand Dollars ($10,000) and implement a compliance plan to ensure future compliance with section 73.3526 of the Rules.[3] After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating investigation described in paragraph 1.[4] We also find that the Station has served the public interest, convenience, and necessity during the subject license term and that grant of the application in warranted pursuant to section 309(k) of the Communications Act of 1934, as amended.[5] We find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to remain a

[1] Application of KM LPTV of Atlanta, L.L.C. for Renewal of License, LMS File No. 0000127304 (filed Nov. 25, 2020, amended Aug. 11, 2023) (Renewal Application).

[2] 47 CFR §§ 73.3526(e)(11)(i), (ii), and (iii).

[3] 47 CFR §§ 73.3526.

[4] *See also infra* Consent Decree at paras. 3-8.

[5] 47 U.S.C. § 309(k). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. *See* 47 U.S.C. § 309(k)(1). 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." 47 U.S.C. §§ 309(k)(2)-(3).

Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,[6] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[7] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

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

5. **IT IS FURTHER ORDERED** that pursuant to section 309(k) of the Communications Act of 1934, as amended,[8] the application for renewal of license of Class A television station WSKC-CD, Georgia, Atlanta, LMS File No. 0000127304, **IS GRANTED**, subject to the terms and conditions of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested, to KM LPTV of Atlanta, L.L.C., 3654 West Jarvis Avenue, Skokie, IL 60076. A copy shall also be sent in the same manner to Licensee's counsel, Aaron Shainis, Esq., 1850 M St. NW, Suite 240, Washington, DC 20036, and by e-mail to aaron@s-plaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[6] 47 U.S.C. § 154(i).

[7] 47 CFR §§ 0.61, 0.204, 0.283, and 1.93(b).

[8] 47 U.S.C. § 309(k).

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

In re Application of	)	
	)	
KM LPTV of Atlanta, L.L.C.	)	Acct. No. 202541420009
For Renewal of License of Station WSKC-CD,	)	FRN: 0005014766
Atlanta, Georgia	)	Facility ID No. 35090
	)	LMS File No. 0000127304

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission (hereafter Bureau, as defined below) and KM LPTV of Atlanta, L.L.C. (hereafter the 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 sections 73.3526(e)(11)(i), (ii), and (iii) of the Commission's rules (hereafter Rules, as defined below), relating to its untimely uploading of issues/programs lists, commercial limits certifications, and children's television programming reports to the above captioned Station's (as defined below) online public inspection file.[1] To resolve these matters, the Licensee agrees to make a voluntary contribution to the United States Treasury in the amount of Ten Thousand dollars ($10,000) and implement a comprehensive Compliance Plan to ensure its future compliance with sections 73.3526(e)(11)(i), (ii), and (iii) of the Rules.[2] The Bureau agrees to terminate its investigation and grant the Station's pending license renewal application, subject to the terms and conditions set forth below.

I. DEFINITIONS

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

(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq*.

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

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

(d) "Children's TV Report Rule" means the requirements detailed in 47 CFR § 73.3526(e)(11)(iii).

(e) "Commercial Limits Certification Rule" means the requirements detailed in 47 CFR § 73.3526(e)(11)(ii).

(f) "Commission" or "FCC" means 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 the Licensee is subject by virtue of it being a Commission licensee, including but not limited to, the Issues and Programs Lists Rule, the Commercial Limits Certification Rule, and the Children's TV Reports Rule.

(h) "Compliance Officer" means a responsible party employed by the Licensee to be responsible for developing, implementing, and administering the Compliance Plan

[1] 47 CFR §§ 73.3526(e)(11)(i), (ii), and (iii).

[2] *Id.*

and ensuring that the Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree.

(i) "Compliance Plan" means the processes and procedures developed by the Licensee in an effort to ensure compliance with 47 CFR § 73.3526 generally, including 47 CFR §§ 73.3526(e)(11)(i), (ii), and (iii).

(j) "Covered Employees" means all employees, volunteers, and agents of the Licensee, who are responsible for performing, supervising, overseeing, or managing activities related to the maintenance of the Station's OPIF, as required by 47 CFR § 73.3526Rule.

(k) "Division" means the Video Division of the Media Bureau of the Commission.

(l) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(m) "Investigation" means the Bureau's decision to hold and not process the Renewal Application due to noncompliance with 47 CFR §§ 73.3526(e)(11)(i), (ii), and(iii).

(n) "Issues and Programs List Rule" means the requirements detailed in 47 CFR § 73.3526(e)(11)(i).

(o) "Licensee" means KM LPTV of Atlanta, L.L.C., and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(p) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television and radio broadcast applications, notifications and related pleadings.

(q) "OPIF" means the Station's online public inspection file as defined by 47 CFR § 73.3526.

(r) "OPIF Rule" means the requirements detailed in 47 CFR § 73.3526, in its entirety.

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

(t) "Renewal Application" means the application of KM LPTV of Atlanta, L.L.C., for renewal of the television broadcast license for station WSKC-CD, Atlanta, Georgia (Facility ID No. 35090), LMS File No. 0000127304, filed November 25, 2020 and as amended August 11, 2023.

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

(v) "Station" means WSKC-CD, Atlanta, Georgia (Facility ID No. 35090).

II. BACKGROUND

3. Section 73.3526(e)(11)(i) of the Rules requires every Class A television licensee to place in its station's 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]

4. Section 73.3526(e)(11)(ii) of the Rules requires every Class A television licensee to place in its station's OPIF "records sufficient to permit substantiation of the station's certification, in its license

[3] 47 CFR § 73.3526(e)(11)(i).

[4] *Id*.

renewal application, of compliance with the commercial limits on children's programming established in 47 U.S.C. 303a and § 73.670."[5] 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."[6] Section 73.670 of the Rules codifies those limits, and also limits the "display of Internet Web site addresses during program material or promotional material not counted as commercial time."[7] Copies of a stations commercial limits certification must be retained until final action on the station's next license renewal application.[8]

5. Section 73.3526(e)(11)(iii) of the Rules requires every Class A television licensee to place in its OPIF a children's television programming report that details "the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children" during the preceding period.[9] Copies must be retained until final action on the station's next license renewal application.[10] The children's television programming report must include the time and date the programs were regularly scheduled, duration and title for each program, and the average number of hours per week of core programming broadcast over the period.[11] Copies of a station's children's television programming report must be retained until final action on the station's next license renewal application.[12]

6. Until fourth quarter 2019, commercial limits certifications and children's were required to be placed in a station's OPIF by the tenth day of the succeeding calendar quarter.[13] 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.[14] From 2012 through October 10, 2019, the children's television programming reports were required to be placed in the station's OPIF by the tenth day of the succeeding calendar quarter.[15] Beginning with the fourth quarter of 2019, the children's

[5] 47 CFR § 73.3526(e)(11)(ii).

[6] 47 U.S.C. § 303a(b).

[7] 47 CFR § 73.670.

[8] 47 CFR § 73.3526(e)(11)(ii).

[9] 47 CFR § 73.3526(e)(11)(iii).

[10] *Id*.

[11] *See* FCC Form 2100, Schedule H, Children's Television Programming Report, https://transition.fcc.gov/Forms/Form2100/2100H-screens.pdf ; *see also* 73.671 (educational and informational programing for children).

[12] 47 CFR § 73.3526(e)(11)(iii).

[13] *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 and children's television programming reports 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*).

[14] 47 CFR § 73.3526(e)(11)(ii); *Report and Order*, 34 FCC Rcd at 5859, para. 70; *KidVid Remaining Rules Transition PN*, 34 FCC Rcd at 12518, n. 8.

[15] *See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Extension of the Filing Requirement for Children's Television Programming Report*, Second Report and Order, 27 FCC Rcd 4535 (2012); *Effective Date Announced for Online Publication of Broadcast Television Public Inspection Files*, Public Notice, 27 FCC Rcd 7478 (2012) (announcing an effective date of August 2, 2012, for, *inter alia*, the requirement that television stations begin to post new Children's Television Programming Reports to their OPIF).

television programming reports must be filed on an annual rather than quarterly basis, within 30 days after the end of the calendar year.[16]

7. On October 6, 2020, the Licensee filed the Renewal Application. In the Renewal Application, the Licensee responded "No" to the statement that "the documentation, required by 47 CFR Section 73.3526 . . . has been uploaded to the station's public inspection file when required."[17] In an attachment to the Renewal Application, the Licensee disclosed unspecified late filed and missing children's television programming reports and issues/programs lists, stating "This will be corrected as soon as possible."[18] The Licensee did not provide a reason for the late or missing filings. Based on this certification, the Division commenced the Investigation and suspended processing the Renewal Application.

8. On June 27, 2023, the Division sent a letter to the Licensee stating that the OPIF still incomplete and requested the Licensee upload the missing documents or provide an explanation for why the documents could not be uploaded.[19] On August 11, 2023, the Licensee amended the Renewal Application stating that it "has submitted substantially all of the missing documentation" and that the documents were not timely uploaded due to staff turnover.[20] Upon review of the Station's OPIF, Division staff has confirmed that during the prior license term that a total of 22 issues/programs lists,[21] seven commercial limits certifications,[22] and eight children's television programming reports[23] were either missing or uploaded late to the Station's OPIF. As of the date of the Adopting Order, all required documents have been placed in the Station's OPIF.

9. The Bureau and the Licensee have negotiated the terms of the Consent Decree, subject to specific terms and conditions, by which the Bureau will terminate the Investigation into the matters discussed above and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the OPIF Rule, and has agreed to make a voluntary contribution in the amount of Ten Thousand Dollars ($10,000) to the United States Treasury.[24]

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[16] 47 CFR § 73.3526(e)(11)(iii); *Report and Order*, 34 FCC Rcd at 5863, para. 61; *KidVid Remaining Rules Transition PN*, 34 FCC Rcd at 12518, n.6.

[17] Renewal Application.

[18] *Id.* at Attach. Online Public File Exhibit.

[19] Letter from Barbara A Kreisman, Chief, Video Division, FCC Media Bureau, to KM LPTV of Atlanta, L.L.C. (Jun. 23, 2023) (on file at Renewal Application at Attach. WSKC 6.27.23).

[20] Renewal Application at Attach. Amendment – WSKC-CD Renewal.

[21] The Station's late issues/programs lists consisted of one that was filed under one month late, eight that were filed between one month and one year late, and 13 that were filed over one year late.

[22] The Station's late commercial limits certifications consisted of four that were filed less than one month late, one that was filed between one month and one year late, and two that were filed over one year late. These totals were comprised of three quarterly filings and four annual filings. *See supra* para. 6 and n.13 (discussing the change in commercial limits certifications from a quarterly to annual filing).

[23] The Station's late children's television programming reports consisted of two that were filed less than one month late, one that was filed between one month and one year late, and five that were filed over one year late. These totals were comprised of three quarterly filings and five annual filings. *See supra.* para 6 and n. 15 (discussing the change in children's television programming reports from quarterly to annual filing).

[24] The amount of the voluntary contribution takes into consideration the Station's finances, which was based on an examination by the Bureau of the Licensee's gross revenue and operating losses between 2021 and 2023 – the three most recent tax years such information was available. The Licensee has requested confidentiality for its financial documents. We note that documentation related to the finances of a television licensee falls under the categories of materials not routinely made available for public inspection. *See* 47 CFR § 0.457(d)(i); 47 CFR § 0.459.

III. TERMS OF AGREEMENT

10. **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.

11. **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.

12. **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.

13. **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.

14. **Admission of Facts.** The Licensee admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 15 herein, that paragraphs 3 through 8 are a true and accurate description of the facts underlying the Investigation. Communications Law, and the Bureaus make no finding of any liability or violation.

15. **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 19. In consideration for the termination of the Investigation, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 17, 20, 21, and 23 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding, formal or informal, or take any action on its own motion against the Licensee concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.[25]

16. **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 Rules or Act. The Commission's adjudication of any complaints or potential will be based solely on the record developed in subsequent proceedings.

17. **Voluntary Contribution**. The Licensee agrees to make a "Voluntary Contribution" to the United States Treasury in the amount of Ten Thousand dollars ($10,000)within thirty (30) calendar days after the Effective Date. It also acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of

[25] *See* 47 CFR § 1.93(b).

the Debt Collection Improvement Act of 1996.[26] **The Licensee shall send electronic notification of payment to VideoCompliance@fcc.gov on the date payment is made.** Payment of the Voluntary Contribution must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),[27] or by wire transfer. Payments by check or money order are no longer accepted. 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. Below are instructions that the Licensee should follow based on the form of payment selected:

- 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 captioned above 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).[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 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 Consent Decree. The bill number is the Acct. No. (e.g., Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678) captioned above. 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 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 Consent Decree. The bill number is the Acct. No. (e.g., Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678) captioned above. Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

18. **Event of Default**. The Parties agree that an "Event of Default" shall occur upon the failure by the Licensee to pay the full amount of the Voluntary Contribution 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 Voluntary Contribution 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

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

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

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

full. Upon an Event of Default, the then unpaid amount of the Voluntary Contribution, 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.

19. **Grant of Renewal Application**. In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k). The Bureau agrees to grant the Renewal Application for a full eight year term from the prior license expiration date. The Renewal Application will be granted within two business days following the Effective Date. Grant of the Renewal Application will be conditioned on compliance with the terms set forth in paragraph 17.

20. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraphs 21 and 23. 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 Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan, and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the OPIF Rule, prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by electronic mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified, as previously specified, of any change in the person serving as Compliance Officer within five (5) business days.

21. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the OPIF Rule, including but not limited to the Issues and Programs List Rule, Commercial Limits Certification Rule, and Children's TV Reports Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station. The Compliance Plan shall contain, at a minimum, the following elements:

(a) **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, has been prepared by in-house legal counsel, or 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 List Rule, Commercial Limits Certification Rule, and Children's Television Programming Report Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Station's compliance with the OPIF Rule, including but not limited to the Issues and Programs List Rule, Commercial Limits Certification Rule, and Children's TV Report Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that all required information is uploaded to the Station's OPIF in a timely manner and otherwise maintains full, complete, and up to date information therein; and

iii. be reviewed and revised by the Compliance Officer, or legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. Within sixty (60) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect, the Licensee will conduct formal compliance training program on the OPIF Rule for all Covered Employees. Training must also be provided to every new Covered Employees within ten business (10) days after commencing employment or becoming a Covered Employee. The compliance training program must include instruction relating to the provisions of the OPIF Rule, including but not limited to the Issues and Programs List Rule, Commercial Limits Certification Rule, and Children's TV Report Rule. The compliance training must be reviewed and revised by the Compliance Officer, or legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the OPIF Rules or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such action(s) has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. Any such report must be signed by the Compliance Officer and be subscribed to as true and accurate under penalty of perjury in accordance with 47 CFR § 1.16. All reports of noncompliance shall be submitted to VideoCompliance@fcc.gov. All reports must also be uploaded to the Station's OPIF within 10 business days in the folder entitled "FCC Investigations or Complaints" and retained in the Station's OPIF until the "Termination Date," as specified in paragraph 22. Further, the Licensee must disclose any noncompliance reports in an attachment to its next license renewal application.

22. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate upon grant of the Licensee's next application for renewal of license that is filed after the grant Station's Renewal Application as contemplated in paragraph 19.

23. **Placement of Consent Decree in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the "Termination Date," as specified in paragraph 22.[29]

24. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

25. **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

[29] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

Act[30] relating to the matters addressed in this Consent Decree.

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

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

28. **Subsequent Rule or Order**. The Parties agree that if any provision of 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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

29. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees unless otherwise agreed to by the Commission or Bureau.

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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

[30] *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

KM LPTV of Atlanta, L.L.C.

By:

_____
Kun Chae Bae
Member

_____
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

DA 25-603
Released: July 11, 2025

NOTICE OF INTERCONNECTED VOIP NUMBERING AUTHORIZATIONS GRANTED

WC Docket No. 25-12
WC Docket No. 25-155

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

Interconnected VoIP Numbering Authorization Application filed by Ahoi, LLC Pursuant to Section 52.15(g)(3) of the Commission's Rules, WC Docket No. 25-12 (filed Jan. 14, 2025), Public Notice, DA 25-501 (WCB Jun. 10, 2025).

Interconnected VoIP Numbering Authorization Application filed by Cornfield Voice, LLC Pursuant to Section 52.15(g)(3) of the Commission's Rules, WC Docket No. 25-155 (filed Apr. 1, 2025), Public Notice, DA 25-502 (WCB Jun. 10, 2025).

Effective Grant Date: July 11, 2025

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

-FCC-

[1] *See* 47 CFR § 52.15(g)(3).

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

In the Matter of	)	
	)	
Application of Advantage Spectrum, L.P. and	)	
William C. Vail and	)	ULS File No. 0011135862
United States Cellular Corporation	)	
	)	
For Consent to Transfer Control of Licenses	)	

MEMORANDUM OPINION AND ORDER

Adopted: July 11, 2025 **Released: July 11, 2025**

By the Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we consent to the application[1] filed by Advantage Spectrum, L.P. (Advantage), William C. Vail (Vail), and US Cellular Corporation (UScellular) to transfer control of Advantage from Vail to UScellular. Based on our consideration of the record, we find that the proposed transfer of control would serve the public interest, convenience, and necessity. For the reasons discussed below, we deny the Petition to Deny filed by Mark J. O'Connor and Sara F. Leibman (Petitioners or O'Connor/Leibman).[2]

II. BACKGROUND

2. *Description of the Applicants.* Advantage is a Delaware limited partnership.[3] Its sole general partner is Sunshine Spectrum, Inc, (Sunshine), which is held 100% by Vail.[4] Sunshine holds a controlling 10% general partnership interest in Advantage.[5] USCC Wireless Investment, Inc. (USCC Wireless), a wholly-owned subsidiary of UScellular, holds the remaining 90% non-controlling limited partnership interest.[6] UScellular is a majority-owned subsidiary of Telephone and Data Systems, Inc. (TDS), which owns approximately 80% of UScellular as of August 2024.[7]

3. Advantage participated in Auction 97, where it qualified as a "very small business" eligible for bidding credits and won 124 licenses.[8] As disclosed in Advantage's Auction 97 application,

[1] *See* Application of Advantage Spectrum, L.P. and William C. Vail and United States Cellular Corporation for Transfer of Control, ULS File No. 0011135862 (filed July 1, 2024) (Application).

[2] Mark J. O'Connor and Sara F. Leibman Petition to Deny, ULS File No. 0011135862 (filed July 24, 2024) (Petition to Deny).

[3] Description of Transaction and Public Interest Statement at 1 (Public Interest Statement).

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] United States Cellular Corporation, FCC Form 602, File Number 0011219915 (filed Aug. 27, 2024) at 1.

[8] *Wireless Telecommunications Bureau Grants AWS-3 Licenses in the 1695-1710 MHz, and 1755-1780 MHz and 2155-2180 MHz Bands*, Public Notice, DA 16-730, 31 FCC Rcd 7129 (WTB 2016).

UScellular is attributed with the spectrum held by Advantage because of its 90% non-controlling limited partnership interest.[9] UScellular also operates the spectrum pursuant to several spectrum manager leases.[10]

4. Following completion of the transaction, UScellular will own, directly and indirectly, 100% of Advantage.[11] As described in the T-Mobile-UScellular Memorandum Opinion and Order being released today,[12] these licenses will ultimately be held by T-Mobile.

5. *Transaction Review Process.* Advantage, Vail, and UScellular filed their application for transfer of control on July 1, 2024. The application was accepted for filing on July 10, 2024.[13] On July 24, 2024, the Petitioners filed their petition to deny alleging that UScellular and Advantage lack the character qualifications to hold licenses.[14] William C. Vail, Advantage, and UScellular filed a joint opposition to the petition on August 5, 2024.[15] On August 12, 2024, O'Connor/Leibman filed their Reply.[16] No other parties filed petitions or comments with respect to the transfer of control of Advantage to UScellular.

III. DISCUSSION

6. *Standing.* Section 309(d)(1) of the Act provides that only a "party in interest" may file a petition to deny a proposed transfer of control.[17] A petition to deny must "contain specific allegations of fact sufficient to show that the petitioner is a party in interest," as well as contain the necessary factual allegations to support a *prima facie* case that grant of the application would be inconsistent with the public interest, convenience, and necessity.[18] Under the Commission's long-standing precedent, party-in-interest status will be accorded to a petitioner if grant of the application would result in, or be reasonably likely to result in, some injury to the petitioner of a direct, tangible, or substantial nature.[19] In the context

[9] Public Interest Statement at 1.

[10] *See* ULS File No. 0009142955 (spectrum manager lease application from Advantage to UScellular accepted Dec. 30, 2020); ULS File No. 0009142976 (spectrum manager lease application from Advantage to UScellular accepted Dec. 30, 2020); ULS File No. 0009146825 (spectrum manager lease application from Advantage to UScellular accepted May 21, 2024 with condition).

[11] Public Interest Statement at 1.

[12] *Applications of T-Mobile US, Inc. and United States Cellular Corporation for Consent to Transfer Control of Licenses, Authorizations, and Leases*, Memorandum Opinion and Order, GN Docket No. 24-286, DA 25-605 (rel. July 11, 2025).

[13] *Wireless Telecommunications Bureau, Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, and De Facto Transfer Lease Applications, and Designated Entity Reportable Eligibility Event Applications, Accepted for Filing*, Public Notice, Report No.18779 (July 10, 2024).

[14] Petition to Deny (*citing to* Amended Complaint, Case 1:20-cv-02070-TSC Document 174 (filed Apr. 29, 2022) (filed with the FCC July 24, 2024)).

[15] William C. Vail, Advantage Spectrum, L.P., and United States Cellular Corporation, Joint Opposition, ULS File No. 0011135862 (filed Aug. 5, 2024) (Opposition).

[16] Mark J. O'Connor and Sara F. Leibman Reply to Opposition, ULS File No. 0011135862 (filed Aug. 12, 2024) (Reply).

[17] 47 U.S.C. § 309(d)(1).

[18] 47 U.S.C. § 309(d)(1) (requiring that a petition to deny "contain specific allegations of fact sufficient to show . . . that a grant of the application would be prima facie inconsistent with" the standards for grant of the application at issue and requiring that such allegations, except for those of which official notice may be taken "be supported by affidavit of a person or persons with personal knowledge thereof").

[19] *See, e.g.*, *Entercom License, LLC*, Memorandum Opinion and Order, 32 FCC Rcd 7149, 7152 (2017) (citing *Pinelands, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 6058, 6063 (1992)).

of a transfer of control proceeding this means the petitioner must allege and show that it has suffered or will suffer an injury in fact, that there is a causal link between the proposed assignment and the injury in fact, and that not granting the assignment would remedy or prevent the injury in fact.[20]

7. O'Connor/Leibman have not demonstrated how grant of this application would cause them any direct, tangible, or substantial injury. However, because a party's character is an important part of the public interest factors the Commission considers in determining whether an applicant has the requisite qualifications to become or remain a Commission licensee,[21] we will address Petitioners' contentions.[22]

8. *Qualifications of the Applicants.* Pursuant to section 310(d) of the Act, we must determine whether the application for the proposed transfer of control of the licenses held by Advantage will serve "the public interest, convenience, and necessity."[23] Among the factors the Commission considers in its public interest review is whether the applicant for a license has the requisite "citizenship, character, financial, technical, and other qualifications" to hold a license.[24] Therefore, as a threshold matter, the Commission must determine whether the applicants to a proposed transaction meet the requisite qualification requirements to hold and transfer licenses under section 310(d) of the Act and the Commission's rules.[25]

9. In their Petition, O'Connor/Leibman argue that we should hold the application in abeyance, or deny or dismiss the application, based on allegations that UScellular and Advantage lack the character qualifications to be a licensee.[26] O'Connor/Leibman have filed *qui tam* actions in federal court against UScellular and Advantage, arguing that that they fraudulently obtained the benefit of designated entity credits in Auction 97.[27] They ask us to delay our consideration of the Application until their *qui*

[20] *See, e.g.*, *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (summarizing constitutional minimum requirements for Article III standing that the party must (1) have suffered an "injury in fact" that is concrete and particularized and actual or imminent; (2) there must be a causal connection between the injury and the conduct complained of; and (3) it must be likely that the injury will be redressed by a favorable decision); *MCI Communications Corporation*, Memorandum Opinion and Order, 12 FCC Rcd 7790, 7794-95 (1997) (affirming that entities claiming standing must allege and prove a personal injury that is "fairly traceable" to the challenged action and a substantial likelihood that the relief requested will redress the injury claimed).

[21] *See* 47 U.S.C. § 308(b).

[22] *See, e.g.*, *Entercom License, LLC*, Hearing Designation Order, 31 FCC Rcd 12196, 12206, para. 23 (2016) (petition to deny treated as an informal objection due to lack of standing).

[23] 47 U.S.C. § 310(d).

[24] 47 U.S.C. §§ 308, 310(d); *Applications of T-Mobile US Inc., and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, Applications of American H Block Wireless L.L.C., DBSD Corporation, Gamma Acquisition L.L.C., and Manifest Wireless L.L.C. for Extension of Time*, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10597, para. 43 (2019) (*T-Mobile-Sprint Order*); *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations,* Memorandum Opinion and Order, 32 FCC Rcd 9581, 9587, para. 12 (2017) (*Century Link-Level 3 Order*); *Application of Verizon Communications Inc. and Straight Path Communications, Inc. for Consent To Transfer Control of Local Multipoint Distribution Service, 39 GHz, Common Carrier Point-to-Point Microwave, and 3650-3700 MHz Service Licenses*, Memorandum Opinion and Order, 33 FCC Rcd 188, 191, para. 9 (WTB 2018) (*Verizon-Straight Path Order*).

[25] *See*, *e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10596-97, para. 43; *CenturyLink-Level-3 Order*, 32 FCC Rcd at 9587, para. 12; *Verizon-Straight Path Order*, 33 FCC Rcd at 191-92, para. 9.

[26] Petition at 1-2.

[27] *Id*. O'Connor/Leibman initially filed their *qui tam* complaint against Advantage in 2015, the Department of Justice declined to intervene, and the district court dismissed the complaint in 2022. *See U.S. ex rel. Mark J. O'Connor and Sara F. Leibman v. US Cellular, et al*, No. 20-cv-2070, United States' Motion to Lift Seal (filed Dec.

(continued….)

tam action has been fully resolved, or in the alternative, to deny the Application.[28] We decline to do so. The Commission generally does not reevaluate the qualifications of transferors unless issues related to basic qualifications have been sufficiently raised in petitions to warrant designation for hearing on the question of whether the transferee is fit to be a licensee or should instead have its licenses revoked.[29] We find, for the reasons discussed below, that has not occurred here.

10. O'Connor/Leibman essentially allege that UScellular improperly took control of Advantage. Most of their allegations, however, are with respect to actions taken by UScellular and Advantage before Advantage was granted the licenses, actions O'Connor/Leibman knew about at the time Advantage's original license applications were under consideration. Yet they chose not to object to those applications and state here that they do not seek to relitigate Advantage's eligibility for bidding credits. We therefore will not consider those allegations as a basis for calling into question UScellular's previously reviewed qualifications.[30] The remaining allegation is that certain construction notices filed in 2022 show that UScellular was using all of Advantage's spectrum, contrary to our rules.[31] UScellular responds that O'Connor/Leibman misread the notices, and that UScellular was using only part of Advantage's spectrum, which is permissible under the Commission's Designated Entity rules.[32] Even assuming O'Connor/Leibman to be correct, we find that this allegation does not rise to the level that would require us to set for hearing whether UScellular is qualified to hold licenses.[33] In sum, we do not

(Continued from previous page)
4, 2019) (referencing government's decision to decline intervention); *U.S. ex rel. Mark J. O'Connor and Sara F. Leibman*, No. 20-cv-2071 (D.D.C.) (filed Mar. 31, 2022). O'Connor/Leibman later filed an amended complaint which was also dismissed. *U.S. ex rel. Mark J. O'Connor and Sara F. Leibman*, No. 20-cv-2070, 2023 WL 2424605 (D.D.C. Mar. 9, 2023). O'Connor/Leibman have appealed the dismissal, which appeal is pending. *U.S. ex rel. Mark J. O'Connor and Sara F. Leibman*, No. 23-7041 (D.C. Cir., appeal pending). O'Connor/Leibman also filed a *qui tam* alleging similar wrongdoing by UScellular and other designated entities, including Caroll Wireless, LP, Barat Wireless, LP and King Street Wireless LP, in Auction 58, Auction 66, and Auction 73. That action was also dismissed in 2023. *United States v. U.S. Cellular Corp*, Civil Action No. 20-cv-2071, 2023 WL 2598678 (D.D.C. Mar. 22, 2023), *aff'd*, 128 F.4th 276 (D.C. Cir. 2025).

[28] Petition at 8-10; Reply at 6-10.

[29] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10597, para. 45; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9587, para. 13. *See generally Jefferson Radio Co. v. FCC*, 340 F.2d 781, 783 (D.C. Cir. 1964); *Stereo Broadcasters, Inc. v. FCC*, 652 F.2d 1026, 1030 (D.C. Cir. 1981) (Commission policy generally prohibits the assignment of a license while basic qualifications issues raised against the licensee remain unresolved, and thus serves as a deterrent to licensee misconduct). O'Connor/Leibman are incorrect, however, that *Jefferson Radio* requires us to wait until a district court has determined their fraud allegations to reach a decision here. *See* Petition at 9.

[30] Even if we were to consider all of the allegations made by Petitioners to be true and accurate, the "totality of the circumstances" does not lead us to the conclusion that the actions taken by the Applicants would have caused us to deny the original license applications, or even ensured that we would have denied bidding credits. Included in that original post-Auction 97 License Application was a certification signed by Vail that made it clear that there were no secret agreements and that the arrangement between Vail, Advantage, and UScellular was reviewed thoroughly before the licenses were granted. That certification also acknowledged that any additional agreements entered into by the licensee after approval of the application were subject to the reporting requirements of 47 CFR §§ 1.2110(n) and 1.2114. *Application of Advantage Spectrum, L.P.*, File Number 0006668843, Certification (filed March 31, 2016).

[31] Petition at 5-6; Reply at 8-9.

[32] Joint Opposition at 9, 10-11.

[33] The Commission views "misrepresentation and lack of candor in an applicant's dealings with the Commission as serious breaches of trust." *See Swan Creek Communications, Inc. v. F.C.C.*, 39 F.3d 1217, 1221-22 (D.C. Cir. 1994) (quoting *1986 Character Policy Statement*, 102 FCC 2d at 1211). The Commission defines misrepresentation as "an intentional misrepresentation of fact intended to deceive." *Id.* at 1222. Lack of candor exists when an applicant breaches its duty "to be fully forthcoming as to all facts and information relevant to a matter before the FCC, whether or not such information is particularly elicited." *Id.* The Commission will not disqualify an applicant,
(continued….)

find there is currently a material question of fact regarding UScellular's basic qualifications to be a Commission licensee.

11. For the reasons set forth above, we consent to the application and deny the petition to deny filed by O'Connor/Leibman.

IV. ORDERING CLAUSES

12. Accordingly, having reviewed the applications and record in this matter, IT IS ORDERED that, pursuant to sections 4(i-j), 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i-j), 303(r), 309, 310(d), the application for transfer of control filed by Vail, Advantage, and UScellular is GRANTED.

13. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and (j), 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), 309, 310(d), the Petition to Deny filed by O'Connor/Leibman is DENIED for the reasons stated herein.

14. IT IS FURTHER ORDERED that this Memorandum Opinion and Order SHALL BE EFFECTIVE upon adoption. Petitions for Reconsideration under section 1.106 of the Commission's Rules, 47 CFR § 1.106, may be filed within thirty days of the date of adoption of this Memorandum Opinion and Order.

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

FEDERAL COMMUNICATIONS COMMISSION

Joel Taubenblatt
Acting Chief, Wireless Telecommunications Bureau

(Continued from previous page)
however, for a negligent omission; "intent to deceive [is] an essential element of a misrepresentation or lack of candor showing." *Id.* An intent to deceive is established when "factual evidence" shows that "the inconsistency involved an intent to deceive. . . ." *Weyburn Broadcasting Ltd. Partnership v. F.C.C.*, 984 F.2d 1220, 1232 (D.C. Cir. 1993). The record here does not contain the factual evidence necessary to demonstrate that UScellular and Advantage acted with intent to deceive the Commission, a necessary predicate for a finding of misrepresentation or lack of candor.

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

In the Matter of Applications of T-Mobile US, Inc. and United States Cellular Corporation For Consent to Transfer Control of Licenses, Authorizations, and Leases	)	GN Docket No. 24-286

MEMORANDUM OPINION AND ORDER

Adopted: July 11, 2025 **Released: July 11, 2025**

By the Acting Chief, Wireless Telecommunications Bureau, and Acting Chief, Office of International Affairs:

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I. INTRODUCTION

1. In this Memorandum Opinion and Order, we approve the Applications of T-Mobile US, Inc. (T-Mobile) and United States Cellular Corporation (UScellular, together with T-Mobile, the Applicants), filed pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (the Act),[1] seeking Federal Communications Commission (Commission or FCC) approval to transfer control and assign to T-Mobile certain spectrum licenses, an international section 214 authorization, and spectrum leases held by UScellular and its subsidiaries.[2]

2. Under the proposed transaction, T-Mobile would acquire UScellular's wireless operations, customers, and approximately 30% of UScellular's licensed spectrum.[3] Although the transaction triggers our initial screens in certain markets, that is only the first step in our review. After a careful and thorough review of the record in coordination with the Office of Economics and Analytics (OEA), we find that the proposed transfer of control and assignment of licenses and authorizations to T-Mobile will serve the public interest, convenience, and necessity. In particular, our competitive analysis demonstrates the transaction is unlikely to harm the public interest. We note that mobile broadband consumers depend on competition to motivate innovation that, in turn, promotes consumer benefits that the industry has already delivered and will deliver in the future. While we analyze a traditional product market for the provision of mobile telephony/broadband services for purposes of the Commission's initial screens, we recognize that the nature of these services is continually evolving. For example, in addition to the traditional facilities-based wireless providers that T-Mobile competes with, cable companies have become an increasingly significant competitive presence in mobile broadband, offering mobile wireless services at competitive prices. Also, UScellular, based on the record, has struggled to attract and retain

[1] 47 U.S.C. §§ 214, 310(d).

[2] Applications of T-Mobile US, Inc. and United States Cellular Corporation for Transfer of Control and Assignment of Certain Licenses, Authorizations, and Leases, GN Docket No. 24-286, ULS File No. 0011180491 (Lead Section 310(d) Application) (filed Sept. 13, 2024); Application of T-Mobile US, Inc. and United States Cellular Corporation for Assignment of International Section 214 Authorization, ICFS File No. ITC-ASG-20240913-00139 (filed Sept. 13, 2024) (T-Mobile/UScellular Applications or Applications).

[3] *T-Mobile and UScellular Seek FCC Consent to the Proposed Transfer of Control and Assignment of Certain Spectrum Licenses, Authorizations, and Spectrum Leases Held by UScellular to T-Mobile*, GN Docket No. 24-286, Public Notice, 39 FCC Rcd 11710, 11710 (WTB/OEA Oct. 30, 2024) (*Pleading Cycle Public Notice*).

customers in recent years, and we find that it has been unable to act as a significant competitive constraint on the three nationwide providers. Accordingly, based on our review of the record and in-depth analysis of the data, we find that the transaction is unlikely to lead to anti-competitive unilateral or coordinated effects and is unlikely to harm the public interest.

3. Further, our review of the record demonstrates that the proposed transaction is likely to result in substantial public interest benefits, due in large part to increased network efficiencies and spectrum utilization, which will result in additional capacity and coverage benefits, including in rural areas. In addition, T-Mobile will have the ability to offer improved fixed wireless access (FWA) service to current and new FWA users with higher speeds and capacity than was possible with either of the standalone companies. In an economy increasingly dependent upon access to broadband services for innovation in a wide variety of sectors and services, these network deployment synergies will yield significant public interest benefits. For these reasons, we conclude that the public interest, convenience and necessity would be served by approving these Applications.

II. BACKGROUND

A. Description of the Applicants

1. T-Mobile

4. T-Mobile is a publicly traded Delaware corporation controlled by Deutsche Telekom AG (Deutsche Telekom).[4] T-Mobile and its subsidiaries offer nationwide wireless voice and data services to consumer and business customers; they provide service to approximately 129.5 million postpaid and prepaid customers, as of December 31, 2024, as well as offering a wide selection of wireless devices and accessories.[5] In addition, T-Mobile offers a fixed wireless product that is available to tens of millions of domestic households where T-Mobile has excess network capacity.[6] T-Mobile reported 2024 total revenues of approximately $81 billion, with an operating income of approximately $18 billion.[7]

2. UScellular

5. UScellular is a publicly traded Delaware corporation that is a majority-owned subsidiary of Telephone and Data Systems, Inc. (TDS).[8] UScellular serves approximately 4.5 million customers across portions of 21 states in various geographies, with approximately 40% of its covered population in rural areas.[9] UScellular's offerings include postpaid and prepaid wireless voice, data, messaging service, in-home/business broadband (fixed wireless access), and Internet of Things (IoT) services.[10] UScellular

[4] T-Mobile/UScellular Applications, Description of Transaction, Public Interest Statement, and Related Demonstrations, at 1-2 (Public Interest Statement).

[5] T-Mobile US, Inc., SEC Form 10-K, at 6-7 (filed Jan. 31, 2025) (79% postpaid customers, 16% prepaid customers, and 5% wholesale and other services).

[6] T-Mobile US, Inc., SEC Form 10-K, at 6 (filed Jan. 31, 2025).

[7] T-Mobile US, Inc., SEC Form 10-K, at 33 (filed Jan. 31, 2025).

[8] Public Interest Statement at 3.

[9] Public Interest Statement at iii, 2, 26. The Applicants state that UScellular's calculation of covered population in rural areas is based on Metropolitan Statistical Areas. Public Interest Statement at 2 & n.6. Regarding rural areas, the Applicants state, "Unless otherwise noted, the Applicants utilize the Commission's baseline definition of 'rural areas' as those counties with a population density of 100 or fewer persons per square mile (based upon the most recently available Census data)." Public Interest Statement at 26 & n.107 (citing *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, WT Docket No. 02-381, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 19078, 19087-88, para. 11 (2004)); *see also* 47 CFR § 1.2110(f)(4)(B).

[10] Public Interest Statement at 2-3.

also owns approximately 4,400 towers that it uses to support its own network as well as lease space on these towers to other providers.[11] It reported 2024 total revenues of approximately $3.8 billion.[12]

B. Description of the Transaction

6. On May 24, 2024, TDS, UScellular, T-Mobile, and USCC Wireless Holdings, LLC (USCC Holdings) entered into a Securities Purchase Agreement (Purchase Agreement), pursuant to which, among other terms, UScellular agreed to sell its wireless operations and select spectrum assets to T-Mobile for $4.4 billion, payable in cash and the assumption of certain debt.[13] According to the Applicants, the wireless operations include: subscribers, network assets and operations (excluding owned towers), sales and distribution, and customer care.[14] Under the Purchase Agreement, T-Mobile will acquire approximately 30% of UScellular's spectrum portfolio, including all of the company's 600 MHz, 2.5 GHz, and 24 GHz, as well as the majority of its 700 MHz A Block, Advanced Wireless Services (AWS), and Personal Communications Service (PCS) holdings.[15] The transaction involves the acquisition of wireless assets in 198 Cellular Market Areas (CMAs) of the 734 CMAs nationwide, covering approximately 10% of the U.S. population.[16]

7. At the closing of the proposed transaction, T-Mobile and UScellular will also enter into a Master License Agreement (MLA), pursuant to which, among other terms, T-Mobile will: (a) license from UScellular, for a minimum of 15 years, space on a minimum of approximately 2,000 existing or to-be-constructed towers owned by UScellular; and (b) extend the license term for the approximately 600 towers owned by UScellular on which T-Mobile is already a tenant for a new 15-year term commencing at closing.[17] In addition, the MLA provides for an interim license on an additional approximately 1,800 towers owned by UScellular in furtherance of a smooth transition.[18]

8. Also pursuant to the Purchase Agreement, the Applicants state that in order to assist with transitioning UScellular's customers to T-Mobile's network for continuity of service during integration, the parties have filed a series of short-term spectrum manager leases for a period not to exceed one year after the closing of this transaction.[19] Following the transition of customers, spectrum licenses for the

[11] Public Interest Statement at 3.

[12] United States Cellular Corporation, SEC Form 10-K, at 28 (filed Feb. 21, 2025).

[13] Telephone and Data Systems, Inc., SEC Form 8-K, Purchase Agreement, at 3 (filed May 28, 2024) (TDS May 28 Form 8-K, Purchase Agreement); *see also* Public Interest Statement at 3-4. The transaction conceptually will involve two major steps: (1) the *pro forma* restructuring of UScellular such that the assets being sold to T-Mobile will be moved into USCC Holdings; and (2) the transfer of USCC Holdings from UScellular to T-Mobile. Following the completion of these steps, USCC Holdings and its subsidiaries will be indirect, wholly owned subsidiaries of T-Mobile and their FCC licenses and authorizations will be indirectly controlled by T-Mobile. Public Interest Statement at 3-4.

[14] Telephone and Data Systems, Inc., SEC Form 8-K, Press Release and Presentation, at 10 (filed May 28, 2024); *see also* Joint Opposition of T-Mobile US, Inc. and United States Cellular Corporation at 25 (filed Jan. 8, 2025) (Joint Opposition).

[15] TDS May 28 Form 8-K, Purchase Agreement at 10; *see also* Public Interest Statement, Appx. B, Declaration of Ankur Kapoor ¶¶ 6-8 (Sept. 13, 2024) (Public Interest Statement, Kapoor Decl.).

[16] Public Interest Statement at 31, 35; Public Interest Statement, Appx. E, Declaration of Jonathan Orszag ¶ 126 (Sept. 13, 2024) (Public Interest Statement, Orszag Decl.); *see also* Joint Opposition at 17 & n.76.

[17] TDS May 28 Form 8-K, Purchase Agreement at 4; *see also* Telephone and Data Systems, Inc., SEC Form 8-K, Press Release and Presentation, at 10 (filed May 28, 2024); Joint Opposition at 25.

[18] TDS May 28 Form 8-K, Purchase Agreement at 4.

[19] TDS May 28 Form 8-K, Purchase Agreement at 5; Public Interest Statement at 4; *see also Pleading Cycle Public Notice* at 1 .

remaining 70% of UScellular's spectrum will be retained by UScellular and transferred to other third parties.[20]

9. The Applicants argue that the proposed transaction is beneficial for several reasons, including: (1) T-Mobile's commitment to serve rural and other hard-to-connect communities across the United States; (2) more competitive choices for UScellular customers benefiting from T-Mobile's greater resources and ability to provide lower prices, more robust plans, and a better network experience; and (3) access to T-Mobile's 5G network, enhanced by UScellular's spectrum and leased tower assets.[21] They explain that T-Mobile's spectrum depth and the extent of its coverage in UScellular's footprint are lower on average than elsewhere in the country and, as a result of the transaction, T-Mobile will acquire spectrum that is complementary to its current holdings.[22] T-Mobile contends that it will be able to deploy the UScellular spectrum on existing T-Mobile towers within the UScellular footprint almost immediately after closing of the transaction and at virtually no cost.[23] T-Mobile further asserts that it will use the network assets acquired from UScellular to enhance its network performance in UScellular's footprint, much of which encompasses rural areas.[24] T-Mobile asserts that the proposed transaction will result in a greater number of customers receiving faster speeds as 5G will become available across a much larger expanse of the combined network.[25] The resulting improved network, T-Mobile claims, will position it to provide more robust competition in regions where the company has been historically behind other mobile network operators (MNOs) in terms of subscribers.[26] In addition, T-Mobile asserts that substantial efficiencies will result that will allow T-Mobile to further innovate and enhance competition in these areas in the future.[27]

[20] UScellular has already filed applications for the assignment of certain spectrum to Verizon and AT&T. *See Wireless Telecommunications Bureau Accepts for Filing New Cingular Wireless PCS, LLC's and United States Cellular Corporation's Spectrum Assignment Applications*, WT Docket No. 25-150, Public Notice, DA 25-276, (WTB Mar. 26, 2025) (*AT&T-UScellular Transaction Public Notice*); *Wireless Telecommunications Bureau Accepts for Filing Cellco Partnership's and United States Cellular Corporation's Spectrum Assignment Applications*, WT Docket No. 25-192, Public Notice, DA 25-491 (WTB June 6, 2025) (*Verizon Wireless-UScellular Transaction Public Notice*).

[21] Public Interest Statement, Appx. C, Declaration of Laurent Therivel ¶¶ 55-57 (Sept. 13, 2024) (Public Interest Statement, Therivel Decl.); *see also* Public Interest Statement at 9-17; UScellular, UScellular and TDS Announce Sale of Wireless Operations and Select Spectrum Assets to T-Mobile for Approximately $4.4 Billion in Cash and Assumed Debt (May 28, 2024), https://investors.uscellular.com/news/news-details/2024/UScellular-and-TDS-Announce-Sale-of-Wireless-Operations-and-Select-Spectrum-Assets-to-T-Mobile-for-Approximately-4.4-Billion-in-Cash-and-Assumed-Debt/default.aspx.

[22] Public Interest Statement at 17-18; Public Interest Statement, Kapoor Decl. ¶¶ 2-4, 6.

[23] Public Interest Statement at 18; Public Interest Statement, Kapoor Decl. ¶¶ 6, 12.

[24] Public Interest Statement at 18; Public Interest Statement, Kapoor Decl. ¶¶ 2-3, 9-13, 20, 22-23.

[25] Public Interest Statement at 22; Public Interest Statement, Kapoor Decl. ¶ 14; *see also* Press Release, T-Mobile, T-Mobile to Acquire UScellular Wireless Operations and Deliver Exceptional Value, a Superior 5G Experience and Unparalleled Benefits to Millions of Customers (May 28, 2024), https://www.t-mobile.com/news/business/uscellular-acquisition-operations-assets.

[26] Public Interest Statement at 18; Public Interest Statement, Kapoor Decl. ¶¶ 2-4; Public Interest Statement, Appx. A, Declaration of Michael Katz ¶¶ 10-11 (Sept. 13, 2024) (Public Interest Statement, Katz Decl.).

[27] Public Interest Statement at 18; Public Interest Statement, Katz Decl. ¶¶ 6, 10, 12.

C. Transaction Review Process

10. T-Mobile and UScellular filed their Applications on September 13, 2024.[28] On October 30, 2024, a Public Notice was released accepting the Applications for filing and establishing a pleading cycle for petitions to deny, oppositions, and replies.[29] On November 26, 2024, the Wireless Telecommunications Bureau (WTB) issued a Public Notice[30] and a Protective Order[31] regarding access to Numbering Resource Utilization and Forecast (NRUF) reports filed by carriers engaged in the provision of wireless telecommunications services and disaggregated, carrier-specific local number portability (LNP) data related to wireless telecommunications carriers. On December 9, 2024, five petitions to deny[32] and two comments[33] were timely filed. Four oppositions were filed, including a joint opposition from T-Mobile and UScellular, on January 8, 2025.[34] On January 28, 2025, five replies were filed.[35]

[28] T-Mobile/UScellular Applications. On September 11, 2024, in anticipation of the filing of the applications, the Commission opened a docket and articulated the *ex parte* procedures related to the proposed transaction in a Public Notice, and WTB issued a Protective Order regarding the submission and handling of confidential and highly confidential information. *Federal Communications Commission Opens Docket For Proposed Transfer of Wireless Operations, Customers, and Certain Spectrum Licenses and Spectrum Leases of UScellular to T-Mobile*, GN Docket No. 24-286, Public Notice, DA 24-925 (WTB/OEA Sept. 11, 2024); *Applications of T-Mobile US, Inc. and United States Cellular Corporation for Consent To Transfer Control of Licenses and Authorizations*, GN Docket No. 24-286, Protective Order, DA 24-928 (WTB Sept. 11, 2024).

[29] *Pleading Cycle Public Notice*, 39 FCC Rcd at 11710.

[30] *Applications of T-Mobile and UScellular for Proposed Transfer of Wireless Operations, Customers, and Certain Spectrum Licenses and Leases; NRUF Reports and LNP Reports Placed Into the Record, Subject to the Protective Order*, GN Docket No. 24-286, CC Docket No. 99-200, Public Notice, DA 24-1190 (WTB/OEA Nov. 26, 2024).

[31] *Applications of T-Mobile US, Inc. and United States Cellular Corporation for Consent to Transfer Control of Licenses, Authorizations, and Leases*, GN Docket No. 24-286, NRUF/LNP Protective Order, DA 24-1191 (WTB Nov. 26, 2024).

[32] Communications Workers of America Petition to Deny (CWA Petition); EchoStar Petition to Deny (EchoStar Petition); Mark J. O'Connor, Sara F. Leibman Petition to Hold in Abeyance, Deny, or Dismiss (O'Connor/Leibman Petition); Public Knowledge, Open Technology Institute at New America, Benton Institute for Broadband & Society, Access Humboldt, Institute for Local Self-Reliance (Public Knowledge et al. Petition); and Rural Wireless Association Petition to Deny (RWA Petition). Zafa II LLC and HMZ Madison Inc. (Zafa) also filed a Petition for Review, but subsequently requested via email that the FCC remove its petition from the record. Accordingly, we treat Zafa's petition as withdrawn even though Zafa failed to formally withdraw in the Commission's electronic comment filing system. Emails from Henry Zachs, manager HMZ Madison Inc., Zafa, to Joel Rabinovitz, special counsel, Office of the General Counsel, FCC, et al. (Dec. 16 and 18, 2024).

[33] *See* Computer and Communications Industry Association (CCIA) Comments; Redzone Wireless Comments. There are also filings that are titled "Comments" that were filed after the established petition/comment deadline of December 9, 2024, as specified in the Public Notice. *Pleading Cycle Public Notice* at 1. Pursuant to Commission rules, because these comments were not filed by the deadline, they will be treated as *ex parte* filings. 47 CFR§ 1.419(b). Filings submitted after the December 9, 2024 deadline include letters from the International Center for Law & Economics (ICLE *Ex Parte* Letter); the Conference of National Black Churches (CNBC *Ex Parte* Letter); StartOut (StartOut *Ex Parte* Letter); the American Consumer Institute (ACI *Ex Parte* Letter); the Association of Women's Business Centers (AWCB *Ex Parte* Letter); Jeffrey Westling, Director, Technology & Innovation Policy, the American Action Forum, in his individual capacity (Westling *Ex Parte* Letter); TechFreedom (TechFreedom *Ex Parte* Letter); the League of United Latin American Citizens (LULAC *Ex Parte* Letter); the US Black Chambers, Inc. and United States Hispanic Chamber of Commerce; the Center for Individual Freedom (CFIF *Ex Parte* Letter); AT&T (AT&T *Ex Parte* Letter); and the Farm Bureaus of Kansas, Oregon, Washington and Wisconsin (Kansas Farm Bureau et al. *Ex Parte* Letter).

[34] The Free State Foundation Opposition (FSF Opposition); Information Technology & Innovation Foundation Opposition (ITIF Opposition); Joint Opposition; UScellular Opposition to O'Connor/Leibman Petition.

11. On December 27, 2024, pursuant to section 308(b) of the Communications Act, WTB and OEA requested additional information and documents from T-Mobile and UScellular.[36] T-Mobile submitted responses to the information and data requests on a rolling basis from January 8, 2025, through May 21, 2025.[37] UScellular submitted responses to the information and data requests on a rolling basis from January 17, 2025, through May 21, 2025.[38] On April 22, 2025, WTB and OEA requested information and documents from certain wireless and cable service providers.[39] The wireless and cable

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[35] Advanced Communications Law & Policy Institute Reply (ACLP Reply); EchoStar Reply; O'Connor/Leibman Reply; Public Knowledge et al. Reply; RWA Reply.

[36] Letter from Joel Taubenblatt, Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Nancy J. Victory, Counsel to T-Mobile, GN Docket 24-286 (rel. Dec. 27, 2024) (T-Mobile Request); Letter from Joel Taubenblatt, Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Christine M. Crowe, Counsel to UScellular, GN Docket 24-286 (rel. Dec. 27, 2024) (UScellular Request).

[37] *See* Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Jan. 8, 2025) (T-Mobile Jan. 8 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Jan. 17, 2025) (T-Mobile Jan. 17 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Feb. 3, 2025) (T-Mobile Feb. 3 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Feb. 27, 2025) (T-Mobile Feb. 27 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Mar. 17, 2025) (T-Mobile Mar. 17 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Apr. 10, 2025) (T-Mobile Apr. 10 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 2, 2025) (T-Mobile May 2 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 12, 2025) (T-Mobile May 12 Response); Letter from Nancy J. Victory, Counsel to T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 20, 2025) (T-Mobile May 20 Response). T-Mobile filed responses to the Data Request on January 22, 2025, February 3, 2025, March 17, 2025, April 10, 2025, May 2, 2025, May 12, 2025, May 16, 2025, and May 20, 2025.

[38] Letter from Christine M. Crowe, Counsel for UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Jan. 17, 2025) (UScellular Jan. 17 Response); Letter from Christine M. Crowe, Counsel for UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Jan. 30, 2025) (UScellular Jan. 30 Response); Letter from Christine M. Crowe, Counsel for UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Feb. 14, 2025) (UScellular Feb. 14 Response); Letter from Christine M. Crowe, UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Feb. 28, 2025) (UScellular Feb. 28 Response); Letter from Christine M. Crowe, UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Mar. 4, 2025) (UScellular Mar. 4 Response); Letter from Christine M. Crowe, Counsel for UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (Mar. 27, 2025) (UScellular Mar. 27 Response); Letter from Christine M. Crowe, UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 8, 2025) (UScellular May 8 Response); Letter from Christine M. Crowe, Counsel for UScellular, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 21, 2025) (UScellular May 21 Response). UScellular filed responses to the Data Request on February 28, 2025, March 27, 2025 and May 8, 2025.

[39] Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Anne Sokolin-Maimon, Vice President, Regulatory Affairs, Mediacom Communications Corporation, GN Docket 24-286 (rel. Apr. 22, 2025); Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Jeffrey H. Blum, Executive Vice President, External & Legislative Affairs, EchoStar Corporation, GN Docket 24-286 (rel. Apr. 22, 2025); Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Cristina C. Chou, Vice President, Regulatory Affairs, Altice USA, Inc., GN Docket 24-286 (rel. Apr. 22, 2025); Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Catherine Bohigian, Executive Vice President, Government Affairs, Charter Communications, Inc., GN Docket 24-286 (rel. Apr. 22, 2025); Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Barry Ohlson, Vice President, Regulatory Affairs, Cox Communications, Inc., GN Docket 24-286 (rel. Apr. 22, 2025); Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Hank Hultquist, Vice President,
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service providers submitted materials in response to WTB and OEA's requests between May 13 and May 19, 2025.[40]

12. In connection with the transaction, the Applicants have also made filings with the U.S. Department of Justice (DOJ), Antitrust Division, the Committee on Foreign Investment in the United States (CFIUS), and various state public utility commissions. On November 26, 2025, at the request of DOJ, the Commission referred the Applications to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector (Committee) for its views on any national security or law enforcement concerns related to the Applications and deferred action on the Applications until the Committee completed its review.[41] On June 20, 2025, the National Telecommunications and Information Administration (NTIA) filed a letter stating that "the Committee has reviewed the applications and has no recommendation at this time to the Commission approving the applications and no objection to the Commission granting [them]."[42]

III. STANDARD OF REVIEW AND PUBLIC INTEREST FRAMEWORK

13. Pursuant to sections 214(a) and 310(d) of the Act,[43] we must determine whether the proposed transfer of control and assignment to T-Mobile of licenses and authorizations held and

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Federal Regulatory, AT&T Services, Inc, GN Docket 24-286 (rel. Apr. 22, 2025); Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to Brian Josef, Vice President, Comcast Corporation, GN Docket 24-286 (rel. Apr. 22, 2025); Letter from Joel Taubenblatt, Acting Chief, WTB, and Kate Matraves, Acting Chief, OEA, to William H. Johnson, Senior Vice President & Deputy General Counsel, Verizon Communications Inc., GN Docket 24-286 (rel. Apr. 22, 2025).

[40] Letter from Richard C. Landon, Counsel for Mediacom Communications Corporation, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 13, 2025) (Mediacom Request Response); Letter from Jeffrey H. Blum, Executive Vice President, External & Legislative Affairs, EchoStar Corporation, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 13, 2025) (EchoStar Request Response); Letter from Tara M. Corvo, Counsel for Altice USA, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 13, 2025) (Altice Request Response); Letter from Catherine Wang and Patricia Cave, Counsel for Charter Communications, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 13, 2025) (Charter Request Response); Letter from Christina E. Fahmy, Counsel for Cox Communications, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 19, 2025) (Cox Request Response); Letter from Maureen R. Jeffreys, Counsel for AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 13, 2025) (AT&T Request Response); Letter from Melanie A. Medina, Counsel for Comcast Corporation, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 13, 2025) (Comcast Request Response); Letter from Joshua S. Turner, Counsel for Verizon Communications Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (May 13, 2025) (Verizon Request Response).

[41] *T-Mobile-UScellular Transfer of Control and Assignment Applications Referred To The Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector*, GN Docket No. 24-286, Public Notice, DA 24-1194 (OIA/WTB Nov. 26, 2025) (*Referral Public Notice*) (citing Letter from Makenzie B. Skopowski, Attorney Advisor, Foreign Investment Review Section, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286, ICFS File No. ITC-ASG-20240913-00139 (filed Nov. 19, 2024)); *see also Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector Reviewing T-Mobile-UScellular Transfer of Control and Assignment Applications*, GN Docket No. 24-286, Public Notice, DA 24-1221 (OIA/WTB Dec. 5, 2024) (announcing the review by the Committee).

[42] Letter from Andrew Coley, NTIA, to Thomas Sullivan, Acting Chief, OIA, FCC, GN Docket No. 24-286, ITC-ASG-20240913-00139 (filed June 20, 2025).

[43] 47 U.S.C. §§ 214(a), 310(d). Section 310(d) of the Act requires that the Commission consider applications for transfer or assignment of Title III licenses under the same standard as if the proposed transferee or assignee were applying for licenses directly under section 308 of the Act, 47 U.S.C. § 308. *See, e.g.*, *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, WC Docket No. 16-403, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585, para. 8 (2017) (*CenturyLink-Level*
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controlled by UScellular and its subsidiaries will serve the public interest, convenience, and necessity. In making this determination, we first assess whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission's rules.[44]

14. If the proposed transaction does not violate a statute or rule, we then consider whether the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[45] Our competitive analysis, which forms an important part of the public interest evaluation, is informed by, but not limited to, traditional antitrust principles.[46] The United States Department of Justice has independent authority to examine the competitive impacts of proposed mergers and transactions involving transfers of Commission licenses, but the Commission's competitive analysis under the public interest standard is somewhat broader, and often takes a more extensive view of potential and future competition and its impact on the relevant markets.[47] Notably, the Commission has determined it may impose and enforce transaction-related conditions to ensure that the public interest is served by the transaction.[48]

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3 Order); *Application of Verizon Communications Inc. and Straight Path Communications, Inc. for Consent to Transfer Control of Local Multipoint Distribution Service, 39 GHz, Common Carrier Point-to-Point Microwave, and 3650-3700 MHz Service Licenses*, ULS File No. 0007783428, Memorandum Opinion and Order, 33 FCC Rcd 188, 189, para. 5 & n.11 (WTB 2018) (*Verizon-Straight Path Order*); *Applications of GCI Communication Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub, Inc., and Unicom, Inc. for Consent to Assign Licenses to the Alaska Wireless Network, LLC*, WT Docket No. 12-187, WC Docket No. 09-197, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd 10433, 10442, para. 23 & n.71 (2013) (*Alaska Wireless-GCI Order*).

[44] 47 U.S.C. § 310(d); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 8; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 5; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[45] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 5; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[46] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 6; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10443, para. 25; *see also Northeast Utils. Serv. Co. v. Fed. Energy Regulatory Comm'n*, 993 F.2d 937, 947 (1st Cir. 1993) (public interest standard does not require agencies "to analyze proposed mergers under the same standards that the Department of Justice . . . must apply").

[47] *See, e.g.*, *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor to Sirius Satellite Radio Inc., Transferee*, MB Docket No. 07-57, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, 12365-66, para. 32 (2008) (*XM-Sirius Order*); *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5674, para. 21 (2007) (*AT&T-BellSouth Order*); *Applications of Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, File Nos. 0002031766, et al.*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967, 13978, para. 22 (2005) (*Sprint-Nextel Order*); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations, File Nos. 0001656065, et al.; Applications of Subsidiaries of T-Mobile USA, Inc. and Subsidiaries of Cingular Wireless Corporation for Consent to Assignment and Long-Term De Facto Lease of Licenses, File Nos. 0001771442, 0001757186, and 0001757204; Applications of Triton PCS License Company, LLC, AT&T Wireless PCS, LLC, and Lafayette Communications Company, LLC for Consent to Assignment of Licenses, File Nos. 0001808915, 0001810164, 0001810683, and 50013CWAA04*, WT Docket Nos. 04-70, 04-254, and 04-323, Memorandum Opinion and Order, 19 FCC Rcd 21522, 21545, para. 42 (2004) (*Cingular-AT&T Wireless Order*).

[48] *See, e.g.*, *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, 9141, para. 22 (2015) (*AT&T-DIRECTV Order*); *Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, MB Docket No. 10-56, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4249, para. 25 (2011); *Application of EchoStar Communications Corp., (A Nevada*
(continued….)

15. If we determine that a transaction raises no public interest harms or that any such harms have been ameliorated by the Commission-imposed conditions or voluntary commitments, we next consider a transaction's public interest benefits. Applicants bear the burden of proving those benefits by a preponderance of the evidence.[49] As part of our public interest authority, we may impose conditions to ensure for the public the transaction-related benefits claimed by the Applicants.[50]

16. Finally, if we are able to find that transaction-related conditions are able to ameliorate any public interest harms and the transaction is in the public interest, we may approve the transaction as so conditioned or agreed.[51] In contrast, if we are unable to find that a proposed transaction even with such conditions serves the public interest or if the record presents a substantial and material question of fact, then we must designate the application for hearing.[52]

IV. QUALIFICATIONS OF THE APPLICANTS AND COMPLIANCE WITH COMMUNICATIONS ACT AND COMMISSION RULES AND POLICIES

17. Section 310(d) of the Act requires that we make a determination as to whether the Applicants have the requisite qualifications to hold Commission licenses.[53] Among the factors the Commission considers in its public interest review is whether the applicant for a license has the requisite "citizenship, character, financial, technical, and other qualifications."[54] Therefore, as a threshold matter, the Commission must determine whether the applicants to a proposed transaction meet the requisite

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Corp.), General Motors Corp., and Hughes Electronics Corp (Delaware Corps.) (Transferors) and EchoStar Communications Corp. (A Delaware Corp.) (Transferee), CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20575, para. 27 (2002) ; *see also Application of WorldCom, Inc. and MCI Commc'ns Corp. for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, CC Docket No. 97-211, Memorandum Opinion and Order, 13 FCC Rcd 18025, 18032, para. 10 (1998) (stating that the Commission may attach conditions to the transfers); *Applications of T-Mobile US, Inc., and Sprint Corp., for Consent to Transfer Control of Licenses and Authorizations, Applications of American H Block Wireless L.L.C., DBSD Corp., Gamma Acquisition L.L.C., and Manifest Wireless L.L.C. for Extension of Time*, WT Docket No. 18-197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10596, para. 42 (2019) (*T-Mobile-Sprint Order*); *Frontier Communications Parent, Inc. and Verizon Communications, Inc. Application for Consent to Transfer Control*, WC Docket No. 24-445, Memorandum Opinion and Order, DA 25-421, 2025 WL 1431138, at *5, para. 9 (WCB/OIA/WTB May 16, 2025) (*Verizon-Frontier Order*).

[49] 47 U.S.C. § 309(e); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10; *Verizon-Straight Path Order*, 33 FCC Rcd at 190-91, para. 7; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23; *Verizon-Frontier Order* at *5, para. 10.

[50] *See, e.g.*, *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10443, para. 26; *Applications of AT&T Inc. and Centennial Communications Corp. for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements*, WT Docket No. 08-246, Memorandum Opinion and Order, 24 FCC Rcd 13915, 13929, para. 30 (2009) (*AT&T-Centennial Order*); *Verizon-Frontier Order* at *5, para. 10.

[51] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 11; *Verizon-Straight Path Order*, 33 FCC Rcd at 191, para. 8.

[52] 47 U.S.C. § 309(e); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11; *Verizon-Straight Path Order*, 33 FCC Rcd at 191, para. 8; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10444, para. 27. Section 309(e)'s requirement applies only to those applications to which Title III of the Act applies. *ITT World Commc'ns, Inc. v. FCC*, 595 F.2d 897, 900-01 (2d Cir. 1979); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11 & n.37.

[53] 47 U.S.C. § 310(d).

[54] 47 U.S.C. §§ 308, 310(d); *T-Mobile-Sprint Order*, 34 FCC Rcd at 10596-97, para. 43; *Century Link-Level 3 Order*, 32 FCC Rcd at 9587, para. 12; *Verizon-Straight Path Order,* 33 FCC Rcd at 191, para. 9.

qualification requirements to hold and transfer licenses under section 310(d) of the Act and the Commission's rules.[55]

18. T-Mobile will acquire certain UScellular spectrum licenses and all of UScellular's wireless operations and customers. No issues were credibly raised regarding the basic qualifications of T-Mobile.[56] We therefore find that there is no reason to reevaluate the requisite citizenship, character, financial, technical, or other basic qualifications of T-Mobile under the Act and our rules, regulations, and policies. UScellular previously and repeatedly has been found qualified to hold Commission licenses.[57] While petitioners O'Connor and Leibman challenge the character qualifications of UScellular and its subsidiaries to be licensees, as explained below, nothing in their petition warrants reevaluation of the qualifications of UScellular or its subsidiaries. We examine the foreign ownership issues in section X. In addition, we find that the proposed transaction will not violate any statutory provisions or Commission rules.[58]

19. In their Petition, O'Connor and Leibman argue that we should hold in abeyance, deny, or dismiss the Applications, based on allegations that UScellular and its designated entities lack the character qualifications to be licensees.[59] O'Connor and Leibman have filed *qui tam* actions in federal court against UScellular, arguing that it fraudulently obtained the benefit of designated entity credits in two FCC auctions.[60] They ask us "simply"[61] to delay our consideration of the Applications until their *qui tam* actions have been fully resolved, or in the alternative, to dismiss the Applications as to certain licenses.[62] We decline to do so. The Commission generally does not reevaluate the qualifications of transferors unless issues related to basic qualifications have been sufficiently raised in petitions to warrant designation for hearing on the question whether the transferee is fit to be a licensee or should instead have its licenses revoked.[63] We find, for the reasons discussed below, that has not occurred here.[64]

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[55] *See*, *e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd 10596-97, para. 43; *CenturyLink-Level-3 Order*, 32 FCC Rcd at 9587, para. 12; *Verizon-Straight Path Order*, 33 FCC Rcd at 191-92, para. 9.

[56] We note that T-Mobile previously and repeatedly has been found qualified to hold Commission licenses. *See, e.g.*, *Applications of Deutsche Telekom AG, T-Mobile USA, Inc., and MetroPCS Communications, Inc. for Consent to Transfer of Control of Licenses and Authorizations*, WT Docket No. 12-301, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd 2322, 2329, para. 19 (WTB/IB 2013) (*T-Mobile-MetroPCS Order*).

[57] *See, e.g.*, *Application of United States Cellular Corporation and Hershey Cooperative Telephone Company for Consent to Assign License*, WT Docket No. 16-14, Memorandum Opinion and Order, 31 FCC Rcd 10669, 10671-72, para. 7 (WTB 2016).

[58] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10598, para. 47; *Century Link-Level 3 Order*, 32 FCC Rcd at 9587, para. 14; *Verizon-Straight Path Order*, 33 FCC Rcd at 193, para. 13.

[59] O'Connor/Leibman Petition at 7-8, 30, 34.

[60] O'Connor/Leibman Petition at 2, 8; *U. S. ex rel. O'Connor v. U.S. Cellular Corp. et al*., No. 20-cv-2070, 2023 WL 2424605 (D.D.C.) (dismissed Mar. 9, 2023), *appeal pending*, *U.S. ex rel. O'Connor v. U.S. Cellular Corp. et al*., No. 23-7041; *U.S. ex rel. O'Connor v. U.S. Cellular Corp. et al.*, No. 20-cv-2071, 2023 WL 2598678 (D.D.C.) (dismissed Mar. 22, 2023); *dismissal aff'd*, *U.S., ex rel. O'Connor v. USCC Wireless Inv., Inc., et al.*, Case No. 23-7044 (D.C. Cir. Feb. 11, 2025).

[61] *See, e.g.*, O'Connor/Leibman Petition at 6; O'Connor/Leibman Reply at 4, 9. O'Connor and Leibman's request is disingenuous, to say the least. As noted above, O'Connor and Leibman's recent *qui tam* actions have been dismissed by the district court, albeit on procedural grounds. One of those dismissals has been affirmed by the U.S. Court of Appeals and the other appeal of their dismissal is pending. Thus, it is highly unlikely that O'Connor and Leibman's fraud allegations will ever be adjudicated.

[62] *See, e.g.*, O'Connor/Leibman Petition at 6-7, 30, 31 & n.60.

[63] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10597-98, para. 45; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9587, para. 13; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10445, para. 29. *See generally Jefferson Radio Co. v.*

(continued….)

20. O'Connor and Leibman essentially allege that UScellular improperly took control of King Street Wireless L.P. (King Street) and Advantage Spectrum, L.P. (Advantage). With regard to King Street, O'Connor and Leibman filed a *qui tam* action in 2008, alleging that King Street was a sham entity set up by UScellular for the purpose of obtaining bidding credits.[65] At the time the *qui tam* action was filed, while King Street was the highest bidder for a number of licenses at auction, the Commission had not yet granted King Street's application and issued those licenses. The *qui tam* complaint was partially unsealed to allow the Commission to evaluate O'Connor and Leibman's allegations during the application review process.[66] In 2009, the Commission granted King Street the bidding credits and issued the licenses.[67] O'Connor and Leibman chose not to appeal that decision and voluntarily dismissed their *qui tam* action.[68] Further, O'Connor and Leibman specifically state here that they do not seek "to relitigate the Commission staff decisions to grant [the designated entity] bidding credits."[69] We therefore will not consider here any allegations of fraud relating to the formation of King Street.

21. With respect to later actions, O'Connor and Leibman's claim is essentially that a 2011 Network Sharing Agreement (NSA) between King Street and UScellular, which UScellular states was superseded by a 2012 NSA, was required to be reported to the Commission and amounted to a transfer of *de facto* control.[70] Determining whether one company has *de facto* control of another involves a fact-intensive case-by-case analysis.[71] But to prove fraud under the False Claims Act, as O'Connor and Leibman are attempting to do in their *qui tam* actions and here in arguing that UScellular lacks the requisite qualifications to hold licenses, they must show that UScellular and King Street *knowingly* made a false claim or certification.[72] Further, when the Commission finds an entity to be ineligible for bidding credits, for example, because it is actually controlled by another company, typically it denies the applicant the bidding credits and requires it to pay the full bid amount but grants the licenses, finding the applicant

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FCC, 340 F.2d 781, 783 (D.C. Cir. 1964); *Stereo Broadcasters, Inc. v. FCC*, 652 F.2d 1026, 1030 (D.C. Cir. 1981) (Commission policy generally prohibits the assignment of a license while basic qualifications issues raised against the licensee remain unresolved, and thus serves as a deterrent to licensee misconduct). O'Connor and Leibman are incorrect, however, that *Jefferson Radio* requires us to wait until a district court has determined their fraud allegations to reach a decision here. *See* O'Connor/Leibman Reply at 9.

[64] O'Connor and Leibman specifically and repeatedly state they "do not seek to relitigate the fraud allegations before the Commission." *See, e.g.*, O'Connor/Leibman Petition at 6, 8. They therefore perhaps have waived their argument that UScellular is unqualified. We nonetheless review their claims to determine whether questions have been sufficiently raised so as to warrant a hearing on the issue.

[65] *U.S. ex rel. O'Connor v. U.S. Cellular Corp. et al.*, No. 1:07-cv-00800-JDB (D.D.C. Apr. 24, 2008).

[66] *See U.S. ex rel. O'Connor v. U.S. Cellular Corp. et al.*, No. 20-cv-2071, 2023 WL 2598678 at *2-3 (D.D.C. Mar. 22, 2023) (describing history of 2008 action).

[67] *Id.*

[68] *Id.*

[69] O'Connor/Leibman Petition at 8.

[70] While O'Connor and Leibman allege violations of several Commission rules, they all are predicated on the existence of the 2011 NSA. *See* O'Connor/Leibman Petition at 4, 10.

[71] *See Intermountain Microwave*, 24 Rad. Reg. 7 (P&F) 983, 984 (1963); *Application of Stereo Broadcasters*, Docket No. 20590, Memorandum Opinion and Order, 55 FCC 2d 819, 821-22, para. 7 (1975).

[72] 31 U.S.C. § 3729(a)(1); *see also* 31 U.S.C. § 3729(a)(1)(G). Thus, for example, while O'Connor and Leibman allege that King Street filed false construction notices, pursuant to section 1.9020(e) of the Commission's rules, in meeting the rule, King Street was permitted to rely upon construction undertaken by UScellular pursuant to the spectrum manager leases between King Street and UScellular.

to be qualified.[73] In other words, to support their allegations of fraud and raise sufficient questions about UScellular's qualifications, it is not enough for them to show that UScellular and King Street violated Commission rules or that UScellular was in control of King Street.[74] With respect to the 2011 NSA, we find on the basis of the current record that even assuming, *arguendo*, that the agreement did violate our rules and King Street would be required to pay back the bidding credits for unjust enrichment,[75] O'Connor and Leibman have not shown such egregious behavior on the part of UScellular that would call into question UScellular's basic qualifications to hold licenses and warrant a hearing.[76]

22. With regard to Advantage, most of the allegations are with respect to actions taken by UScellular and Advantage before Advantage was granted the licenses, actions O'Connor and Leibman knew about at the time Advantage's original license applications were under consideration. Yet, again, they chose not to object to those applications and state here that they do not seek to relitigate Advantage's eligibility for bidding credits. We therefore will not consider those allegations as a basis for calling into question UScellular's previously reviewed qualifications. The remaining allegation is that construction notices filed in 2022 show that UScellular was using all of Advantage's spectrum, contrary to our rules.[77] UScellular responds that O'Connor and Leibman misread the notices, and that UScellular was using only half of Advantage's spectrum, which is permissible under the Designated Entity rules.[78] Again, even assuming O'Connor and Leibman to be correct, we find that this allegation does not rise to the level that would require us to set for hearing whether UScellular is qualified to hold licenses. In sum, we do not find there is currently a material question of fact regarding UScellular's basic qualifications to be a Commission licensee.[79]

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[73] *See, e.g.*, *Northstar Wireless, LLC, SNR Wireless LicenseCo, LLC, Applications for New Licenses in the 1695-1710 MHz, 1755-1780 MHz and 2155-2180 MHz Bands*, Report No. AUC-97AUC, Memorandum Opinion and Order, 30 FCC Rcd 8887, 8948-50, paras. 149-52 (2015); *id.* at 8951 para. 156 ("none of [the] allegations constitute grounds to render an adverse decision as to Applicants' basic qualifications to hold licenses, or to grant any of the relief requested in the petitions other than the denial of the bidding credits sought by Applicants"); *Baker Creek Communications, L.P.*, File No. 0000000111, Memorandum Opinion and Order, 13 FCC Rcd 18709, 18712-714, paras. 6-7 (WTB 1998).

[74] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10597-598, para. 45.

[75] *Cf., e.g.*, Application of CBRS Acquisition LLC, and Ringer Mobile, LLC, ULS File No. 0011335151, Public Interest Statement at 2 (filed Nov. 19, 2024) (recognizing licenses are subject to the unjust enrichment rules and that approval will be conditioned on paying the applicable unjust enrichment amount).

[76] *Compare generally Terry Keith Hammond Application for Renewal of License for Station KBKW (FM) Shamrock, Texas*, EB Docket No. 06-163, Order to Show Cause, Notice of Opportunity for Hearing and Hearing Designation Order, 21 FCC Rcd 10267 (2006) (hearing designated with respect to licensee's felony conviction and issues concerning possible rule violations, false certifications and failure to respond to Commission inquiries), *with generally Springfield Broadcasting Partners*, Notice of Apparent Liability for Forfeiture, 14 FCC Rcd 3683 (1999), Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 19230 (1999) (forfeiture imposed for 304 violations of children's advertising limits; renewal application granted); *Application of Morgan County Industries, Inc.*, File No. BR-20040317ADA, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 13712 (MB Nov. 4, 2006) (forfeiture proposed for station operation at an unauthorized location; renewal application granted); *Application of High I-Q Radio, Inc.*, File Nos. BLH-980203KB, BAPH-980421HW, Memorandum Opinion and Order, 19 FCC Rcd 7225 (2004) (license assignment approved in case involving unauthorized transfer of control, commercial operation of a radio station authorized as a non-commercial station, and failure to timely file certain contracts).

[77] O'Connor/Leibman Petition at 19-21; O'Connor/Leibman Reply at 17-18.

[78] UScellular Opposition at 11-12.

[79] As the Applicants describe (*see* Public Interest Statement at 4-5), there are also separate pending transfer of control applications whereby UScellular will acquire all of the interests in King Street Wireless, LP (ULS File No.

(continued….)

V. PRELIMINARY ISSUES

23. *Consolidation of UScellular Transactions*. Public Knowledge et al.,[80] the Rural Wireless Association, Inc. (RWA),[81] and EchoStar Corporation (EchoStar)[82] (together, the Consolidation

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0008088917 (filed Feb. 2, 2018)) and Advantage Spectrum, L.P. (ULS File No. 0011135862 (filed July 1, 2024)). As discussed here and in the contemporaneously issued UScellular-Advantage Memorandum Opinion and Order (*see Application of Advantage Spectrum, L.P. and William C. Vail and United States Cellular Corporation For Consent to Transfer Control of Licenses*, ULS File No. 0011135862, Memorandum Opinion and Order, DA 25-604 (WTB July 11, 2025)), we are denying the Petition to Deny filed against the UScellular-Advantage application, and we are consenting to those transfer of control applications. In addition, as part of this Memorandum Opinion and Order, we are also granting the applications filed by King Street (*see, e.g.*, ULS File Numbers 0011227307, 0011227342, 0008088917 and 0011227390) and Advantage (*see, e.g.*, ULS File Nos. 0011227092, 0011227112, 0011227171 and 0011227216) to assign the licenses held by those entities to subsidiaries of T-Mobile. Thus, upon consummation of the subject transaction, and its various steps, the licenses held by King Street and Advantage will become T-Mobile licenses. Finally, we dismiss the informal objections filed against the spectrum manager leases by O'Connor and Leibman for the same reasons we discuss in this section. *See* Informal Objection by Mark O'Connor and Sara Leibman (filed Sept. 12, 2024) (asking the Commission not to immediately process Advantage lease notifications for ULS File Nos. 0011220488, 0011220473, 0011220477 filed in connection with the transaction); Informal Objection by Mark O'Connor and Sara Leibman (filed Oct. 15, 2024) (asking the Commission to hold King Street lease notifications for ULS File Nos. 0011220527, 0011220574, 0011220601, and 0011220590 in abeyance).

[80] Public Knowledge et al. Petition at 13.

[81] RWA Petition at 10; *see also* RWA Reply at 13-14; Letter from Carri Bennet, outside General Counsel, Stephen Sharbaugh, Regulatory Counsel, RWA, Harold Feld, Senior Vice President, Public Knowledge, Peter Gregory, Broadband Policy Fellow, Public Knowledge, Nell Geiser, Director of Research, Hooman Hedayati, Senior Strategic Research Associate for Telecommunications Policy, CWA, and Michael Calabrese, Director, Wireless Future Program & Senior Advisor, New America's Open Technology Institute, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286, 1-2 (filed May 13, 2025) (RWA et al. May 13, 2025 *Ex Parte* Letter); Letter from Carri Bennet, outside General Counsel, Stephen Sharbaugh, Regulatory Counsel, RWA, Andrew Jay Schwartzman, Senior Counselor, Benton Institute for Broadband & Society, Peter Gregory, Broadband Policy Fellow, Nat Purser, Government Affairs Policy Advocate, Public Knowledge, Hooman Hedayati, Senior Strategic Research Associate for Telecommunications Policy, CWA, Michael Calabrese, Director, Wireless Future Program & Senior Advisor, New America's Open Technology Institute to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 at 1-2 (filed June 3, 2025) (RWA et al. June 3, 2025 *Ex Parte* Letter).

[82] EchoStar Petition at 12-13; EchoStar Reply at 10-12; Letter from Carri Bennet, outside General Counsel, and Stephen Sharbaugh, Regulatory Counsel, RWA, Harold Feld, Senior Vice President, Peter Gregory, Broadband Policy Fellow, Public Knowledge, Hadass Kogan, Vice President and Associate General Counsel, EchoStar Corporation, Nell Geiser, Director of Research, Hooman Hedayati, Senior Strategic Research Associate for Telecommunications Policy, CWA; Michael Calabrese, Director, Wireless Future Program & Senior Advisor, New America's Open Technology Institute, Andrew Jay Schwartzman, Benton Senior Counselor, Benton Institute for Broadband & Society, and Stephanie Joyce, Chief of Staff and Senior Vice President, CCIA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286, at 3 (filed Mar. 21, 2025) (RWA et al. Mar. 21, 2025 *Ex Parte* Letter); Letter from Carri Bennet, outside General Counsel, and Stephen Sharbaugh, Regulatory Counsel, RWA, Hadass Kogan, Vice President and Associate General Counsel, EchoStar Corporation, Peter Gregory, Broadband Policy Fellow, Public Knowledge, Michael Calabrese, Director, Wireless Future Program & Senior Advisor, New America's Open Technology Institute, Hooman Hedayati, Senior Strategic Research Associate for Telecommunications Policy, CWA; Andrew Jay Schwartzman, Benton Senior Counselor, Benton Institute for Broadband & Society, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286, at 3 (filed Apr. 15, 2025) (RWA et al. Apr. 15, 2025 *Ex Parte* Letter); Letter from Carri Bennet, outside General Counsel, and Stephen Sharbaugh, Regulatory Counsel, RWA, Hadass Kogan, Vice President and Associate General Counsel, EchoStar Corporation, Harold Feld, Senior Vice President, and Peter Gregory, Broadband Policy Fellow, Public Knowledge, Hooman Hedayati, Senior Strategic Research Associate for Telecommunications Policy, CWA; Michael Calabrese, Director, Wireless Future Program & Senior Advisor, New America's Open Technology Institute, to Marlene H.
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Petitioners) each urge the Commission to consolidate its consideration of the instant transaction with the pending transactions in which Verizon[83] and AT&T[84] have reached agreements to purchase certain of UScellular's spectrum assets.[85] The Consolidation Petitioners argue that consolidation of the UScellular spectrum transactions would "enable the Commission's review of the spectrum concentration issue common to each transaction"[86] and "will be a more efficient use of government resources . . . ."[87] They argue that "the Applicants admit[] the announced Verizon and AT&T deals are contingent on the approval of the proposed T-Mobile transaction, which signals the significant connection among the proposed transactions."[88] In addition, RWA, joined by other parties, alleges that the UScellular transactions "effectuate a scheme that would likely violate the antitrust laws were it subject to them" and that the three nationwide providers "agreed to divide the spoils of a fourth competitor."[89]

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Dortch, Secretary, FCC, GN Docket No. 24-286, at 3 (filed Apr. 24, 2025) (RWA et al. Apr. 24, 2025 *Ex Parte* Letter).

[83] *Applications of Cellco Partnership and United States Cellular Corporation*, WT Docket No. 25-192, ULS File No. 0011491372 (lead) (filed Apr. 1, 2025); *see also* UScellular, UScellular announces sale of select spectrum assets for $1.0 billion (Oct. 18, 2024) (UScellular-Verizon Announcement), https://investors.uscellular.com/news/news-details/2024/UScellular-announces-sale-of-select-spectrum-assets-for-1.0-billion/default.aspx ("UScellular reached an agreement with Verizon to sell 663 million MHz POPs of its Cellular (850 MHz) spectrum licenses as well as 11 million MHz POPs of its AWS and 19 million MHz POPs of its PCS licenses for a total of $1.0 billion.").

[84] *Applications of New Cingular Wireless PCS, LLC and United States Cellular Corporation for Consent to Assign Licenses*, WT Docket No. 25-150, ULS File No. 0011364041 (lead) (filed Jan. 3, 2025) (amended May 13, 2025); *see also* UScellular, UScellular announces sale of select spectrum assets to AT&T for $1.018 billion, (Nov. 7, 2024) (UScellular-AT&T Announcement), https://investors.uscellular.com/news/news-details/2024/UScellular-announces-sale-of-select-spectrum-assets-to-ATT-for-1.018-billion/default.aspx ("The agreement with AT&T includes the sale of 1,250 million MHz-Pops of 3.45 GHz and 331 million MHz-Pops of 700 MHz B/C block licenses for a total of $1.018 billion.").

[85] Two smaller service providers, Nsight Spectrum and Nex-Tech Wireless, are also pursuing separate transactions to purchase certain spectrum from UScellular. *See* Joint Opposition at 28 & n.124 ("[T]he two referenced transactions were entered into with then-undisclosed, smaller service providers (Nsight Spectrum and Nex-Tech Wireless)."); *see also* UScellular-Verizon Announcement. Although not initially included in the Consolidation Petitioners' requests on this issue, Public Knowledge et al. and EchoStar advocate for the FCC to consolidate its review of all five pending transactions. Public Knowledge et al. Reply at 10 (stating that "the individual transactions involving the consolidation of UScellular spectrum to *five independent carriers* should be considered collectively") (emphasis added); *see also* EchoStar Reply at 10 (advocating for the FCC to consolidate its review of "*[a]ll [o]ther* [t]ransactions [i]nvolving UScellular's [s]pectrum") (emphasis added).

[86] Public Knowledge et al. Petition at 13 & n.43 (citing *Wireless Telecommunications Bureau Consolidates Review of Verizon Wireless-SpectrumCo-Cox, Verizon Wireless-Leap Wireless, and T-Mobile-Verizon Wireless Transactions*, Public Notice, 27 FCC Rcd 9093 (2012) (consolidating applications in light of the "commonality of issues, particularly with respect to the aggregation of spectrum" and "for administrative convenience")); EchoStar Petition at 13 (same).

[87] Public Knowledge et al. Reply at 11. EchoStar also argues that consolidation would avoid a situation where UScellular would operate as a spectrum holding company if this transaction were approved while the other transactions remain pending. EchoStar Reply at 12. EchoStar's argument does not warrant consolidated review on this basis. We note that UScellular's spectrum will be used for customer transition pursuant to a short-term spectrum lease. *See* T-Mobile May 2 Response at 8-9. Further, the Applicants' Purchase Agreement has termination provisions that prevent T-Mobile from keeping spectrum that could otherwise be used by competitors. *Id.* (citing FCC-TMUS_000025649, Securities Purchase Agreement, May 24, 2024).

[88] RWA Reply at 14; *see also* RWA Petition at 10; EchoStar Reply at 11.

[89] RWA et al. May 13, 2025 *Ex Parte* Letter at 1-2; RWA et al. June 3, 2025 *Ex Parte* Letter at 1-2.

24. *Discussion.* We decline to consolidate the Applications in the instant case. UScellular's separate transactions involve five different, unrelated buyers—T-Mobile, AT&T, Verizon, Nsight Spectrum, and Nex-Tech Wireless—and contemplate each buyer acquiring differing amounts and types of spectrum, implicating different aggregation issues and public interest analyses.[90] In considering these arguments, we note that we have broad discretion as to how we conduct our proceedings[91] and that "[o]ur review process generally takes into account, as appropriate, the effects of multiple pending applications . . . ."[92] "The Commission's rules do not prohibit the filing of sequential or concurrent applications involving the same licenses, nor do they prohibit the filing of applications that are contingent upon grant of another application then pending before the Commission."[93] Upon review of the record, the arguments presented by the Consolidation Petitioners have not persuaded us that we should consolidate our review of the separate transactions.

25. We find that consolidation of the proceedings would not facilitate an efficient resolution of the issues, nor is it necessary to allow for full and thoughtful review of each transaction. Our competitive analysis below addresses the change in market concentration under the instant transaction and the decision of TDS and UScellular to exit the wireless marketplace and pursue an alternative business model as a tower provider. Further, we note that T-Mobile is leasing all of the spectrum bands from UScellular as part of the transition of UScellular's customers for one year. Thus, any spectrum transfers to other wireless providers would likely take place following the customer transition. Processing the transactions separately will not limit the ability of interested parties to raise any issues germane to each respective transaction. Further, we find that the delay in the transfer and transitioning of subscribers is not in the public interest and may have the effect of creating uncertainty on issues that might be unrelated to T-Mobile's acquisition of subscribers.

26. While it is true that the other UScellular transactions are contingent on the closing of this transaction, such contingency does not suggest that the transactions are more deeply—or improperly—intertwined.[94] Instead, it reflects the simple business reality that UScellular chose not to bind itself to sell the majority of its spectrum to other providers were this transaction—the sale of its wireless business—to fall through.

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[90] The instant transaction involves the transfer of UScellular's 600 MHz, 2.5 GHz, and 24 GHz, and the majority of its 700 MHz A Block, AWS, and PCS holdings, as well as the sale of its wireless operations, including subscribers, network assets and operations (excluding owned towers), sales and distribution, and customer care. The AT&T transaction involves the sale of certain 3.45 GHz and 700 MHz B/C block licenses. *AT&T-UScellular Transaction Public Notice*, DA 25-276, at 1-2. The Verizon transaction involves the sale of certain Cellular (850 MHz) spectrum licenses, AWS licenses, and PCS licenses. *Verizon Wireless-UScellular Transaction Public Notice*, DA 25-491, at 1.

[91] *See* 47 U.S.C. § 154(j); *see also Application of Cellco Partnership d/b/a Verizon Wireless and XO Holdings for Consent to Transfer of Control of Nextlink Wireless, LLC, et al.; Application of Verizon Communications, Inc. and Straight Path Communications, Inc. for Consent to Transfer of Control of Straight Path Spectrum, LLC*, File Nos. 0007765708, 0007783428, Memorandum Opinion and Order, 32 FCC Rcd 5058, 5060, para. 6 (WTB 2017); *Application of AT&T Inc. and Qualcomm Incorporated for Consent to Assign Licenses and Authorizations*, WT Docket No. 11-18, Order, 26 FCC Rcd 17589, 17622, para. 80 (2011) (*AT&T-Qualcomm Order*); *Applications Filed for the Acquisition of Certain Assets of CIMCO Communications, Inc. by Comcast Phone LLC et al.*, WC Docket No. 09-183, Memorandum Opinion and Order and Order on Reconsideration, 25 FCC Rcd 3401, 3404, para. 8, & n.16 (2010).

[92] *AT&T-Qualcomm Order*, 26 FCC Rcd at 17622, para. 80.

[93] *Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo, LLC and Cox TMI, LLC For Consent to Assign AWS-1 Licenses, et al.*, WT Docket No. 12-4, Memorandum Opinion and Order and Declaratory Ruling, 27 FCC Rcd 10698, 10709, para. 27 (2012) (citations omitted).

[94] *But see* RWA Reply at 14; *see also* RWA Petition at 10; EchoStar Reply at 11.

27. Finally, with respect to the claims by RWA that the three nationwide wireless providers are executing a coordinated strategy to divide UScellular's assets,[95] these claims are merely speculative and have no basis in the record. Rather, the record indicates that UScellular reached out to multiple buyers and conducted intensive negotiations.[96] The record confirms that each of the five UScellular transactions were negotiated separately in light of unique business considerations and issues and spectrum holdings of the purchasers,[97] and that the non-T-Mobile respective agreements were reached over the course of "months after the May 2024 agreement with T-Mobile."[98] Further, UScellular's decision to exit the mobile wireless marketplace was driven by a determination, with its parent company, to change its existing business model,[99] and that it was based on a thorough evaluation of the industry.[100] Based on the record, we find that there is no basis to support the contention of a coordinated strategy to divide

[95] RWA et al. June 3, 2025 *Ex Parte* Letter at 1-2.

[96] The record indicates that in marketing the sale, UScellular and its parent TDS conducted outreach to a wide range of strategic parties. *See, e.g.*, TDS-USCC-FCC-003-00309908 at TDS-USCC-FCC-003-00309911 (Discussion Materials for Board of Directors, Feb. 12, 2024). {[ ]}. *See also* FCC-TMUS_000000273. T-Mobile and UScellular eventually held a meeting of principals on {[ ]}. *See, e.g.*, TDS-USCC-FCC-001-00008369 at TDS-USCC-FCC-001-00008372 (Discussion Materials for UScellular Board of Directors, Mar. 12, 2024). {[ ]}. *See, e.g.*, TDS-USCC-FCC-001-00008369 at TDS-USCC-FCC-001-00008372, TDS-USCC-FCC-001-00008375-76. UScellular also finalized a plan to {[ ]} by engaging with numerous potential bidders who participated in the {[ ]} *See, e.g.*, TDS-USCC-FCC-002-00442526 ({[ ]}, June 4, 2024). Although RWA argues that small rural carriers were not aware of the potential opportunity to purchase spectrum from UScellular, we reject these arguments based on UScellular and TDS' broad outreach discussed above, and the fact that two small rural carriers, Nsight and Nex-Tech Wireless, announced deals to acquire certain UScellular spectrum. *See* RWA Reply at 11; RWA et al. June 3, 2025 *Ex Parte* Letter at 2 (contending that "rural and regional carriers [were excluded] from the divesture process").

Material set off by double brackets {[ ]} is confidential and is redacted from the public version of this document.

[97] *See* AT&T Comments at 3-4.

[98] Joint Opposition at 36.

[99] *See, e.g.*, Public Interest Statement, Therivel Decl. ¶¶ 51, 54, 58; *see also* TDS-USCC-FCC-002-00040289 (Project Horizon, Towers Working Session, July 14, 2023); TDS-USCC-FCC-002-00040045 (Project Horizon – Working Session, Preliminary perspectives on TowerCo full potential, July 6, 2023); TDS-USCC-FCC-001-00000151 (2023 Strategic Long Range Forecast, Board of Directors Update, Aug. 2023); TDS-USCC-FCC-001-00000204 (2024 Strategic Long-Range Forecast, Board of Directors Review, Aug. 6, 2024); TDS-USCC-FCC-001-00000250 (UScellular Strategic Long-Range Forecast (SLRF) Update (UScellular consolidated, Standalone WirelessCo & TowerCo, Board of Directors, Jan. 18, 2024); TDS-USCC-FCC-003-00354679 (Center View Partners: TDS Discussion Materials, July 22, 2024).

[100] *See, e.g.*, TDS-USCC-FCC-003-00373797 at TDS-USCC-FCC-003-00373824 (Wireless Co. Financial Update, Feb. 12, 2024) ({[ ]}); TDS-USCC-FCC-003-00003111 at TDS-USCC-FCC-003-00003114 (Center View Partners: TDS Discussion Materials July 22, 2024 {[ ]}) and at TDS-USCC-FCC-003-00003133 ({[ ]}).

UScellular's assets and/or customer base amongst the competing nationwide providers. Additionally, there is no indication that TDS or UScellular sought to exclude any providers from the publicly announced process undertaken beginning in 2023.

VI. POTENTIAL PUBLIC INTEREST HARMS

28. In reviewing a proposed transaction, the Commission evaluates the potential public interest harms, including potential competitive harms that may result from the transaction. We begin our competitive analysis by determining the appropriate market definitions for the proposed transaction.[101] We then turn to our consideration of the potential competitive effects of the proposed transaction. First, we apply our initial two-part screen, and analyze the increase in market concentration, as well as the increase in spectrum aggregation. In our consideration of increased spectrum aggregation, we assess spectrum aggregation above the total spectrum screen, as well as "enhanced factor review." We also evaluate the millimeter wave (mmW) spectrum threshold. We then evaluate the potential for harmful unilateral and coordinated effects arising from the loss of UScellular as a competitive constraint. Finally, we then consider other potential public interest harms that might arise from the proposed transaction. Overall, and based on all the factors considered, we find that the likelihood of public interest harm is low.

29. We reject the opponents' implicit assumption that a reduction in the number of competitors from four to three is dispositive. The Commission has never adopted a rigid numerical threshold to define effective competition, and doing so would fail to account for the dynamic and evolving nature of the communications marketplace. Our analysis instead turns on a fact-specific assessment of the competitive landscape, including market entry and exit conditions, consumer behavior, network investment incentives, and other indicia of market performance. Moreover, we are charged with managing spectrum—a scarce and valuable public resource—in a manner that promotes its highest and best use. In evaluating transactions or rulemakings involving spectrum access, we must weigh practical realities of deployment, innovation, and service to the public. What matters is whether consumers benefit from greater availability, better quality, and more innovative services as a result of the Commission's decisions.

A. Market Definitions and Market Participants

1. Product Market

30. Product market definition is designed to aid the assessment of a transaction's likely competitive effects,[102] focusing on consumers' ability and willingness to switch from one product to a different product in response to an increase in price or reduction in quality.[103] In previous mobile wireless transactions, the Commission has defined the relevant product market as a combined "mobile telephony/broadband services" product market that comprises mobile voice and data services, including

[101] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10600-01, para. 53; *SprintCom, Inc., Shenandoah Personal Communications, LLC, and NTELOS Holdings Corp. for Consent to Assign Licenses and Spectrum Lease Authorizations and to Transfer Control of Spectrum Lease Authorizations and an International Section 214 Authorization*, WT Docket No. 15-262, Memorandum Opinion and Order, 31 FCC Rcd 3631, 3636, para. 10(WTB/IB 2016) (*Sprint-Shentel Order*); *Applications of Cricket License Company, LLC, et al., Leap Wireless International, Inc., and AT&T Inc. for Consent to Transfer Control of Authorizations; Application of Cricket License Company, LLC and Leap Licenseco Inc. for Consent to Assignment of Authorization*, WT Docket No. 13-193, Memorandum Opinion and Order, 29 FCC Rcd 2735, 2746, para. 22 (WTB/IB 2014) (*AT&T-Leap Order*).

[102] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10601, 10603, paras. 55, 60.

[103] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10601, para. 55. Such consumer responses play a major role in constraining pricing by competitors. *Id.*

mobile voice and data services provided over advanced broadband wireless networks (mobile broadband services),[104] and for the purposes of our initial screens,[105] we continue to do so here.

31. We acknowledge, however, the importance of a forward-looking analysis, which several commenters have raised.[106] As the Commission has recognized, a defining characteristic of the mobile telephony/broadband services market has been, and will continue to be, ongoing innovation and reinvention.[107] As it stated, "[a]s new generations of wireless technologies have been adopted, the dynamics of competition have continually evolved to adapt to emerging consumer preferences and use cases."[108] Thus, the definition of the mobile telephony/broadband services product market not only includes traditional wireless services, but also encompasses the recent significant and rapidly evolving advances in mobile broadband services technologies.[109] In particular, our competition analysis of mobile telephony/broadband services considers the significant and evolving advances by mobile virtual network operators (MVNOs) and cable providers within the range of differentiated services offered to consumers within the broader mobile telephony/broadband services product market.[110]

32. As noted above, a key characteristic of the mobile wireless marketplace is ongoing innovation.[111] New technologies and uses continue to emerge, and consumer preferences are continuously evolving, with many consumers considering all available forms of technology when selecting a broadband service. Thus, while we apply our current product market definition of mobile telephony/mobile broadband services in the instant case, we also consider developing changes and trends in technologies, services, uses, and consumer preferences. The Free State Foundation, for example, asserts that the "'mobile telephony/broadband services' product market exists within a broader broadband marketplace that is characterized by convergence and cross-platform competition between traditional mobile wireless services and substitutable or potentially substitutable [FWA], cable, fiber, and satellite services."[112] For purposes of this instant transaction, we discuss the potential impact on FWA offerings in our discussion of transaction benefits below.[113]

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[104] *See*, *e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10601, 10603, paras. 55, 60; *Sprint-Shentel Order*, 31 FCC Rcd at 3636, para. 11; *AT&T-Leap Order*, 29 FCC Rcd at 2746, para. 23.

[105] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10603, para. 60.

[106] *See, e.g.*, FSF Opposition at 2 ("Given the pro-competitive conditions for wireless services, the Commission's merger review should incorporate a forward-looking analysis. Static market indicators fail to capture the critical role of future investment and innovation in driving competition and benefitting consumers."); Westling *Ex Parte* Letter at 4 ("Increasingly, the distinction between the types of service matters less to consumers; they just want their phones to work.").

[107] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10603-04, para. 61.

[108] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10603-04, para. 61.

[109] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10603-04, para. 61.

[110] *See, e.g.*, Public Interest Statement at 39-40; *see also* ICLE *Ex Parte* Letter at 6 ("Including cable-wireless providers in the relevant market would offer a more accurate picture of the competitive landscape that the entity would face after the transaction.").

[111] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10603-04, para. 61.

[112] FSF Opposition at 2; *see also* ACLP Reply at 3 (asserting that "the bright lines that once separated discrete segments of the advanced communications market have blurred to the point of irrelevance").

[113] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10605, para. 64 ("[W]e are not persuaded that fixed services should be included within the relevant product market. We find that in response to a small but significant and non-transitory price increase in mobile wireless services, at this point in time, too few mobile consumers would be likely to switch from mobile wireless services to fixed services to make that price increase unprofitable.").

2. Geographic Market

33. The Commission has previously found that the geographic market for wireless transactions is local and also has evaluated a transaction's competitive effects at the national level where a transaction exhibits certain national characteristics that provide cause for concern.[114] The Applicants point to the Commission's precedent of looking at transactions at both the local and national level, but assert that the transaction will not create competitive harm at the local level as neither company engages in pricing or competitive decisions on a CMA-level basis.[115] Commenters raise concern that the transaction will impact competition at both the local and national levels,[116] and some argue that the Applicants effectively ignore the local or regional impact of the transaction.[117]

34. For this proposed transaction, we continue to use CMAs as the local geographic market for analyzing potential competitive harms and, in addition, we analyze the nationwide competitive effects on the mobile telephony/broadband services market.[118] The Commission has repeatedly found that because most consumers use their mobile wireless services at or close to where they live, work, and travel, they generally purchase mobile wireless services from service providers that offer and market such services locally.[119] Defining local geographic markets for mobile wireless services does not preclude us, however, from recognizing that two key competitive variables—service plan offerings and prices—typically do not vary for most service providers across most geographic markets where they sell services.[120] Although the proposed transaction does not cover all markets in the United States, it does cover 198 CMAs that are geographically dispersed throughout the United States, covering 10% of the U.S. population.[121] We therefore find that, in analyzing the relevant geographic markets, it is appropriate

[114] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10605-06, para. 66; *AT&T-Leap Order*, 29 FCC Rcd at 2748, para. 27; *T-Mobile-MetroPCS Order,* 28 FCC Rcd at 2332, para. 29.

[115] Public Interest Statement at iv, 9.

[116] *See, e.g.*, Public Knowledge et al. Petition at 7 (stating that a "transaction of this magnitude, which completely wipes out a smaller, competitive market participant does not serve the public interest, as competition will be harmed on local and national levels"); CCIA Comments at 2 (noting that alongside "concerns regarding the national mobile wireless market, competitive risks are also evident in regional markets").

[117] *See* RWA Petition at 5-8 (arguing "[c]ontrary to the Applicants' framing, the primary question facing the Commission is whether the elimination of UScellular as a *regional or local* mobile wireless carrier will harm overall competition" and asserting that the Applicants "effectively ignore the local market impact of the proposed transaction and focus solely on the nationwide market") (emphasis in original).

[118] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10605-06, para. 66; *AT&T-Leap Order*, 29 FCC Rcd at 2748, para. 27; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2332-33, paras. 29, 31-33; *see also* Public Interest Statement at 9.

[119] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10606, para. 68; *AT&T-Leap Order*, 29 FCC Rcd at 2748-49, para. 29; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2332-33, para. 31; *see also Policies Regarding Mobile Spectrum Holdings; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, WT Docket No. 12-269, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6133, at 6225-26, para. 238 (2014) (*Mobile Spectrum Holdings Report and Order*). In addition, the Commission has explained that wireless service sold in distant locations is generally not a good substitute for service sold near a consumer's home or work. *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10606, para. 68; *AT&T-Leap Order*, 29 FCC Rcd at 2748-49, para. 29; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2332-33, para. 31; *see also Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6225-26, para. 238.

[120] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10606, para. 68; *AT&T-Leap Order*, 29 FCC Rcd at 2749, para. 30; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2333, para. 32; *see also Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6226, para. 239.

[121] Public Interest Statement at 31, 35; Public Interest Statement, Orszag Decl. ¶ 126; *see also* Joint Opposition at 17 & n.76.

to consider any potential competitive effects that may result from the proposed transaction on both a local and national basis.

3. Input Market for Spectrum

35. When a proposed transaction would increase the concentration of spectrum holdings in any local market, the Commission evaluates the acquiring firm's post-transaction holdings of spectrum that is "suitable" and "available" in the near term for the provision of mobile telephony/broadband services.[122] The Commission has previously determined that the following bands, or portions thereof, should be included in the input market for spectrum: 600 MHz, 700 MHz, cellular, specialized mobile radio service (SMR), broadband Personal Communications Service (PCS), Advanced Wireless Services (AWS) in the 1710-1755 and 2110-2155 MHz band (AWS-1), AWS-3, AWS in the 2000-2020 MHz and 2180-2200 MHz spectrum bands (AWS-4), Broadband Radio Service (BRS), Wireless Communications Service (WCS) spectrum, H Block, Educational Broadband Service (EBS), 3.7 GHz, and 3.45 GHz.[123] In addition, we note that the Commission has adopted a separate threshold for mmW spectrum holdings, which includes the 24 GHz, 28 GHz, Upper 37 GHz, 39 GHz, and 47 GHz bands, as an initial analytical tool to aid in identifying certain markets for further review in proposed secondary market transactions.[124]

4. Market Participants

36. Consistent with the Commission's approach in previous transactions, we focus our initial analysis of market concentration on facilities-based entities providing mobile telephony/broadband services using the above-referenced input market for spectrum.[125] However, we recognize that MVNOs may provide additional competitive constraints, which we account for in our evaluation of the likely competitive effects.[126] In particular, we note that in addition to the three nationwide providers, as well as

[122] *See, e.g.*, *Applications of AT&T Inc., E.N.M.R. Telephone Cooperative, Plateau Telecommunications, Inc., New Mexico RSA 4 East Limited Partnership, and Texas RSA 3 Limited Partnership for Consent to Assign Licenses and Authorizations*, WT Docket No. 14-144, Memorandum Opinion and Order, 30 FCC Rcd 5107, 5116-17, para. 21 (2015) (*AT&T-Plateau Order*); *AT&T-Leap Order*, 29 FCC Rcd at 2749-50, para. 32; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2333-34, para. 34.

[123] *See, e.g.*, *Communications Marketplace Report*, GN Docket No. 24-119, 2024 Communications Marketplace Report, FCC 24-136, 39 FCC Rcd 14116, 14173-74, paras. 69-70, Fig. II.B.11 (2024) (*2024 Communications Marketplace Report*); *Application of T-Mobile US, Inc., Nextel West Corp., and LB License Co, LLC for License Assignment*, ULS File No. 0010923038, Memorandum Opinion and Order, 39 FCC Rcd 11482, 11491-92, para. 23 (WTB/OEA 2024) (*T-Mobile-LB License Order*); *Application of T-Mobile License LLC and Horry Telephone Cooperative, Inc. to Assign Spectrum Licenses; Application of Horry Telephone Cooperative, Inc. and T-Mobile License LLC to Assign Spectrum Licenses; Application of Horry Telephone Cooperative, Inc. and T-Mobile License LLC to Assign Spectrum Licenses*, ULS File Nos. 0010864059, 0010877919, and 0010902770, Memorandum Opinion and Order, 39 FCC Rcd 10712, 10721, para. 24 (WTB/OEA 2024) (*T-Mobile-HTC Order*); *see also T-Mobile-Sprint Order*, 34 FCC Rcd at 10607, para. 70.

[124] *See, e.g.*, *2024 Communications Marketplace Report*, 39 FCC Rcd at 14174, para. 70; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87; *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services et al.*, GN Docket No. 14-177 et al., Second Report and Order et al., 32 FCC Rcd 10988, 11009-11, paras. 70, 74 & n.189 (2017) (*Spectrum Frontiers Second Report and Order*); *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services et al.*, GN Docket No. 14-177 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, 8083-84, paras. 189-190 (2016) (*Spectrum Frontiers Report and Order*).

[125] *See, e.g.*, *T-Mobile-LB License Order*, 39 FCC Rcd at 11491-92, para. 23; *T-Mobile-HTC Order*, 39 FCC Rcd at 10721, para. 24; *see also T-Mobile-Sprint Order*, 34 FCC Rcd at 10609, para. 73; *AT&T-Leap Order*, 29 FCC Rcd at 2751-52, para. 35, 37; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2334-35, para. 37.

[126] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10609, paras. 73; *AT&T-Leap Order*, 29 FCC Rcd at 2752, para. 37; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2334-35, para. 37; *see also 2024 Communications Marketplace Report*, 39 FCC Rcd at 14161-62, 14232, paras. 57-58, 153; Public Interest Statement at 8 (noting that the

(continued….)

other more localized facilities-based service providers, cable companies and other MVNOs are becoming increasingly competitively relevant in the mobile wireless marketplace. Many commenters similarly assert that the traditional wireless companies face increased competition from cable providers.[127] ACLP notes, for example, that "[n]ow, most major ISPs offer, or seek to offer, triple- or quadruple-play options of voice, video, data, and/or mobile," and "T-Mobile and [UScellular] compete with a broader array of firms than at any time in the past" including "a growing number of cable companies that are competing for prepaid and post-paid mobile telephone and broadband customers."[128]

B. Competitive Effects of the Proposed Transaction

37. Horizontal transactions, in which rival firms in the same market combine assets, raise potential competitive concerns when the combined entity has the incentive and the ability, either by itself or in coordination with other service providers, to raise prices, lower quality, or otherwise harm competition in a relevant market.[129] In this section, we first describe the current market characteristics of the mobile wireless industry, and apply our initial two-part screen to identify markets where increased market concentration and spectrum aggregation resulting from the proposed transaction may raise competitive concerns. We next evaluate the potential for unilateral effects, considering factors on a nationwide and market-by-market basis; the market characteristics of each cluster are set out in Appendix D. We then turn to evaluating the potential for coordinated effects.

38. Based on our careful review of the record and thorough competitive analysis, we find that the instant transaction is unlikely to lead to unilateral or coordinated effects. In particular, we find that UScellular's exit from the market is unlikely to materially affect T-Mobile's incentive and ability to raise prices. We note that T-Mobile largely competes on a nationwide basis with AT&T and Verizon. In addition, the success of cable MVNOs in attracting and retaining customers demonstrates that they represent a new and noteworthy competitive threat. Our detailed market-by-market analysis of the CMAs triggered by the Commission's initial screens lends further support to our findings.

1. Characteristics of the Mobile Wireless Industry

39. In the market for mobile broadband services, three facilities-based mobile wireless service providers can be described as "nationwide": AT&T, T-Mobile, and Verizon.[130] Although none of

(Continued from previous page)
"Commission's analysis is . . . not limited to facilities-based carriers and also includes an assessment of the competitive effects of [MVNOs] and resellers") (internal citations omitted).

[127] ACI *Ex Parte* Letter at 2 ("[T]his drop in subscribership could be attributed to a range of factors such as growing competition from traditional wireless providers and cable wireless providers . . . ."); *id.* at 4 ("Market leaders also face stiff competition from satellite providers like EchoStar, other wireless providers like Verizon and AT&T, and cable wireless providers like Xfinity Mobile that 'offer competitive prices through bundled services.'" (citation omitted)); CFIF *Ex Parte* Letter at 2 ("UScellular faces fierce competition from other mobile wireless carriers, as well as wireless offerings from cable wireless."); ICLE *Ex Parte* Letter at 5-6 ("There are several compelling reasons why cable wireless providers such as Xfinity Mobile and Spectrum Mobile should be included within the market defined as relevant to the T-Mobile/UScellular transaction . . . ."); FSF Opposition at 2, 5-6 ("[P]arties to the proposed merger acknowledge that between 2020 and 2024, cable wireless MVNOs increased their market share within UScellular's geographic territory and that those trends are continuing." (citation omitted)); ACLP Reply at 4, 7 ("The MVNOs to whom these firms lease access on their networks (*e.g.*, cable companies; resellers) will also see improved and expanded 5G service . . . .").

[128] ACLP Reply at 3-4 (citation omitted).

[129] *Applications of T-Mobile, US Inc. and Ka'ena Corporation for Consent to Transfer Control of International Section 214 Authorizations*, GN Docket No. 23-171, Memorandum Opinion and Order, 39 FCC Rcd 4053, 4056, para. 8 (OIA/WTB 2024) (*T-Mobile-Mint/Ultra Order*); *T-Mobile-Sprint Order*, 34 FCC Rcd at 10611, paras. 79; *AT&T-Leap Order*, 29 FCC Rcd at 2745, para. 21; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2330, para. 21.

[130] *2024 Communications Marketplace Report*, 39 FCC Rcd at 14160-61, para. 56.

these three service providers has a network that is truly ubiquitous, all three have networks that cover at least 95% of the population with 4G LTE, and at least 75% of the population with 5G-NR at speeds of at least 7/1 Mbps.[131] Collectively, these three service providers account for approximately 371 million U.S. postpaid and prepaid connections.[132] UScellular is best characterized as a multi-regional service provider; it has developed wireless networks and customer service operations in portions of 21 states.[133] There are also dozens of other facilities-based mobile wireless service providers throughout the United States, many of which provide service in a single, often rural, geographic area.[134]

40. In addition, many MVNOs provide service to customers.[135] Currently, five cable MVNOs offer wireless services within UScellular's footprint.[136] The Applicants note that "large cable providers—most notably, Charter and Comcast—have each launched wireless offerings that overlap with UScellular's service areas . . . ."[137] The Applicants contend that large cable providers have created "competitive disruption" in the wireless marketplace through such means as "targeted marketing tactics and aggressive bundled pricing and promotion."[138] They argue that in having "sizable Wi-Fi networks . . . that they now use to offload the vast majority of their traffic" and being able to bundle wireless services with their broadband and video offerings, "[c]able wireless providers have significant advantages over traditional MVNOs."[139] Similarly, numerous commenters argue that there is increased competition from cable providers.[140] In addition, information from third-party providers indicates that consumers choose mobile telephony/broadband services from a wide variety of providers based upon their respective needs and that connectivity has become increasingly intermodal in nature as service is provided not only by traditional facilities-based mobile wireless service providers, but also by cable MVNO providers (who

[131] *2024 Communications Marketplace Report*, 39 FCC Rcd at 14160-61, para. 56.

[132] *2024 Communications Marketplace Report*, 39 FCC Rcd at 14160-61, para. 56. In addition, EchoStar has built a network that it claims covers over 70% of the U.S. population. *Id.*

[133] *2024 Communications Marketplace Report*, 39 FCC Rcd at 14160-61, para. 56.

[134] *2024 Communications Marketplace Report*, 39 FCC Rcd at 14160-61, para. 56.

[135] *2024 Communications Marketplace Report*, 39 FCC Rcd at 14161, para. 57. MVNOs do not own any network facilities but instead purchase mobile wireless services wholesale from facilities-based providers and resell these services. *Id.*

[136] According to the Applicants, the cable MVNOs offering wireless services are Altice, Charter, Comcast, Cox, and Mediacom. Public Interest Statement at 39.

[137] Public Interest Statement at 39.

[138] Public Interest Statement at 39.

[139] Public Interest Statement at 39-40.

[140] ACI *Ex Parte* Letter at 4 ("Market leaders also face stiff competition from satellite providers like EchoStar, other wireless providers like Verizon and AT&T, and cable wireless providers like Xfinity Mobile that 'offer competitive prices through bundled services.'") (citation omitted)); CFIF *Ex Parte* Letter at 2 ("UScellular faces fierce competition from other mobile wireless carriers, as well as wireless offerings from cable wireless."); ICLE *Ex Parte* Letter at 5-6 ("There are several compelling reasons why cable wireless providers such as Xfinity Mobile and Spectrum Mobile should be included within the market defined as relevant to the T-Mobile/UScellular transaction . . . ."); FSF Opposition at 2, 5-6 ("[P]arties to the proposed merger acknowledge that between 2020 and 2024, cable wireless MVNOs increased their market share within UScellular's geographic territory and that those trends are continuing." (citation omitted)); ACLP Reply at 4, 7 ("The MVNOs to whom these firms lease access on their networks (*e.g.,* cable companies; resellers) will also see improved and expanded 5G service . . . .").

offload much of their traffic on to their own wi-fi networks),[141] fixed wireless providers, and innovative services such as emergency satellite communications.[142]

2. Initial Screen

41. To help identify those local markets in which competitive concerns are more likely, we apply an initial two-part screen. The first part of the screen is based on the size of the post-transaction Herfindahl-Hirschman Index (HHI) and the change in the HHI.[143] The second part of the screen, which is applied on a county-by-county basis, identifies those local markets where an entity would hold approximately one-third or more of the total spectrum suitable and available for the provision of mobile telephony/broadband services post-transaction.[144] Further, if the acquiring entity would increase its

[141] The cable MVNO providers offload mobile traffic on their networks to achieve cost reductions. *See, e.g.*, Charter Communications, Inc., Annual Report, SEC Form 10-K, at 10, 22 (filed Jan. 31, 2025); Comcast Corporation, SEC Form 10-K, at 1-4 (filed Jan. 31, 2025); Charter Request Response at 4, 6-7; Comcast Request Response at 2; *see also* Public Interest Statement at 14, 35 (stating that cable companies benefit from offloading more mobile wireless traffic onto their own Wi-Fi networks which allows them to aggressively price their wireless offerings and increase market share).

[142] *See, e.g.*, Comcast Request Response at 3 ("Comcast notes, however, that the overall broadband marketplace is intensely competitive and consumers have multiple choices among facilities-based fixed broadband providers, including cable operators, telcos, new fiber providers, fixed wireless providers, and satellite broadband providers."); Mediacom Request Response at 4-5 ("The Proposed Transaction will allow T-Mobile to integrate its 5G home Internet services in previous US Cellular underserved communities, thereby improving the performance of a formerly regional cellular provider that had been a direct competitor to Mediacom. The infusion of capital, national advertising scale, and other resources into the previously fiscally challenged US Cellular could present a strong challenge to Mediacom's market position."); Charter Request Response at 2, 5; *see also, e.g.*, Altice production: ALTICE-CID-00000344; ALTICE-CID-00000513; ALTICE-CID-00000525; Cox production: COX-00000001 (Cellular Portfolio Competitive Landscape, No date available); COX-00000003; COX-00000004; COX-00000042 ({[ ]}, Nov. 6, 2024); Mediacom production: MCM_0000041_Prod002 (Pricing Spreadsheet, No date available); MCM_0000042_Prod002 (Pricing Spreadsheet, Sept. 11, 2024); AT&T production: ATT-FCC-TMOUSC-000000012 ({[ ]}, No date available); ATT-FCC-TMOUSC-000000013 ({[ ]}, No date available); ATT-FCC-TMOUSC-000010023 ({]}, Dec. 2, 2024); ATT-FCC-TMOUSC-000011606 ({[ ]}, Nov. 11, 2024); Verizon production: VZW-FCC-000035 ({[ ]}, Sept. 10, 2024); VZW-FCC-000088 ({[ ]}, No date available); VZW-FCC-000091 ({[ ]}, Feb. 1, 2025); VZNUSC-0000001 ({[ ]}, Oct. 11, 2024); VZNUSC-0000005 ({[ ]}, Mar. 3, 2023); VZNUSC-0007880 ({[ ]}, Dec. 2023); VZNUSC-0011103 ({[ ]}, Oct. 18, 2024); VZNUSC-0022717 ({[ ]}, May 14, 2021); VZNUSC-0037347 ({[ ]}, Dec. 3, 2024); VZNUSC-0037943 ({[ ]}, June 24, 2021); EchoStar production: ECHOSTAR_RFI24286_0003553 ({]}, Aug. 2022); ECHOSTAR_RFI24286_0009010 at ECHOSTAR_RFI24286_0009027 ({[ ]}, No date available); ECHOSTAR_RFI24286_0009041 at ECHOSTAR_RFI24286_0009044-046 ({[ ]}, July 2024); ECHOSTAR_RFI24286_0000194 ({[ ]}, No date available).

[143] The initial HHI screen identifies for further case-by-case market analysis those markets in which, post-transaction: (1) the HHI would be greater than 2800 and the change in HHI would be 100 or greater; or (2) the change in HHI would be 250 or greater, regardless of the level of the HHI. *E.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87 & n.277; *AT&T-Leap Order*, 29 FCC Rcd at 2753, para. 41 & n.140; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2335, para. 38 & n.94.

[144] *E.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87; *AT&T-Leap Order*, 29 FCC Rcd at 2753, para. 41; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2335, para. 38. The total amount of spectrum that is currently considered suitable and available for the provision of mobile telephony/broadband services is 1,123 megahertz, with (continued….)

below-1-GHz spectrum holdings so as to hold approximately one-third or more of such spectrum post-transaction, we apply enhanced factor review.[145] Finally, the Commission has also adopted a separate mmW spectrum threshold as an initial analytical tool to aid in identifying certain markets for further review.[146]

42. As discussed in detail below, the application of the two-part screen suggests that the proposed transaction may raise competitive concerns because it would increase market concentration in certain markets subject to the instant transaction. The HHI screen is triggered in 122 of the 198 CMAs subject to the transaction, which cover 28.4 million people (8.5% of the U.S. population).[147] Similarly, the Commission's spectrum screen is also triggered in 38 of the CMAs subject to the transaction, and 147 CMAs are subject to enhanced factor review. The mmW spectrum threshold is not triggered. We emphasize, however, that the two-part screen is only the first step in our competitive evaluation and does not in and of itself predict the likely competitive effects of the proposed transaction on consumers.[148]

a. Market Concentration

43. Increased market concentration arising from a proposed transaction is an indicator of potential harm to competition, and in antitrust analysis, triggers a presumption that the merger is likely to enhance market power.[149] As the Commission has made clear, however, market concentration measures are merely the beginning of the competitive analysis, and the presumption may be rebutted by evidence showing that the merger is unlikely to enhance market power.[150]

44. *Record*. For the CMAs subject to the transaction, T-Mobile undertook a CMA-by-CMA analysis of the post-transaction spectrum holdings and coverage of MNOs, as well as the market presence of cable MVNOs.[151] Of the 198 CMAs where T-Mobile is acquiring any form of assets from UScellular, the Applicants' review identifies the 157 CMAs where UScellular has more than what the Applicants describe as "incidental mobile coverage."[152] The Applicants state that by applying the Commission's criteria for identifying service providers deemed to have a competitive local presence in a CMA, T-

(Continued from previous page)
an associated spectrum screen trigger of 385 megahertz. *2024 Communications Marketplace Report*, 39 FCC Rcd at 14173-74, paras. 69-70, Fig. II.B.11. We note that 3.7 GHz and 3.45 GHz spectrum are not available for use in Hawaii, Alaska, and the territories. In these areas, the total amount of suitable and available spectrum is 743 megahertz, and the associated spectrum screen trigger is 250 megahertz. *2024 Communications Marketplace Report*, 39 FCC Rcd at 14173, para. 69 & n.189.

[145] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10615, para. 87; *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6240, paras. 286-88.

[146] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87; *see also Spectrum Frontiers Second Report and Order*, 32 FCC Rcd at 11009-11, paras. 70, 74 & n.189; *Spectrum Frontiers Report and* Order, 31 FCC Rcd at 8083-84, paras. 189-190. The mmW spectrum threshold trigger is 1850 megahertz. *Id.*

[147] The 122 CMAs triggered by the HHI screen include 6 Top 100 CMAs—Milwaukee, WI; Oklahoma City, OK; Tulsa, OK; Omaha, NE-IA; Knoxville, TN; and Des Moines, IA.

[148] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10615, para. 88.

[149] *See, e.g.*, *T-Mobile-Sprint Order,* 34 FCC Rcd at 10615-16*,* para. 89.

[150] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10615-16*,* para. 89.

[151] *See* Public Interest Statement at 37-40; *see also* Public Interest Statement, Appx. F, CMA Specific Analysis (Appx. F, Applicants' CMA Specific Analysis).

[152] Public Interest Statement at 37.

Mobile, UScellular, or both are deemed to lack a competitive presence in 33 of those 157 CMAs.[153] According to the Applicants, in the remaining 124 CMAs where both T-Mobile and UScellular have a competitive presence, the following providers also have a competitive presence: Verizon in 116 CMAs; AT&T in all 124 CMAs; cable wireless in 113 CMAs; and EchoStar in 20 CMAs.[154] CCIA observes that "the parties acknowledge in their filing the competitive risk of this transaction given the high concentration in the market and the HHI variance as a result of this market concentration."[155] CWA claims that HHI analyses indicate that the proposed transaction would significantly increase concentration in numerous local markets.[156]

45. *Discussion.* Post-transaction, T-Mobile would trigger the HHI screen in 122 CMAs which, as noted above, cover 28.4 million people (around 8.5% of the U.S. population).[157] The average HHI, post-transaction, would be {[ ]} across the CMAs subject to the transaction, and the average change in the HHI would be {[ ]}.[158] Accordingly, given the increase in concentration as indicated by the HHI screen, we carefully review these markets. For ease of analysis, we grouped the CMAs into five larger geographic clusters, the characteristics of which are set out in Appendix D.

b. Spectrum Concentration

46. Spectrum is an essential input in the provision of mobile wireless services, and ensuring that sufficient spectrum is available for incumbent licensees, as well as potential new entrants, is critical

[153] Public Interest Statement at 37-38 & n.166 (stating that the Commission has previously determined that coverage of 70% or more of the population and more than 50% of the land area is presumptively sufficient for a service provider to have a competitive presence in a market).

[154] Public Interest Statement at iv, 38; *see also* Joint Opposition at 18.

[155] CCIA Comments at 4; *see also id.* ("In light of the considerable risk of higher prices for consumers from the elimination of a competitor in an already highly concentrated market, the agencies should carefully analyze the potential anticompetitive risks of the proposed transaction."); *id.* at 1 (observing that the proposed transaction would decrease the number of facilities-based service providers in the areas where UScellular operates).

[156] CWA Petition at 25-26. Redzone Wireless, LLC (Redzone Wireless) argues that by increasing T-Mobile's presence and market share in Maine as result of the transaction, T-Mobile will be less likely to comply with the Commission's interference rules and asks the Commission to defer action "until T-Mobile demonstrates compliance with the Commission's field strength limits for the 2.5 GHz band in Maine." Redzone Wireless Comments at 2, 6. We agree with the Applicants that Redzone Wireless' complaints are inappropriate for consideration in the context of this proceeding since they relate to rules governing 2.5 GHz band facilities operating in Maine and no 2.5 GHz spectrum in Maine is being assigned under the proposed transaction. Joint Opposition at 40. Redzone Wireless has not demonstrated that any nexus exists between the interference it complains about and this transaction. Assuming, *arguendo*, that T-Mobile is the source of the interference Redzone Wireless is receiving, T-Mobile is operating pursuant to licenses that it already holds. Consenting to the transaction Applications will have no impact on the interference. *See, e.g.*, *Notifications of AT&T Inc. and T-Mobile USA, Inc. for Short-Term Spectrum Manager Leasing Arrangements*, ULS File Nos. 0006972875 et al., Order, 31 FCC Rcd 3344, 3344, para. 1 (WTB 2016) (finding that interference allegations "are not specific to the proposed spectrum leasing arrangements between [the parties], and are better treated in a proceeding designed to address the interference claims").

[157] The list of triggered CMAs is provided in Appendix C.

[158] For the subset of CMAs where UScellular currently has subscribers, the average HHI post-transaction would be {[ ]} across the CMAs subject to the transaction, and the average change in the HHI would be {[ ]}. We note that, in the NRUF data, MVNO subscribers are attributed to their host networks and cannot be separately identified. To the extent that MVNOs act as competitive constraints, the HHI calculations will overstate market concentration. We have calculated alternative HHIs, using subscriber data on cable MVNOs from the third-party requests to adjust NRUF-based market shares. Separately accounting for cable MVNOs, the average HHI, post-transaction, would be {[ ]} across the CMAs subject to the transaction, and the average change in the HHI would be {[ ]}.

to promoting effective competition and innovation in the marketplace.[159] Regarding mobile spectrum holdings policies, the Commission's fundamental goal is the preservation and promotion of competition, which in turn, leads to lower prices, improved quality, and increased innovation.[160] When considering the potential competitive effects of spectrum aggregation resulting from a proposed transaction, the Commission has considered whether there would be an increased likelihood that rival service providers or potential entrants would be foreclosed from expanding capacity, deploying mobile broadband technologies, or entering the market, and also whether rivals' costs would be increased to the extent that they would be less likely to be able to compete robustly.[161] The spectrum screen, applied on a county-by-county basis, identifies local markets where an entity would hold approximately one-third or more of the total spectrum suitable and available for the provision of mobile telephony/ broadband services, post-transaction.[162] Further, if the acquiring entity would increase its below-1-GHz spectrum holdings such that it would hold approximately one-third or more of such spectrum post-transaction, we apply enhanced factor review.[163] Finally, the Commission has also adopted a separate mmW spectrum threshold as an initial analytical tool to aid in identifying certain markets for further review.[164]

(i) Application of Total Spectrum Screen

47. *Record*. In determining the amount of spectrum they would hold post-transaction, the Applicants took into account the planned sale of T-Mobile's 800 MHz spectrum pursuant to the T-Mobile/Sprint Final Judgment and the pending sale of certain of T-Mobile's 3.45 GHz spectrum.[165] They conclude that the proposed transaction will not result in T-Mobile exceeding the spectrum screen in any of the markets involved in the instant transaction.[166]

48. EchoStar argues that "the proposed transaction would substantially harm competition by exacerbating T-Mobile's already dominant levels of spectrum concentration, raising rivals' costs and by extension, harming consumers."[167] EchoStar asserts, further, that "T-Mobile's own justification for this transaction relies on the very benefit that T-Mobile in general, and this transaction in particular, would deny competitors—the 'multiplicative' efficiency that results from spectrum aggregation."[168] CCIA describes spectrum as an "increasingly scarce resource used by an ever-diminishing set of firms," noting

[159] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10617-18, para. 94; *AT&T-Leap Order*, 29 FCC Rcd at 2745-46, para. 21; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2330-31, para. 22.

[160] *See, e.g.*, *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6143-44, para. 17.

[161] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10617-18, para. 94; *Applications of AT&T Inc. and Cellular Properties, Inc. for Consent to Assign Authorizations*, WT Docket No. 15-78, Memorandum Opinion and Order, 31 FCC Rcd 318, 322, para. 9 (WTB/IB 2016).

[162] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87; *AT&T-Leap Order*, 29 FCC Rcd at 2749-50, para. 32; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2333-34, para. 34.

[163] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87; *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6240, paras. 286-88.

[164] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87; *Spectrum Frontiers Second Report and Order*, 32 FCC Rcd at 11009-11, paras. 70, 74 & n.189; *Spectrum Frontiers Report and* Order, 31 FCC Rcd at 8083-84, paras. 189-190.

[165] Public Interest Statement at 37.

[166] Public Interest Statement at 37.

[167] EchoStar Petition at 2.

[168] EchoStar Reply at 1-2.

the large percentage of spectrum held by the three nationwide service providers.[169] RWA states that "[c]ontrary to the public interest, small rural carriers were not made aware of UScellular's interest in selling the spectrum in their markets and therefore never had the opportunity to acquire this spectrum in their markets, which is needed to compete locally with the nationwide mobile wireless carriers and other regional and rural wireless carriers."[170] The Free State Foundation counters, however, that "it is unlikely that the combination of spectrum resources that would be enabled by the merger would be harmful to competition or consumers," and that "[t]he combination of spectrum enables the likely public benefit of more capacious and faster networks."[171]

49. *Discussion.* In analyzing T-Mobile's post-transaction spectrum holdings for purposes of applying our initial spectrum screen, we consider T-Mobile's existing spectrum holdings. Accordingly, our analysis shows that, post-transaction, T-Mobile would be attributed with one-third or more of the total suitable and available spectrum in 38 CMAs covering approximately 3% of the U.S. population. While we note that T-Mobile and Grain Management, LLC (Grain) have filed applications where T-Mobile would assign its 800 MHz spectrum licenses to Grain, and Grain would assign certain 600 MHz spectrum licenses to T-Mobile (T-Mobile-Grain transaction),[172] because the transaction is pending and has not yet been approved, we do not factor the spectrum effect of that transaction into T-Mobile's spectrum holdings. However, we note that if we were to take into account the reduction in T-Mobile's holdings due to the T-Mobile-Grain transaction, T-Mobile would not trigger the total spectrum screen in any of the CMAs in this instant transaction. As noted above, for ease of analysis, we grouped the CMAs into five larger geographic clusters, the details and characteristics of which are set out in Appendix D.

(ii) Enhanced Factor Review

50. *Record*. Regarding the application of enhanced factor review,[173] the Applicants state that T-Mobile has undertaken the same analysis conducted in the Commission's enhanced factor review for every impacted CMA, "which demonstrates the healthy state of competition in these geographic areas."[174] The Applicants assert that, having taken into account "the planned sale of T-Mobile's 800 MHz spectrum . . . and the pending sale of certain of T-Mobile's 3.45 GHz spectrum, the Transaction will not result in T-Mobile [. . .] triggering the low-band screen for enhanced factor review in any CMA or county."[175] Some commenters assert that T-Mobile appears to have taken steps to avoid triggering the enhanced competitive

[169] CCIA Comments at 4-5 (citing *Communications Marketplace Report*, GN Docket No. 22-203, 2022 Communications Marketplace Report, 37 FCC Rcd 15514, 15580, para. 86 (2022)).

[170] RWA Petition at 11; *see also* RWA Reply at 11-12 ("The fact that two rural carriers have announced deals to acquire a small amount of UScellular's spectrum does not mean that UScellular's intentions regarding its spectrum were known among all, or even most, rural carriers."). *But see supra* para. 27 & n. 97 (addressing the process conducted by USCC and TDS with outreach to selected buyers); *but see also* TDS-USCC-FCC-002-00442526 (UScellular, {[ ]}) 27 & n.100 (addressing the process conducted by USCC and TDS with outreach to selected buyers).

[171] FSF Opposition at 7.

[172] *See Wireless Telecommunications Bureau Accepts for Filing T-Mobile USA, Inc.'s and Grain Management LLC's Assignment Applications and Seeks Comment on Waiver Requests*, WT Docket No. 25-178, Public Notice, DA 25-429 (WTB May 20, 2025) (*T-Mobile-Grain Public Notice*).

[173] The trigger for enhanced factor review is currently 68 megahertz of below-1-GHz spectrum.

[174] Public Interest Statement at 37; Appx. F, Applicants' CMA Specific Analysis.

[175] Public Interest Statement at 37 (citing *United States of America et al., v. Deutsche Telekom AG, T-Mobile US, Inc., Softbank Group Corp., Sprint Corporation, and DISH Network Corporation*, AmendedFinal Judgment, Case No. 1:19-cv-02232-TJK, at 12-14 (D.D.C. Oct. 23, 2023) (requiring T-Mobile to conduct an auction to divest its 800 MHz spectrum licenses by October 1, 2024)).

review[176] by "intentionally structur[ing] the proposed acquisition to keep T-Mobile below the Commission's spectrum screen and the low-band trigger for enhanced competitive review,"[177] and "attempting to auction off" certain spectrum holdings to ensure it does not exceed the Commission's threshold for enhanced factor review.[178] EchoStar asserts that the existence of a call option for T-Mobile to acquire even more 600 MHz spectrum than it has already disclosed may counter Applicants' statements that the transaction will not result in T-Mobile exceeding the threshold for enhanced factor review.[179]

51. *Discussion.* For purposes of determining whether enhanced factor review is triggered, we consider T-Mobile's existing spectrum holdings and we consider only the transaction before us. Post-transaction, T-Mobile would be attributed with one-third or more of the total suitable and available spectrum below 1 GHz in 147 CMAs covering approximately 9% of the U.S. population, and these markets would be subject to enhanced factor review as set forth in paragraph 286 of the *Mobile Spectrum Holdings Report and Order*.[180] However, we again note that if we were to take into account the reduction in T-Mobile's low-band holdings of the pending T-Mobile-Grain transaction, T-Mobile would not trigger an enhanced factor review. As noted above, for ease of analysis, we have grouped the CMAs into five larger geographic clusters, the characteristics of which are set out in Appendix D.

(iii) mmW Spectrum Threshold

52. As part of the proposed transaction, T-Mobile would also acquire between zero and 300 megahertz of mmW spectrum from UScellular, depending on the CMA. Post-transaction, T-Mobile would be attributed with a maximum of 1,525 megahertz of mmW spectrum on a county-by-county basis in the CMAs subject to the transaction, and would not trigger the mmW spectrum threshold in any CMA.[181] As the threshold is not triggered, we see no need to evaluate these markets further on the basis of increased mmW spectrum holdings.

(iv) Other Spectrum Issues.

53. *Spectrum Foreclosure.* The Applicants state that "[a]s a result of the Transaction, T-Mobile will acquire spectrum that is complementary to its current holdings, allowing it to increase its spectrum depth within the UScellular footprint and do so rapidly."[182] EchoStar argues, however, that "first and foremost this transaction is about taking spectrum out of circulation and in turn, about foreclosure of the ability of competitors to compete in the wireless market on a stand-alone basis."[183] The

[176] *But see* EchoStar Petition at 12 ("To ameliorate what T-Mobile itself apparently recognizes as the excessive spectrum concentration stemming from this transaction, T-Mobile will supposedly jettison its current 3.45 GHz band spectrum to at least two spectrum holding companies, SoniqWave and Columbia Capital subsidiary N77License Co. But the heavily qualified licensing status of the 3.45 GHz spectrum makes it a poor substitute for the spectrum this transaction removes from other competitors' use.").

[177] CFIF *Ex Parte* Letter at 2.

[178] ACI *Ex Parte* Letter at 4-5.

[179] EchoStar Reply at 4-5.

[180] *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6240, para. 286.

[181] We note that AT&T is attributed with a maximum of 1,700 megahertz of mmW spectrum in the CMAs subject to the transaction, Verizon is attributed with a maximum of 2,450 megahertz, and other licensees, including EchoStar, are attributed with a maximum of 1,450 megahertz.

[182] Public Interest Statement at 18.

[183] EchoStar Reply at 2; *see also* EchoStar Petition at 9 (quoting Reply Comments of DISH Network Corporation, WT Docket No. 23-319 (Nov. 8, 2023), Exhibit 1, Brattle Group, Economics of the FCC's Spectrum Screen: Relevance and Proposed Modifications, at 18 (Nov. 5, 2023) ("T-Mobile's roll-up pattern is consistent with its spectrum foreclosure strategy: it has accumulated substantially more critical mid-band spectrum for 5G than any other carrier, which has raised its rivals' costs. Indeed, holding 'relatively more spectrum can give a firm

(continued….)

Applicants respond that EchoStar "fails to explain why the Transaction will have any foreclosure effect on competition in the UScellular service areas."[184] The Applicants also contend that the transaction enables T-Mobile to improve its service, expand capacity, and generate a competitive response in the form of increased competition and consumer welfare which should be viewed as a competitive benefit.[185]

54. The Applicants' publicly available corporate filings disclose a Put/Call Agreement relating to certain spectrum licenses in the 600 MHz band.[186] EchoStar contends that the Applicants' spectrum foreclosure strategy is demonstrated in the purchase agreement which has a provision that includes a spectrum call option that would give T-Mobile the right to acquire or withhold from competitors even more UScellular spectrum across dozens of additional license areas.[187] EchoStar argues that T-Mobile's call option or UScellular's put option is designed to foreclose the ability of competitors to compete in the wireless market on a standalone basis and that T-Mobile has no need to use or interest in using this spectrum.[188] EchoStar argues that although the Applicants claim to have structured the transaction so as to mitigate some of the spectrum aggregation issues that might raise regulatory concerns, "the mitigation is illusory."[189] If T-Mobile has additional rights to acquire 600 MHz spectrum as part of this transaction, EchoStar argues, the resulting tying-up of spectrum is not some future eventuality; it is immediate and should weigh heavily in the Commission's evaluation.[190]

(Continued from previous page)
advantages over its horizontal competitors by decreasing its required non-spectrum capital expenditures to meet a given network capacity goal while simultaneously increasing its competitors' required non-spectrum capital expenditures.'")).

[184] Joint Opposition at 22.

[185] Joint Opposition at 22-23 & n. 98 ("Additional capacity entering the UScellular footprint will benefit consumers and increase competition as expansion of output is a core goal of antitrust policy.").

[186] *E.g.*, United States Cellular Corporation, SEC Form 8-K, at 5 (filed May 28, 2024) ("Concurrently with the execution of the Purchase Agreement, Buyer and numerous FCC-license holding Seller affiliates (the 'PCA Seller Affiliates') have entered into a Put/Call Agreement (the 'Put/Call Agreement') pursuant to which, subject to the terms of the Put/Call Agreement, (i) the PCA Seller Affiliates have the right to require Buyer to purchase certain spectrum licenses relating to the 600 MHz band held by the PCA Seller Affiliates, and (ii) Buyer has the right to require the PCA Seller Affiliates to sell this same spectrum to Buyer, in each case, for an agreed upon purchase price in the aggregate of approximately $106M. The term of the Put/Call Agreement will run from its effective date to the date that is one year from the Closing or, if later, the date of certain specified events relating to the Designated Entities. The put right of the PCA Seller Affiliates is subject to certain conditions in the event such put right is exercised prior to consummation of the transfer of the Designated Entity Spectrum Licenses pursuant to the Purchase Agreement.").

[187] EchoStar Reply at 2 (citing FCC-TMUS_000025649, at FCC-TMUS_000026097 (T-Mobile, Securities Purchase Agreement By and Among Telephone and Data Systems, Inc., United States Cellular Corporation, USCC Wireless Holdings, LLC and T-Mobile US, Inc., May 24, 2024); FCC-TMUS_000001018, at FCC-TMUS_000001029 (T-Mobile, Corporate Development & Spectrum, TMUS Board of Directors Meeting, Mar. 14-15, 2024)).

[188] *See* EchoStar Reply at 2, 4-5 (citing FCC-TMUS_000001018, at FCC-TMUS_000001029 (T-Mobile, Corporate Development & Spectrum, TMUS Board of Directors Meeting, Mar. 14-15, 2024); FCC-TMUS_000000969, at FCC-TMUS_000000973 (T-Mobile, Project Odyssey: Preliminary Perspective, Dec. 11, 2023)). *But see* TDS-USCC-FCC-002-00442526, at TDS-USCC-FCC-002-00442528 (UScellular, {[

]}).

[189] EchoStar Reply at 5 (citing Transcript, Telephone and Data Systems, Inc., United States Cellular Corporation M&A Call, Fair Disclosure Wire at 8 (May 28, 2024)); *see also* Public Interest Statement at 37 (referencing the planned sale of T-Mobile's 800 MHz spectrum and pending sale of certain of T-Mobile's 3.45 GHz spectrum).

[190] EchoStar Reply at 5.

55. *Discussion*. We disagree with EchoStar and find that the record does not support the argument that T-Mobile intentionally purchases spectrum to warehouse spectrum or foreclose competition or that the spectrum purchases at issue here are part of a foreclosure strategy.[191] The Applicants have documented that T-Mobile will use the spectrum it is acquiring to improve T-Mobile's service and capacity in UScellular's footprint.[192] Further, multiple entities already hold significant amounts of spectrum in the markets at issue. Thus, it is highly unlikely that the spectrum T-Mobile is acquiring would allow it to foreclose competition, as discussed further in our competitive analysis below. In addition, we find the fact that T-Mobile has a spectrum call option for UScellular's remaining 600 MHz spectrum does not itself give rise to foreclosure concerns.[193] Spectrum ownership in the markets at issue is subject to change and any transfer of spectrum pursuant to the call option remains speculative. Therefore, it would be premature to consider the potential competitive effects of this option unless it is actually exercised. In the event T-Mobile exercises this option, the transaction would be subject to the Commission's review consistent with our statutory obligations.

3. Unilateral Effects

56. In this section, we evaluate the potential unilateral competitive effects of the proposed transaction. Horizontal unilateral effects arise when the combined entity has the incentive and ability to raise prices or otherwise harm competition post-transaction, regardless of the anticipated actions of rival firms.[194] The degree of direct competition or substitution between the merging parties' products and whether there are non-merging parties that are selling close substitutes (or that could quickly reposition their products to be close substitutes) are important factors in determining the likelihood and magnitude of any potential unilateral price increases.[195] We begin our unilateral effects analysis by examining an

[191] As discussed in the Network Related Claims section below, there is no evidence that T-Mobile's acquisition of the spectrum at issue is designed to foreclose any competitor or competition within a market. In contrast, we find that the evidence presented by EchoStar on spectrum foreclosure is speculative and is not supported by the record in this proceeding. Further, we do not find EchoStar's spectrum foreclosure arguments relating to T-Mobile's participation in the 3.45 GHz auction as evidence of foreclosure. EchoStar Reply at 2-3, 6 & n.14. The document cited by EchoStar in support of its foreclosure argument sets forth the additional considerations for T-Mobile's spectrum considerations. *See* FCC-TMUS_000000158, at FCC-TMUS_000000166 (T-Mobile, US Corporate Development Update, Apr. 2024). Lastly, we reject EchoStar's characterizations that T-Mobile's spectrum purchase is aimed at foreclosing competition in unrelated markets as unsupported by the record in this proceeding. *See* EchoStar Reply at 6-7.

[192] *See*, *e.g.*, Joint Opposition at 5. As explained above, UScellular contemplates reassigning its spectrum, in varying amounts and types, to five different, unrelated buyers, which further weighs against Petitioner's foreclosure argument.

[193] To the extent that EchoStar is asserting that the Commission should limit T-Mobile's 600 MHz spectrum holdings, the Commission has not adopted a band-specific limit on 600 MHz spectrum in secondary market transactions. *See*, *e.g.*, *Application of T-Mobile US, Inc., T-Mobile License LLC, and Channel 51 License Co LLC for License Assignment; Application of T-Mobile US, Inc. Nextel West Corp., and Channel 51 License Co LLC for License Assignment*, ULS File Nos. 011358403 and 0011358399, Memorandum Opinion and Order, DA 25-341, at 5-6, para. 12 & n.39 (WTB Apr. 15, 2025) (*T-Mobile-Channel 51 Order*); *T-Mobile-LB License Order*, 39 FCC Rcd at 11490-91, para. 20; *T-Mobile-HTC Order*, 39 FCC Rcd at 10720, para. 21.

[194] *Application of Verizon Communications Inc and America Movil, S.A.B. de C.V. for Consent To Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112, Memorandum Opinion and Order, 36 FCC Rcd 16994, 17008-09, para. 38 (2021) (*Verizon-TracFone Order*); *T-Mobile-Sprint Order*, 34 FCC Rcd at 10625-26, para. 111.

[195] *E.g., T-Mobile-Sprint Order*, 34 FCC Rcd at 10625-26, para. 111; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9166, para. 84; *see also United States v. H&R Block*, 833 F. Supp. 2d 36, 81 (D.D.C. 2011) (stating that unilateral effects in a differentiated product market are likely to be profitable where the products controlled by the merging firms are close substitutes, products offered by non-merging firms are sufficiently different to make a small but significant

(continued….)

additional screen, which measures the upward pricing pressure that would likely to be created by the proposed transaction. We then proceed by evaluating additional evidence from the record indicating potential unilateral price effects on both a within-footprint and nationwide basis. Finally, we examine the local market characteristics of the CMAs involved in the transaction. Based on all of the circumstances, we conclude that the likelihood of competitive harm arising from unilateral effects is low.

57. *Record*. The Applicants contend that T-Mobile's prices are generally lower than those of UScellular for comparable rate plans and assert that the transaction does not create a significant likelihood that T-Mobile would raise prices post-transaction.[196] In particular, the Applicants state that the transaction is not large enough in scope to prompt T-Mobile to unilaterally alter its pricing or service plan features.[197] The Applicants point out that the transaction involves the acquisition of wireless assets in only 198 of the 734 CMAs nationwide and wireless customers representing only approximately 1% of total U.S. wireless connections.[198] The Applicants further assert that because UScellular's footprint constitutes a minimal percentage of T-Mobile's overall service area, T-Mobile will not be incentivized to raise prices on its consumer rate plans on a nationwide basis or reduce plan features, as doing so would disadvantage the company relative to its main competitors.[199]

58. The Applicants claim that UScellular competes primarily with Verizon and AT&T and only to a lesser extent with T-Mobile, as well as competing with the cable wireless providers across most of its footprint.[200] According to the Applicants, within the UScellular footprint, UScellular tends to attract more customers in less-densely populated areas, while T-Mobile tends to attract more customers in more-densely populated areas.[201] The Applicants further assert that within the UScellular footprint, T-Mobile lags behind AT&T, Verizon, and UScellular in terms of network coverage and signal strength.[202]

59. The Applicants claim that UScellular does not pose a meaningful competitive constraint to T-Mobile today and is likely to become an even more limited competitor to T-Mobile in the future.[203] T-Mobile asserts that it "does not consider UScellular's presence, including UScellular's coverage or pricing, when making its own coverage, pricing, or other key competitive decisions, and it does not adjust its consumer prices to reflect local competition in any portion of the United States (including UScellular's operating geographies)."[204] T-Mobile further claims that this national focus is reflected in T-Mobile's competitive tracking and analyses, which largely emphasize the activities of other nationwide providers (mainly, AT&T and Verizon), and increasingly the largest cable wireless providers—Charter's Spectrum Mobile and Comcast's Xfinity Mobile.[205] T-Mobile points to an example of T-Mobile's alerts when a

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and non-transitory price increase profitable for the merging firms, and non-merging firms are unlikely to reposition their products to offer close substitutes for the products offered by the merging firms).

[196] Public Interest Statement at i, iii, 31.

[197] Public Interest Statement at iii, 31; *see also* Joint Opposition at 17.

[198] Public Interest Statement at 31; *see also* Joint Opposition at 17 & n.76.

[199] Public Interest Statement at 31; *see also* Joint Opposition at 17.

[200] Public Interest Statement at iv, 31-32; Public Interest Statement, Therivel Decl. ¶ 33.

[201] Public Interest Statement, Orszag Decl. ¶¶ 22, 106.

[202] Public Interest Statement, Orszag Decl. ¶ 105; *see also* Public Interest Statement, Orszag Decl., Appendix A at 66-67, Fig. 20 & Fig. 21.

[203] Public Interest Statement at iii-iv, 32; Public Interest Statement, Orszag Decl. ¶ 67; *see also* Joint Opposition at 11-12, 17.

[204] Public Interest Statement at 32; *see also* Public Interest Statement, Katz Decl. ¶ 16; Public Interest Statement, Kapoor Decl. ¶ 15; Public Interest Statement, Orszag Decl. ¶ 67; Joint Opposition at 11-12, 17.

competitor makes a noteworthy change, such as a pricing change or new device offers.[206] Over the last three years, T-Mobile states that it has created a total of {[ ]} competitive alerts, and of those, only a very small fraction, {[ ]}, were for UScellular.[207]

60. In addition, the Applicants contend that following the closing of the transaction, legacy UScellular customers will have the opportunity to migrate to a lower-priced T-Mobile plan or maintain their legacy UScellular rate plan.[208] The Applicants contend that the Commission has recognized that an intention to retain existing rate plans assists in offsetting theoretical unilateral effects.[209] T-Mobile's internal projections estimate that {[ ]}% of UScellular's over four million subscribers would see a decrease in price by switching to a comparable T-Mobile plan.[210] T-Mobile's preliminary projections indicate up to {[ ]} in net present value in cost savings to UScellular customers and an estimated average monthly savings of {[ ]} for each customer who migrates to a T-Mobile plan.[211] T-Mobile presents an extensive plan-by-plan comparison of UScellular's and T-Mobile's price plans and concludes that the estimated average monthly savings for each customer who migrates to a T-Mobile plan would be {[ ]}.[212] T-Mobile asserts that certain customer segments, such as seniors, first responders, and teachers, will see even greater monthly savings when they switch to T-Mobile's plans, because of T-Mobile's discounted plans that provide significant savings over comparable UScellular plans.[213]

61. RWA argues that the Commission should not credit T-Mobile's claims that it will not raise consumer rates for UScellular subscribers, noting that "T-Mobile has previously failed to fulfill such promises and raised consumer rates."[214] CCIA also asserts potential pricing harms to UScellular subscribers from the transaction based on previous T-Mobile price increases.[215] Public Knowledge

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[205] Public Interest Statement at 32; Public Interest Statement, Katz Decl. ¶ 17.

[206] Public Interest Statement at 32; Public Interest Statement, Katz Decl. ¶ 17; *see also* Joint Opposition at 12.

[207] Public Interest Statement at 32-33; Public Interest Statement, Katz Decl. ¶ 17; *see also* Joint Opposition at 12.

[208] Public Interest Statement at 33; Public Interest Statement, Katz Decl. ¶ 13.

[209] Public Interest Statement at 33 (citing *T-Mobile-Sprint Order*, 34 FCC Rcd at 10670-71, para. 212).

[210] Public Interest Statement at 25; Public Interest Statement, Katz Decl. ¶ 13; *see also* Joint Opposition at 6-7.

[211] Public Interest Statement at ii, 25; Public Interest Statement, Katz Decl. ¶¶ 13-14; *see also* Joint Opposition at 6-7.

[212] Public Interest Statement at ii-iii, 25 (citing Public Interest Statement, Orszag Decl. ¶ 139); *see also* Joint Opposition at 7.

[213] Public Interest Statement at 25; Public Interest Statement, Katz Decl. ¶ 14; *see also* Joint Opposition at 7. T-Mobile further claims that UScellular subscribers will enjoy significant add-on benefits consistent with comparable T-Mobile plans, including Netflix, Apple TV+ On Us, international roaming, and in-flight Wi-Fi, among others, at no additional cost. Public Interest Statement at 25; Public Interest Statement, Katz Decl. ¶ 14.

[214] RWA Petition at 8 & n.23 (citing news articles documenting price increases); *see also* RWA Reply at 6. *But see* Joint Opposition at 7 ("RWA omits from its selective quotations of the article the following salient passage: 'But notably, [previous T-Mobile price lock-in] promises didn't cover every T-Mobile customer. The company excluded certain plans or limited them to customers switching plans or newly signing up. So it seems as though only those who fall outside of those terms are potentially seeing rate hikes.'" (citation omitted)).

[215] CCIA Comments at 3 ("T-Mobile's price hikes illustrate the negative outcomes of market consolidation: after agreeing to lock its prices for three years as part of the settlement on the Sprint acquisition, earlier this year T-Mobile notified its users of significant rate increases for a number of legacy calling plans." (citation omitted)).

contends that UScellular's exit from its markets will harm consumers "as these markets will see less competition and higher prices as an effect."[216]

62. In response to Public Knowledge, et al. and CCIA, the Applicants assert that they do not provide evidentiary support and do not make a meaningful attempt to explain how a regional provider with approximately 1% of all wireless connections and a geographically limited footprint exerts competitive pressure on T-Mobile and any other MNO at the national level.[217]

a. GUPPI

63. Upward pricing pressure analysis is an initial competitive effects screen used to quantify the competitive effects of a transaction stemming from a loss of direct competition between rivals.[218] The Commission has previously used the Gross Upward Pricing Pressure Index (GUPPI) and other measures of upward pricing pressure as additional methods to measure the competitive constraints that parties exert on one another.[219] When a company (for example, T-Mobile) raises its prices, it loses sales to its competitors. After a merger, the sales that would have been lost to the company being acquired (for example UScellular) are recaptured by the newly combined firm. Using data on prices, profit margins, and customer substitution patterns, the GUPPI provides a measure of the lost profits that would be recaptured as a result of the merger.[220] The GUPPI serves as a simple indicator of the potential for unilateral effects *absent* any reductions in marginal costs.[221] Importantly, GUPPI analysis does not account for any downward pricing pressure resulting from efficiencies or synergies that may be created by the proposed transaction, nor does it calculate the actual magnitude of upward pricing pressure (that is, how much prices might rise).[222]

64. The Applicants did not submit a GUPPI analysis. We conducted a GUPPI analysis within UScellular's footprint using data submitted by the Applicants and the Commission's internal Local Number Portability (LNP) dataset.[223] We note that, all else being equal, the greater the switching between

[216] Public Knowledge et al. Petition at 6; *see also* Public Knowledge et al. Reply at 4 ("[The Applicants] make vague assertions that consumer prices will not rise, but provide little evidence that amounts to uncertain promises that the loss of market competition will not result in T-Mobile price hikes.").

[217] Joint Opposition at 11.

[218] Joseph Farrell & Carl Shapiro, *Antitrust Evaluation of Horizontal Mergers: An Economic Alternative to Market Definition*, 10(1) The B.E. Journal of Theoretical Economics 2 (2010) (Farrell and Shapiro, 2010); *see also* Roy Epstein & Daniel Rubinfeld, *Understanding UPP*, 10(1) The B.E. Journal of Theoretical Economics 2-3 (2010).

[219] *See Verizon-TracFone Order*, 36 FCC Rcd at 17010-11, para. 41; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10636, para. 129; *AT&T-Leap Order*, 29 FCC Rcd at 2765-66, paras. 70-71; *Applications of AT&T Inc. and Deutsche Telekom AG For Consent To Transfer Control of Licenses and Authorizations*, Staff Analysis and Findings, 26 FCC Rcd 16184, 16325-26, Appx. C, para. 20 (WTB 2011) (*AT&T-T-Mobile Staff Report*).

[220] Elizabeth Xiao-Ru Wang, Economic Tools for Evaluating Competitive Harm in Horizontal Mergers at 4 (2013), https://media.crai.com/sites/default/files/publications/Economic-Tools%20for-Evaluating-Competitive-Harm-in-Horizontal-Mergers.pdf.

[221] While there is no definitive threshold to demonstrate harm or a lack thereof, GUPPIs are commonly compared to thresholds of 5% and 10%. *T-Mobile-Sprint Order*, 34 FCC Rcd at 10636, para. 129 & n.447 (citing Carl Shapiro, Remarks as Prepared for the American Bar Association Section of Antitrust Law Fall Forum at 24 (2010)); Farrell & Shapiro (2010) at 14.

[222] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10636, para. 129 & n.447; *AT&T-T-Mobile Staff Report*, 26 FCC Rcd at 16325-26, Appx. C, para. 20.

[223] We used data submitted by the Applicants to construct customer lifetime value (CLV) margins, similar to those used by T-Mobile and UScellular in the normal course of business. FCC-TMUS_000047015, at FCC-TMUS_000047025; TDS-USCC-FCC-003-00071677; *see generally* TDS-USCC-FCC-002-00310484; *see also Verizon-TracFone Order*, 36 FCC Rcd at 17012, para. 43 & n.132 (explaining how to calculate a CLV margin); *T-*
(continued….)

T-Mobile and UScellular, and the larger the value of each product's profit margins, the greater the likelihood for adverse price effects.[224]

65. *Discussion.* As shown in Fig. 1, the GUPPIs within UScellular's footprint for T-Mobile and UScellular are {[ ]}% and {[ ]}% respectively.[225] T-Mobile's nationwide GUPPI is {[ ]}%. As previously noted, the GUPPI values are typically compared to thresholds of 5% and 10%. In both the within footprint and nationwide scenarios, the GUPPI values for T-Mobile fall well below both thresholds, indicating that adverse unilateral effects from the proposed transaction are unlikely.[226]

66. In contrast, the GUPPI value for UScellular exceeds both the 5% and 10% thresholds, which suggests—ignoring possible merger efficiencies and other potential mitigating factors—that after the merger, T-Mobile might have an increased incentive to raise the price to UScellular customers. In this case, however, we find that UScellular customers will be protected from such potential post-merger price increases. As the evidence on pricing and competition presented below shows, there are a number of factors that effectively lessen the upward pricing pressure resulting from the transaction. In addition, as discussed in section VI.B.3.c, the factors ordinarily considered in our local market-by-market analysis indicate that T-Mobile would be unlikely to adversely affect the public interest post-transaction. Further, T-Mobile has indicated in the record that UScellular customers will be able to remain on their existing UScellular plans, at their current prices, or switch to T-Mobile plans, which are frequently less expensive than comparable UScellular plans. Overall, we do not believe that UScellular customers face a risk of a significant price increase following consummation of the transaction.

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Mobile-Sprint Order, 34 FCC Rcd at 10637, para. 132 & n.453. Since 2004, the Commission has relied on porting data from the LNP database to calculate diversion ratios in evaluating mobile wireless transactions. *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10626, para. 112; *AT&T-Leap Order*, 29 FCC Rcd at 2765, para. 70 & n.248; *AT&T-T-Mobile Staff Report*, 26 FCC Rcd at 16212-13, 16216-18, 16319-23, para. 51 & n.148, paras. 55-56, Appx. C, paras. 8-15; *AT&T-Centennial Order*, 24 FCC Rcd at 13948, para. 75 & n.288. We also conducted the analysis using internal porting data submitted by the Applicants. We note that our LNP data do not permit us to distinguish between MVNO customer ports and the ports of the underlying facilities-based providers that the MVNOs use. As a result, the switching rates used in our analysis overstate the degree of switching between facilities-based providers. Generally speaking, this will inflate the value of the screens and lead to results that are conservative with respect to the likelihood of unilateral harms.

[224] Consistent with Commission precedent, our analysis also accounted for the ability of customers to leave the market entirely following a price increase. *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10637, para. 132 & n.454. Generally speaking, the greater the propensity of consumers to exit the market, the lower the likelihood of adverse price effects. Consumers' ability to exit the market is accounted for by scaling the estimated switching rates by an industry "recapture rate." The recapture rate is the percentage of customers that leave their provider due to a price increase, but still remain in the mobile wireless market. As in the *T-Mobile-Sprint Order*, all results assume an industry recapture rate of 90%. *T-Mobile-Sprint Order*, 34 FCC Rcd at 10637, para. 132 & n.454.

[225] The GUPPI, as measured by the value of diverted sales from T-Mobile that are now recaptured by UScellular can be expressed as: $GUPPI_T = D_{T \to U} * M_U * P_U/P_T$, where $D_{T \to U}$ is the "diversion ratio" from T-Mobile to UScellular, or the fraction of customers leaving T-Mobile that would choose wireless service from UScellular following a price increase by T-Mobile, M_U is the percentage profit margin at UScellular, and P_U and P_T are the prices of the UScellular and T-Mobile products, respectively. The GUPPI calculation for UScellular is analogous. *See* Steven C. Salop & Serge Moresi, Updating the Merger Guidelines: Comments at 19-20 (2009), https://ssrn.com/abstract=2756487.

[226] As discussed in the following section, T-Mobile largely uses a nationwide pricing strategy, in which there is no variation between prices at the local level. To the extent that T-Mobile's prices are set nationally, the nationwide GUPPI calculation is likely to be a more accurate measure of upward pricing pressure and T-Mobile's incentive to raise prices unilaterally. Public Interest Statement at i, iii and iv; Public Interest Statement, Katz Decl. ¶ 15; Public Interest Statement, Orszag Decl. ¶¶ 72-75.

Fig. 1: GUPPI Inputs and Calculations

	Prices	Margins	Switching to UScellular (or T-Mobile)	GUPPI
T-Mobile (within UScellular footprint)	{[			]}
T-Mobile (nationwide)	{[			]}
UScellular	{[			]}

Note: Prices and profit margins correspond to the 2024 values submitted by the Applicants. T-Mobile values are share-weighted based on T-Mobile branded prepaid, branded postpaid, and MetroPCS. UScellular values are share-weighted based on branded prepaid and postpaid. The GUPPI calculations scale switching to UScellular (or T-Mobile) using a recapture rate of 90%. Switching between the Applicants is based on LNP data. Diversion based on porting data is aggregated from monthly and CMA level data to a weighted average across UScellular's footprint (or nationwide) using Applicant submitted subscriber data as weights.

b. Evidence on Pricing and Competition

67. *Record.* The Applicants assert that T-Mobile prices its service offerings at the national level, without adjusting consumer prices to reflect local competition in any part of the country,[227] and in particular that it does not consider UScellular when determining its competitive actions.[228] Some commenters likewise argue that T-Mobile sets its prices nationally, without particular consideration of UScellular's localized pricing.[229] RWA contends, however, that the Applicants' claim "runs directly counter to the Applicants' admission that T-Mobile receives alerts when UScellular makes a pricing change or new device offer."[230] Public Knowledge asserts that "T-Mobile makes claims that UScellular's footprint presence has no effect on national pricing but does not include or analyze the effect of UScellular pricing on carriers other than T-Mobile that may influence national pricing."[231]

68. *Discussion.* Our analysis based on the record corroborates many of the Applicants' claims concerning any potential unilateral harms that could result from the proposed transaction. The evidence supports T-Mobile's claim that it largely sets prices on a nationwide basis, particularly for postpaid plans.[232] While T-Mobile has pursued non-national pricing strategies for its postpaid plans in the

[227] Public Interest Statement at 32; *see also* Joint Opposition at 17 ("The Transaction will not alter this approach; because UScellular's footprint constitutes such a minimal percentage of T-Mobile's overall service area, the Transaction is not large enough in scope to prompt T-Mobile to unilaterally alter its pricing strategy or service plan features.").

[228] Public Interest Statement at i, iii and iv; Public Interest Statement, Katz Decl. ¶ 16; Public Interest Statement, Orszag Decl. ¶¶ 72-75.

[229] FSF Opposition at 4-5 ("UScellular subscribers likely would benefit or be unharmed in pricing as a result of the merger."); ICLE *Ex Parte* Letter, Executive Summary at 1 ("T-Mobile sets its plan prices nationally and does not adjust them based on local competition, including UScellular's presence, pricing, or service offerings and quality.").

[230] RWA Petition at 8.

[231] Public Knowledge et al. Reply at 4.

[232] Public Interest Statement at i, iii-iv; T-Mobile Mar. 17 Response at 5-11. T-Mobile states that pricing for its prepaid plans are also set nationwide with some exceptions where it has run promotions on a non-national basis. T-Mobile Mar. 17 Response at 11-12.

past,[233] it has abandoned those efforts due to administrative complexity, concerns about brand reputation, and low profitability.[234] We note that nationwide pricing alone is not necessarily proof that there is a low likelihood of harm. If, for example, T-Mobile has an incentive to raise prices in particular local areas, then this will increase its incentive to raise prices nationwide. We find, however, that the nationwide GUPPI calculation for T-Mobile of {[ ]}% indicates that the transaction is highly unlikely to create significant upward pricing pressure for T-Mobile on a nationwide basis. We further note that, as proxied by Average Revenue Per User (ARPU), on an inflation adjusted basis, the three nationwide providers' prices for mobile wireless services have decreased each year in the period following the close of the T-Mobile-Sprint Transaction.[235]

69. Degradations in the quality of the services provided resulting from the proposed transaction could also result in consumer harm. T-Mobile claims, however, that, like pricing, it engages in a national network planning process, whereby it applies consistent criteria across its entire footprint.[236] Internal documents show T-Mobile's Customer-Driven Coverage model uses information on {[ ]} to select areas where network upgrades or new deployments would be the most beneficial to the business.[237] The model explicitly incorporates the network performance and coverage of AT&T and Verizon, but does not incorporate any measures of UScellular's network.[238] Thus, while UScellular's presence could still impact the model through means such as increasing T-Mobile's churn, any effects would be indirect and likely significantly smaller than those created by either AT&T or Verizon. We therefore agree that the proposed transaction is unlikely to have any adverse effect on T-Mobile's network planning process.

70. T-Mobile's internal documents corroborate its claim that UScellular does not play a large part in its competitive decision-making, showing that it largely focuses its competitive analysis and tracking on AT&T and Verizon, while also monitoring {[ ]}.[239] The evidence also supports the Applicants' argument that UScellular is too small to create an effective competitive

[233] T-Mobile Mar. 17 Response at 10-11; FCC-TMUS_000037893, at FCC-TMUS_000037903 (T-Mobile, {[ ]}, No date available); FCC-TMUS_000040199, at FCC-TMUS_000040200 (T-Mobile, {[ ]}, No date available).

[234] T-Mobile Mar. 17 Response at 10-11; Public Interest Statement, Katz Decl. ¶ 15; *see generally* FCC-TMUS_000037893 (T-Mobile, {[ ]}, No date available).

[235] Staff used information from companies' annual reports to calculate ARPU and adjusted for inflation using the Consumer Price Index (CPI). AT&T Inc., SEC Form 10-K, at 23 (filed Feb. 12, 2025); AT&T Inc., SEC Form 10-K, at 23 (filed Feb. 13, 2023); Verizon Communications Inc., SEC Form 10-K, at 31 (filed Feb. 12, 2025); Verizon Communications Inc., SEC Form 10-K, at 29 (filed Feb. 10, 2023); T-Mobile US, Inc., SEC Form 10-K, at 40 (filed Jan. 31, 2025); T-Mobile US, Inc., SEC Form 10-K, at 41 (filed Feb. 14, 2023); U.S. Bureau of Labor Statistics, *CPI Inflation Calculator*, https://www.bls.gov/data/inflation_calculator.htm (last visited July 8, 2025). Additionally, industry-wide CPI for the "Wireless Telephone Services" sector has declined each year following the T-Mobile-Sprint Transaction. U.S. Bureau of Labor Statistics, *Series Report*, https://data.bls.gov/series-report (last visited July 8, 2025) (data for Wireless Telephone Services can be retrieved using series code CUUS0000SEED03).

[236] Public Interest Statement, Kapoor Decl. ¶ 15.

[237] *See generally* FCC-TMUS_000031967 (T-Mobile, CDC V3 Deep Dive, Aug. 20, 2024).

[238] *Id.*

[239] *See, e.g.*, FCC-TMUS_000037687, at FCC-TMUS_000037700-703 (T-Mobile, Agenda: Board of Directors Meeting, Aug. 31, 2022-Sept. 1, 2022); FCC-TMUS_000008732, at FCC-TMUS_000008741-745 (T-Mobile, Business Update: TMUS Board of Directors Meeting, June 15, 2023); FCC-TMUS_000034624, at FCC-TMUS_000034705-706 (T-Mobile, Agenda: Board of Directors Meeting, June 12-14, 2024); FCC-TMUS_000005842, at FCC-TMUS_000005846, FCC-TMUS_000005848, FCC-TMUS_000005850-854 (T-Mobile, {[ ]}, Nov. 25, 2021).

constraint on T-Mobile; NRUF data show that UScellular's subscriber base constitutes approximately {[ ]}% of subscribers nationwide in the mobile wireless services market, far less than the market shares of the three nationwide providers.[240] Even within its own footprint, UScellular ranks {[ ]} in terms of market share. If applied nationwide, the proposed transaction would lead to a change in HHI of {[ ]}, well below the threshold value of the Commission's initial screen.[241] We note that if there were a high degree of switching from T-Mobile to UScellular, this could provide evidence that UScellular acts as a competitive constraint. However, an analysis of the LNP data demonstrates that switching from T-Mobile to UScellular is uncommon. At the nationwide level, customers who port away from T-Mobile switch to UScellular only {[ ]}% of the time.[242] Restricting the analysis to CMAs within UScellular's footprint, T-Mobile customers port to UScellular at only a {[ ]}% rate.

71. Additionally, UScellular has struggled to maintain market share in recent years. In fact, UScellular's handset subscribers have declined every year since 2019.[243] In many markets, UScellular falls behind {[ ]} in terms of the share of gross adds, further demonstrating UScellular's continued struggle to attract subscribers.[244] In addition, the record demonstrates that the decision by UScellular to exit the mobile wireless marketplace was driven by a decision made with its parent company to change its existing business model due to the challenges the company faced.[245] TDS

[240] Analysis based on *NRUF/LNP Confidential Information*.

[241] We note that the Commission's HHI screen is typically applied on CMA-by-CMA basis. *T-Mobile-Sprint Order*, 34 FCC Rcd at 10614-15, para. 87, & n.277. Nonetheless, in this circumstance, it is instructive to consider the HHI on the level at which T-Mobile makes pricing decisions.

[242] Analysis based on *NRUF/LNP Confidential Information*.

[243] United States Cellular Corporation, SEC Form 10-K, Exhibit 13, at 5 (filed Feb. 25, 2020); United States Cellular Corporation, SEC Form 10-K, Exhibit 13, at 5 (filed Feb. 18, 2021); United States Cellular Corporation, SEC Form 10-K, at 24 (filed Feb. 17, 2022); United States Cellular Corporation, SEC Form 10-K, at 24 (filed Feb. 16, 2023); United States Cellular Corporation, SEC Form 10-K, at 25 (filed Feb. 16, 2024); United States Cellular Corporation, SEC Form 10-K, at 30 (filed Feb. 21, 2025).

[244] TDS-USCC-FCC-001-00006679, at TDS-USCC-FCC-001-00006692 (UScellular, {

]}); TDS-USCC-FCC-002-00062810, at TDS-USCC-FCC-002-00062812 (UScellular, {[

]}); TDS-USCC-FCC-001-00000034, at TDS-USCC-FCC-001-00000038 (UScellular, SLRF 2023 Stage Setting, May 2023) ({[

]}); TDS-USCC-FCC-001-00000051, at TDS-USCC-FCC-001-00000054 (UScellular, 2024 SLRF Stage Setting, May 2024) ({[

]}); TDS-USCC-FCC-001-00000051, at TDS-USCC-FCC-001-00000056 (UScellular, 2024 SLRF Stage Setting, May 2024) ({[

]}); TDS-USCC-FCC-001-00001429, at TDS-USCC-FCC-001-00001438 (UScellular, {[

]}); *see also* TDS-USCC-FCC-001-00001531, at TDS-USCC-FCC-001-00001540 (UScellular, Board Update, No date available) (noting that {[ ]}); Public Interest Statement at 14-17, 39.

[245] Public Interest Statement, Therivel Decl. ¶¶ 51-54.

"retained a consulting firm to perform a strategic review of UScellular's business and assets and to assess whether alternative business models could fix the inefficiencies caused by the company's structural disadvantages."[246] Corporate documents detail UScellular's internal assessment of the gradual decline of its existing business model.[247] In its filings, UScellular states its conclusion that "[a]n exit from wireless is the best strategic alternative for UScellular and our customers, and the proposed deal with T-Mobile provides the best path forward for consumers."[248] While some commenters argue that UScellular would remain viable as a mobile provider,[249] many commenters agree with the Applicants that UScellular is in decline as a service provider.[250] Regardless, corporate documents indicate that UScellular's decision to exit the mobile wireless market was based on a thorough evaluation of the wireless industry;[251] the growth of the tower market and the potential for UScellular as a tower company;[252] and the apparently substantial value of TDS' fiber assets.[253]

72. In addition to competing with AT&T and Verizon, the Applicants view cable MVNOs as significant competitors, as evidenced by the fact that both T-Mobile and UScellular consistently monitor

[246] Public Interest Statement, Therivel Decl. ¶ 51; *see also* TDS-USCC-FCC-002-00040289 (UScellular, {[ ]}, July 14, 2023); TDS-USCC-FCC-002-00040045 (UScellular, {[ ]}, July 6, 2023).

[247] *See, e.g.*, TDS-USCC-FCC-001-00000151 (UScellular, 2023 Strategic Long-Range Forecast: Board of Directors Update, Aug. 2023); TDS-USCC-FCC-001-00000204 (UScellular, 2024 Strategic Long-Range Forecast, Aug. 6, 2024); TDS-USCC-FCC-001-00000250 (UScellular, UScellular Strategic Long-Range Forecast (SLRF) Update, Jan. 18, 2024); TDS-USCC-FCC-003-00354679 (UScellular, Center View Partners: TDS Discussion Materials, July 22, 2024).

[248] Public Interest Statement, Therivel Decl. ¶ 58.

[249] *See, e.g.*, Public Knowledge et al. Petition at 12 ("UScellular has not attempted to argue that it meets the failing firm defense's strict requirements, and indeed, it cannot."); RWA Petition at i ("[T]here is considerable evidence demonstrating that UScellular can and will remain viable without T-Mobile's assistance as a regional or local mobile wireless carrier or even as hybrid fixed and mobile wireless carrier in the market.").

[250] *See, e.g.*, ACI *Ex Parte* Letter at 2 ("[UScellular's] loss in subscribership has . . . reduced cashflow that would have been available for spending on network enhancements and improving the customer experience."); ICLE *Ex Parte* Letter at 1 ("UScellular is a struggling regional carrier with significant structural disadvantages compared to national carriers . . . . Its disadvantages include a lack of economies of scale and density, high operational costs, and limited resources to keep up with the capital expenditures required for 5G deployment and other critical network upgrades. As a result of these disadvantages, UScellular has experienced declining subscriber numbers, market share, and revenue."); Westling *Ex Parte* Letter at 6 ("Due to its regional, largely rural footprint, UScellular also lacks the economies of scale to vigorously compete on price . . . ."); ACLP Reply at 6 ("[UScellular] has become a laggard and will remain so unless it merges with another firm." (citing Drew FitzGerald, The Wall Street Journal, *U.S. Cellular Owner Explores Sale* (Aug. 4, 2023), https://www.wsj.com/articles/u-s-cellular-owner-explores-sale-746bd1d8)).

[251] *See, e.g.*, TDS-USCC-FCC-003-00373797, at TDS-USCC-FCC-003-00373824 (UScellular, WirelessCo Financial Update, Feb. 12, 2024) (showing {[ ]}).

[252] *See, e.g.*, TDS-USCC-FCC-003-00003111, at TDS-USCC-FCC-003-00003114 (UScellular, Center View Partners: TDS Discussion Materials, July 22, 2024) (saying that {[ ]}); TDS-USCC-FCC-003-00003111, at TDS-USCC-FCC-003-00003133 (UScellular, Center View Partners: TDS Discussion Materials, July 22, 2024) {]}.

[253] *See, e.g.*, TDS-USCC-FCC-003-00003111, at TDS-USCC-FCC-003-00003114 (UScellular, Center View Partners: TDS Discussion Materials, July 22, 2024) ({[ ]}).

the progress of cable MVNOs.[254] While UScellular has struggled to attract and retain subscribers in recent years, cable MVNOs have experienced significant growth, adding more than 16 million lines in the last five years.[255] In terms of total wireless subscribers, as of March 31, 2025, the two largest cable MVNOs, Charter and Comcast, reported 10.4 million and 8.1 million lines, respectively.[256] UScellular indicates that {[ ]},[257] and internal documents provided by the Applicants support their claims regarding {[ ]}.[258] For example, T-Mobile suggests that {[ ]}.[259] Additional internal documents show that T-Mobile {[ ]}.[260] Similarly, internal documents from UScellular show that {[ ]}.[261] Moreover, a dynamic view of the telecommunications market shows that the

[254] *See, e.g.*, FCC-TMUS_000034624, at FCC-TMUS_000034706 (T-Mobile, Agenda: Board of Directors Meeting, June 12-14, 2024); FCC-TMUS_000008576, at FCC-TMUS_000008582, FCC-TMUS_000008584-586, FCC-TMUS_000008592-593 (T-Mobile, {[ ]}, May 12, 2023); FCC-TMUS_000012292, at FCC-TMUS_000012296, Mar. 29, 2024); TDS-USCC-FCC-001-00006679, at TDS-USCC-FCC-001-00006692 (UScellular, {[ ]}, Dec. 2023); TDS-USCC-FCC-002-00062810, at TDS-USCC-FCC-002-00062812 (UScellular, {[ ]}, May 2024).

[255] MoffettNathanson, Wireless Q4 2024: Two Warnings, and the Enduring Mystery of "Excess Subscriber Growth" at 12 (2025) (last accessed June 26, 2025). Additionally, cable companies {[ ]}. *See, e.g.*, ALTICE-CID-00000344, at ALTICE-CID-00000354 (Altice, {[ ]}, June 2024); ALTICE-CID-00000440, at ALTICE-CID-00000497 (Altice, {[ ]}, Nov. 2024); COX-00000042, at COX-00000043 (Cox, {[ ]}, Nov. 6, 2024).

[256] CCO Holdings, LLC, SEC Form 10-Q, at 12 (filed Apr. 25, 2025); Comcast Corporation, SEC Form 10-Q, at 17 (filed Apr. 24, 2025); *see also* Charter Request Response, Attach. 4 at 1 ("As of March 31, 2025, Charter served 10.4 million mobile lines."); Comcast Request Response at 4 & n.4 (May 13, 2025) (citing Comcast Corporation, Q1 2025 Trending Schedule at 7 (2025), https://www.cmcsa.com/static-files/d6059a82-1dec-483d-a469-38795e5afae1) (navigate to Connectivity & Platforms: Customer Metrics Chart, Total Domestic Wireless Lines, 2025 1Q).

[257] Public Interest Statement at 14-15; TDS-USCC-FCC-002-00162106, at TDS-USCC-FCC-002-00162106 (UScellular, Business Blitz Notes, July 2024).

[258] TDS-USCC-FCC-001-00001324, at TDS-USCC-FCC-001-00001327; TDS-USCC-FCC-002-00097747, at TDS-USCC-FCC-002-00097748; FCC-TMUS_000047201, at FCC-TMUS_000047214 (T-Mobile, {[ ]}, No date available); FCC-TMUS_000046816, at FCC-TMUS_000046826 (T-Mobile, {[ ]}, Sept. 23, 2021).

[259] FCC-TMUS_000047201, at FCC-TMUS_000047201 (T-Mobile, {[ ]}, No date available); FCC-TMUS_000046816, at FCC-TMUS_000046833 (T-Mobile, {]}, Sept. 23, 2021); FCC-TMUS_000012951, at FCC-TMUS_000012980 (T-Mobile, {[ ]}, July 2024).

[260] FCC-TMUS_000035527, at FCC-TMUS_000035544 (T-Mobile, Agenda: Board of Directors Meeting, Nov. 21-22, 2024); FCC-TMUS_000035972, at FCC-TMUS_000035989 (T-Mobile, Agenda: Board of Directors Meeting, June 14-15, 2022); FCC-TMUS_000046873, at FCC-TMUS_000046968-970, FCC-TMUS_000046976-978 (T-Mobile, Marketing Learning System for Week Ending 4/12, Apr. 2025); FCC-TMUS_000047201, at FCC-TMUS_000047222 (T-Mobile, {[ ]}, No date available).

[261] TDS-USCC-FCC-002-00103332, at TDS-USCC-FCC-002-00103338-340 (UScellular, SLRF Stage Setting 2023, Apr. 10, 2023); TDS-USCC-FCC-002-00144964, at TDS-USCC-FCC-002-00144967-970, TDS-USCC-FCC-002-00144972 (UScellular, 2024 SLRF Stage Setting, Apr. 16, 2024); TDS-USCC-FCC-002-00062555, at TDS-USCC-

(continued….)

competitive forces generated by cable MVNOs have grown each year. For example, one analyst report has estimated that in the fourth quarter of 2024, cable MVNOs accounted for approximately 15% of industry gross adds, the group's highest share ever recorded.[262] Thus, taking into consideration the persistent growth of cable MVNOs and the growing number of cable companies entering the wireless market,[263] we conclude that cable MVNOs could continue to act as competitive constraints moving forward.

c. Local Market Analysis

73. Consistent with Commission precedent, we next consider various competitive variables that help to predict the likelihood of competitive harm at the local level that could result from the proposed transaction.[264] These competitive variables include, but are not limited to: the total number of rival service providers; the number of rival firms that can offer competitive service plans; the coverage by technology of the firms' respective networks;[265] the rival firms' market shares;[266] the applicant's market

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FCC-002-00062558 (UScellular, Subscriber and Promotions Update, May 2024); TDS-USCC-FCC-002-00108313, at TDS-USCC-FCC-002-00108313 (UScellular, Postpaid Promotions, June 3, 2023); TDS-USCC-FCC-002-00108935, at TDS-USCC-FCC-002-00108939 (UScellular, Untitled, June 9, 2023); TDS-USCC-FCC-001-00001439, at TDS-USCC-FCC-001-00001447 (UScellular, Postpaid Handset Results, No date available). Additionally, AT&T and Verizon {[ ]}. *See, e.g.*, ATT-FCC-TMOUSC-000013724, at ATT-FCC-TMOUSC-000013728, ATT-FCC-TMOUSC-000013735, ATT-FCC-TMOUSC-000013737 (AT&T, Postpaid Wireless Account Inflow and Outflow Research: Q4 2023 Update, 2023); ATT-FCC-TMOUSC-000013602, at ATT-FCC-TMOUSC-000013604, ATT-FCC-TMOUSC-000013606, ATT-FCC-TMOUSC-000013613, ATT-FCC-TMOUSC-000013615 (AT&T, {[ ]}, 2023); VZNUSC-0030658, at VZNUSC-0030661, VZNUSC-0030664, VZNUSC-0030713 (Verizon, {[ ]}, 2024); VZNUSC-0030128, at VZNUSC-0030134, VZNUSC-003172-76 (Verizon, {[ ]}, Dec. 10, 2024); VZNUSC-0015093, at VZNUSC-0015096 (Verizon, {[ ]}, July 28, 2023); VZNUSC-0016572, at VZNUSC-0016576 (Verizon, {[ ]}, Oct. 2022).

[262] Jeff Baumgartner, Light Reading, *With 18M Mobile Lines, Cable Still 'Biggest Headwind' for AT&T, T-Mobile, and Verizon* (Mar. 14, 2025), https://www.lightreading.com/wireless/with-18m-mobile-lines-cable-still-biggest-headwind-for-at-t-t-mobile-and-verizon.

[263] *See, e.g.*, Press Release, Cox Communications, Cox Announces Successful Completion of Mobile Launch in Markets Nationwide (Jan. 5, 2023), https://newsroom.cox.com/2023-01-05-Cox-Announces-Successful-Completion-of-Mobile-Launch-in-Markets-Nationwide; Press Release, Mediacom, Mediacom Communications Launches Mediacom Mobile (July 16, 2024), https://mediacomcable.com/about/news/mediacom-communications-launches-mediacom-mobile/.

[264] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10620-23, paras. 101, 106; *AT&T-Leap Order*, 29 FCC Rcd at 2767, para. 75; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2338, para. 47.

[265] We base the coverage analysis on providers' coverage data they submitted pursuant to the Broadband Data Collection (BDC) as of December 31, 2024. Broadband Deployment Accuracy and Technological Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (Broadband DATA Act); 47 U.S.C. § 642(a)(1)(A) (BDC). For 4G LTE, these data are based on speed thresholds of 5/1 Mbps with a minimum cell edge probability of 90% and minimum cell loading of 50%. For 5G-NR, these data are based on speed thresholds of 7/1 Mbps and 35/3 Mbps with a minimum cell edge probability of 90% and minimum cell loading of 50%. 47 U.S.C. § 642(b)(2)(B)(ii); *see also Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195 and 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7479-80, paras. 44-45 (2020) (*BDC Second Report and Order*). For 4G LTE and 5G-NR, providers must submit two types of propagation maps: one that models outdoor stationary usage and one that models in-vehicle mobile usage. *See BDC Second Report and Order*, 35 FCC Rcd at 7481-82, para. 48. We report the various speed thresholds based on the outdoor stationary propagation maps.

share; the total amount of spectrum available; the amount of spectrum suitable for the provision of mobile telephony/broadband services controlled by the applicant; and the spectrum holdings of each of the rival service providers and licensees.[267]

74. *Record*. The Applicants conducted CMA-specific analyses of coverage, population-weighted average spectrum holdings, and cable competition in 198 markets.[268] In terms of coverage, the Applicants indicate that AT&T has a competitive presence[269] in 118 of the 122 markets that trigger the HHI screen, and Verizon has a competitive presence in 113 of these 122 markets.[270] Additionally, the Applicants indicate that EchoStar has a competitive presence in 29 of these 122 markets.[271] Further, across the 122 markets that trigger the HHI screen, the Applicants indicate that AT&T's population-weighted average low-band and mid-band spectrum holdings range from 6 to 55 megahertz and 186 to 260 megahertz, respectively, while Verizon's population-weighted average low-band and mid-band spectrum holdings range from 22 to 94 megahertz and 180 to 275 megahertz, respectively.[272] Moreover, across the 122 markets that trigger the HHI screen, the Applicants indicate that EchoStar's population-weighted average low-band and mid-band spectrum holdings range from 10 to 26 megahertz and 90 to 140 megahertz, respectively.[273] Finally, for 112 of the 122 markets that trigger the HHI screen, the Applicants indicate that there is at least one major cable provider providing mobile services.[274]

75. ICLE argues that some areas where UScellular has coverage are not well served by T-Mobile, such as "much of Nebraska, portions of Wisconsin, Iowa, Kansas, Oklahoma, and much of Appalachia."[275] As such, ICLE claims that the proposed transaction would not reduce the number of

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[266] We base HHIs and providers' market shares on June 2024 NRUF data, which indicate the number of phone numbers that a wireless service provider has been assigned in a particular rate center (there are approximately 18,000 rate centers in the country). *See* 47 CFR § 52.15(e)(5). Rate centers are geographic areas used by local exchange carriers for a variety of reasons, including the determination of toll rates. *2024 Communications Marketplace Report*, 39 FCC Rcd at 14162-63, para. 59 & n.156. We calculate the total number of wireless subscribers from the total number of assigned phone numbers reported by wireless service providers in their required NRUF reports. For purposes of geographical analysis, the rate center data can be associated with a geographic point, and all points that fall within a county boundary can be aggregated together and associated with much larger geographic areas based on counties. We note that the aggregation to larger geographic areas, such as to whole counties or groups of counties, reduces the level of inaccuracy inherent in combining non-coterminous areas, such as rate center areas and counties.

[267] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10621, para. 102; *AT&T-Leap Order*, 29 FCC Rcd at 2767, para. 75; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2338, para. 47.

[268] *See generally* Appx. F, Applicants' CMA Specific Analysis.

[269] The Applicants define a carrier as having a competitive presence in a CMA if it exceeds the 70% population and 50% geographic coverage criteria for any tier of service tracked in the BDC reporting. Appx. F, Applicants' CMA Specific Analysis at 2.

[270] *See, e.g.*, Appx. F, Applicants' CMA Specific Analysis at 4-6.

[271] *Id.*

[272] *See, e.g.*, Appx. F, Applicants' CMA Specific Analysis at 6. The Applicants present carrier spectrum holdings based on data downloaded from the Universal Licensing System (ULS) as of late May 2024. Appx. F, Applicants' CMA Specific Analysis at 1.

[273] *See, e.g.*, Appx. F, Applicants' CMA Specific Analysis at 6.

[274] *See, e.g.*, Appx. F, Applicants' CMA Specific Analysis at 7. The Applicants use areas where cable providers report fixed broadband service availability in the BDC system as a proxy for where they market, and thus provide, mobile services to customers. *Id.* at 3.

[275] ICLE *Ex Parte* Letter at 5.

competitors in these markets since T-Mobile would replace UScellular in areas where it currently lacks coverage.[276] In contrast, RWA asserts that the proposed transaction would result in the "hyper-concentration" of spectrum by T-Mobile in certain markets such as Wisconsin, North Carolina, Oklahoma, Nebraska, Kansas, and Missouri.[277] For example, RWA contends that T-Mobile's spectrum holdings would increase by approximately 15% to 30% in some Wisconsin markets as a result of the proposed transaction.[278] EchoStar also raises concerns about T-Mobile's accumulation of spectrum, arguing that it is anticompetitive.[279] Specifically, EchoStar highlights a number of markets in Wisconsin where T-Mobile is acquiring 600 MHz spectrum from UScellular as part of the proposed transaction,[280] as well as the Dallas, Texas partial economic area (PEA) where T-Mobile holds five of the seven blocks of 600 MHz spectrum available in the market.[281]

76. In response to EchoStar, the Applicants assert that the Commission should deny EchoStar's arguments concerning the Dallas, Texas PEA, since the market is not subject to the proposed transaction and the Commission generally does not consider band-specific aggregation in its case-by-case review.[282] EchoStar replies by saying that it included the Dallas, Texas PEA as an example of T-Mobile's spectrum foreclosure strategy, and argues that T-Mobile's acquisition of 600 MHz spectrum in markets subject to the proposed transaction serves the same anticompetitive purposes.[283]

77. *Discussion.* For ease of analysis, we have grouped the 122 markets that trigger the HHI screen into five geographical clusters: Central Eastern, Central Western, Mid-Atlantic, Northeastern, and Western United States.[284] Appendix D provides additional details, including information on spectrum holdings, coverage, porting, and market shares, used to evaluate the competitive circumstances in these markets. In the vast majority (115) of the 122 local markets, we have no concerns when evaluating the factors ordinarily considered. To begin with, in 114 of the CMAs,[285] there would be at least three providers with significant market share post-transaction.[286] Second, all three nationwide providers are attributed with substantial amounts of spectrum, including low-band spectrum. Moreover, EchoStar is also attributed with substantial amounts of spectrum in these markets. Further, all three nationwide providers have substantial 4G LTE coverage in the vast majority of these markets, and at least one

[276] ICLE *Ex Parte* Letter at 5.

[277] RWA Petition at 9-10.

[278] RWA Petition at 10 & n.29.

[279] EchoStar Petition at 9; EchoStar Reply at 6-7.

[280] EchoStar Reply at 6-7.

[281] EchoStar Petition at 9.

[282] Joint Opposition at 24.

[283] EchoStar Reply at 6-7.

[284] The geographic clusters we use are based on UScellular's self-reported operational footprint. *See, e.g.*, United States Cellular Corporation, SEC Form 10-K, at 1 (filed Feb. 21, 2025); *see also* Public Interest Statement, Orszag Decl. ¶ 16, Fig. 1.

[285] One of the markets that triggers the HHI screen—Maryland 1– Garrett—is a single-county market, and therefore we believe the shares in this market based on June 2024 NRUF data are unreliable and inaccurate, and we cannot rely on them in our analysis.

[286] There are 12 CMAs out of the 115 local markets in which the number of providers with significant market share would decrease from 4 to 3 and T-Mobile would have a market share of greater than 50% post-transaction. However, after evaluation of the factors ordinarily considered, including the fact that all three nationwide providers will have a significant market share post-transaction in these markets, we find that the potential for competitive harm in these markets is limited.

nationwide provider, in addition to T-Mobile, has deployed its 5G-NR network to some extent in each of the markets. Accordingly, based on our careful evaluation of these factors, we find that the potential for competitive harm in each of these markets is limited.

78. In the remaining seven of the 122 triggered markets, post-transaction market concentration is very high, ranging from {[ ]}%. These seven markets are: Cumberland, MD-WV (Mid-Atlantic cluster); Alton-Granite City, IL (Central East cluster); Iowa 3 – Monroe (Central East cluster); Iowa 6 – Iowa (Central East cluster); Nebraska 10 – Cass (Central West cluster); Oklahoma 6 – Seminole (Central West cluster); and West Virginia 5 – Tucker (Mid-Atlantic cluster). Six of the markets are rural markets, and one is non-rural (Cumberland, MD-WV). Specifically, the post-transaction HHI would range from {[ ]}. In Alton-Granite City, IL, Nebraska 10 – Cass, and West Virginia 5 – Tucker, post-transaction, there would be two providers with significant market shares and one provider with some market presence. In Iowa 3 – Monroe and Iowa 6 – Iowa, pre-transaction, T-Mobile and UScellular had the highest market shares and, post-transaction, T-Mobile would have a market share of greater than 50%. In Cumberland, MD-WV and Oklahoma 6 – Seminole, post-transaction, there would be two providers with significant market shares. However, all three nationwide providers are attributed in these markets with substantial amounts of spectrum, including low-band spectrum. Moreover, EchoStar is also attributed with substantial amounts of spectrum in these markets. Further, all three nationwide providers have substantial 4G LTE coverage in the vast majority of these seven markets, and at least one nationwide provider, in addition to T-Mobile, has deployed its 5G-NR network to some extent in each of the markets. As such, despite the current high market shares, based on our careful evaluation of the competitive effects in these local markets, we find that the other participants in these markets will continue to provide competitive alternatives and that therefore the potential for competitive harm in these markets is limited.

79. In addition to our analysis of the markets that trigger the HHI screen, we also analyzed the competitive effects of the instant transaction on those markets in which the total spectrum screen is triggered, as well as those markets that are subject to enhanced factor review. We again note that if the T-Mobile-Grain transaction were to be approved, T-Mobile would not trigger the total spectrum screen or enhanced factor review in any local market.

80. Post-transaction, in 37 of the 38 CMAs where the total spectrum screen is triggered, all three nationwide providers would have significant market share post-transaction. Further, besides T-Mobile, the two other nationwide providers—AT&T and Verizon—are attributed with substantial amounts of spectrum in these 38 CMAs. In addition, EchoStar has substantial amounts of spectrum in these markets. Finally, all three nationwide providers have substantial 4G LTE coverage in these 38 CMAs, and at least one nationwide provider, in addition to T-Mobile, has deployed its 5G-NR network to some extent in all 38 CMAs. Therefore, based on our evaluation of the factors ordinarily considered, we find it highly unlikely that the assignment of this spectrum to T-Mobile in these markets would allow it to foreclose entry or raise rivals' costs.[287]

d. Overall Unilateral Effects

81. Following our careful examination of the national and local factors affecting competition, we find that the proposed transaction does not significantly increase the likelihood of T-Mobile taking

[287] Considering enhanced factor review, in 130 of the 147 triggered CMAs, all three nationwide providers have significant market share. Further, besides T-Mobile, AT&T, and Verizon, are attributed with low-band spectrum, as well as substantial amounts of spectrum in total, in these 147 CMAs. Further, EchoStar holds low-band spectrum in these 147 CMAs. Finally, all three nationwide providers have substantial 4G LTE coverage in 141 of the 147 CMAs, and at least one nationwide provider, in addition to T-Mobile, has deployed its 5G-NR network to some extent in all 147 CMAs. Given these facts, we find that the likelihood of competitive harm is low in the 147 CMAs where enhanced factor review is triggered.

unilateral actions that would cause competitive harm. Our analysis of upward pricing pressure effects resulting from the transaction indicates that it is unlikely that T-Mobile would have incentive to unilaterally raise prices nationally or within UScellular's footprint. The GUPPI calculations for T-Mobile, both on a nationwide basis and within UScellular's footprint, fall well below the generally accepted thresholds, suggesting that the likelihood of adverse unilateral effects resulting from an increased incentive to raise T-Mobile's price is highly unlikely. While the GUPPI value for UScellular exceeds the typical 5% and 10% thresholds, the record shows that T-Mobile largely makes competitive decisions on a nationwide basis, and UScellular does not act as a significant competitive constraint, either at the national level or within the UScellular footprint. Further, the competitive reaction to, and the success of, cable MVNOs demonstrates the significance of their growing competitive presence. Finally, T-Mobile's public statement to maintain the prices of UScellular's existing plans and allow existing UScellular subscribers to switch to T-Mobile plans should they prefer,[288] further protects consumers against potential unilateral price increases.

82. Our examination of the market-by-market characteristics further confirms that the removal of UScellular as a competitor is unlikely to significantly raise the risk of unilateral competitive harms, for example, through new incentives to decrease network quality or coverage. T-Mobile's two major rivals, AT&T and Verizon, generally have sufficient spectrum, coverage, and market presence to effectively compete in the markets triggered by our initial screen. In addition, cable companies offering mobile wireless services operate in over 90% of these markets, providing an additional check against anticompetitive behavior at a local level. This combination of market factors effectively incentivizes T-Mobile to maintain or improve its network, and we therefore find that there is a low likelihood of competitive harms by T-Mobile decreasing its network quality or coverage. Overall, our analysis of the unilateral competitive effects—in which we consider factors at the nationwide, within footprint, and local levels—demonstrates that post-transaction T-Mobile is unlikely to have an increased incentive to unilaterally raise prices or otherwise engage in anticompetitive behavior.

4. Coordinated Effects

83. Coordinated effects arise when competing firms take actions that are only profitable as a result of accommodating actions from rivals.[289] Transactions that reduce the number of competitors in a market may increase concentration to the point where coordination becomes more likely.[290] The ability of rival firms to successfully coordinate depends on the strength and predictability of rivals' competitive responses to a price increase or other anti-competitive action.[291] Coordinated effects are less likely if, for example, the relevant market is marked by leapfrogging technological innovation, such that the gains from innovation are high.[292] In addition, a maverick firm may effectively constrain coordination either through its disruptive behavior or refusal to follow industry consensus on prices or other strategic actions, to the benefit of consumers.[293]

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[288] *See, e.g.*, Public Interest Statement at 24-25.

[289] *See, e.g.*, *Verizon-TracFone Order*, 36 FCC Rcd at 17014-15, para. 48; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10654-55, para. 178; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2336-37, para. 43.

[290] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10654-55, para. 178.

[291] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10654-55, para. 178; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2336-37, para. 43.

[292] *Verizon-TracFone Order*, 36 FCC Rcd at 17014-15, para. 48; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10655, para. 179.

[293] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10655, para. 179; *see also* Joseph E. Harrington, Jr., *Evaluating Mergers for Coordinated Effects and the Role of "Parallel Accommodating Conduct"*, 78 Antitrust L.J. 651, 664 (2012);Courtney D. Lang, *The Maverick Theory: Creating Turbulence for Mergers*, 59 St. Louis U.L.J. 257, 257

(continued….)

84. *Record*. The Applicants assert that in addition to the unlikelihood of tacit coordination across the wireless industry generally, the transaction itself will not facilitate tacit coordination between wireless service providers.[294] The Applicants contend that UScellular does not operate as a maverick in its limited footprint or nationwide.[295] According to the Applicants, cable wireless providers have adopted the mantle of mavericks in UScellular's footprint because of their ability to bundle services, subsidize wireless offerings through margins on their traditional offerings, and offload more traffic onto their own Wi-Fi networks, which allows them to aggressively price their wireless offerings and increase market share.[296] The Applicants state that this is in contrast to UScellular, which has a small share of subscribers—approximately 1% of wireless subscribers nationwide—and which operates in a limited footprint that covers approximately 10% of the U.S. population.[297]

85. The Applicants further argue that UScellular's product offerings and pricing strategies lack a disruptive element and are generally more expensive and offer less value than what other providers such as T-Mobile offer.[298] The Applicants assert that UScellular also lacks the ability to effectively invest in its network in order to compete with both established nationwide and cable wireless providers,[299] and that due to UScellular's structural disadvantages, it "is losing share to rival mobile wireless providers, making it unlikely to effectively disrupt tacit coordination."[300]

86. CCIA argues, by contrast, that "UScellular serves as a maverick firm in its Mobile Network Operator markets today."[301] CCIA asserts that in markets such as mobile wireless services, a smaller competitor could act as a maverick firm, providing a check on such actions as collusive pricing by "refusing to follow industry consensus on prices or other strategic actions," and thus exerting "outsized competitive pressure" on national wireless carriers.[302]

87. In response, the Applicants reiterate that UScellular is not a maverick, asserting that UScellular's overall structure and financial health greatly constrain its freedom of market movement in pricing and other maverick-style strategies.[303] The Applicants state that, in contrast, T-Mobile has consistently engaged in maverick behavior, and increasingly cable wireless providers have acted as mavericks throughout UScellular's footprint.[304] The Applicants assert that as a result of the competition

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(2014); Jonathan B. Baker, *Mavericks, Mergers, and Exclusion: Proving Coordinated Competitive Effects Under the Antitrust Laws*, 77 N.Y.U. L. Rev. 135, 140 (2002).

[294] Public Interest Statement at iv, 35; *see also* Public Interest Statement, Orszag Decl. ¶¶ 125-28.

[295] Public Interest Statement at iv, 35; *see also* Public Interest Statement, Orszag Decl. ¶¶ 125, 127; Public Interest Statement, Appx. D, Declaration of Michael C. Irizarry ¶¶ 26-28 (Sept. 13, 2024) (Public Interest Statement, Irizarry Decl.); Public Interest Statement, Therivel Decl. ¶ 47.

[296] Public Interest Statement at 35; *see also* Joint Opposition at 18.

[297] Public Interest Statement at 35; *see also* Public Interest Statement, Orszag Decl. ¶ 126.

[298] Public Interest Statement at 36; *see also* Public Interest Statement, Orszag Decl. ¶ 127.

[299] Public Interest Statement at 36; *see also* Public Interest Statement, Orszag Decl. ¶ 127.

[300] Public Interest Statement at 36; *see also* Public Interest Statement, Orszag Decl. ¶ 128.

[301] CCIA Comments at 3.

[302] CCIA Comments at 3; *see also* RWA et al. June 3, 2025 *Ex Parte* Letter at 2 (expressing concern over the loss of UScellular as a "facilities-based competitor in many rural and regional markets"). *But see* ICLE *Ex Parte* Letter, Executive Summary at 1 ("Given its small size, limited footprint, and uncompetitive pricing, UScellular plays no role as a 'maverick' disrupting the market and is unlikely to do so in to the foreseeable future.").

[303] Joint Opposition at 12-13; *see also* Public Interest Statement at 35; Public Interest Statement, Orszag Decl. ¶ 125.

[304] Joint Opposition at 13; *see also* Public Interest Statement at 35; Public Interest Statement, Katz Decl. ¶ 4.

from cable, UScellular's retail postpaid subscribers recently fell to under four million for the first time in over 20 years, inconsistent with an entity capable of disrupting competition.[305]

88. *Discussion.* Based on our careful evaluation of the record, we do not find that the proposed transaction is likely to significantly increase the likelihood of coordinated effects. We do not find any evidence in the record to support CCIA's claim that UScellular acts as a maverick or engages in disruptive behavior that benefits consumers. We also point out the emergence of cable MVNOs in the market may limit the ability to effectively coordinate. In addition, we note that the proposed transaction will not increase the incentive of the three nationwide providers to collude in the mobile wireless marketplace given that UScellular is not currently an effective competitive constraint. As noted, prices are set at the national level, and while prices in the mobile wireless marketplace can be readily monitored and easily changed, the exit of UScellular does not increase concentration at the nationwide level in any meaningful way. Further, we find that CCIA's comments that the transaction would increase the opportunities for coordinated behavior are unsupported by the record and no party has offered evidence of increased coordinated behavior—whether on price or non-price dimensions—following the close of the T-Mobile-Sprint Transaction.

VII. POTENTIAL PUBLIC INTEREST BENEFITS

89. Having determined that the likelihood of competitive harms associated with the transaction is low, we next discuss the public interest benefits of the transaction.[306] The Commission finds a claimed benefit to be cognizable when it arises as a result of the transaction and likely could not be accomplished in the absence of the transaction[307] and is verifiable.[308] Because much of the information relating to the potential benefits of a transaction is in the sole possession of the applicants, they are required to provide sufficient evidence supporting each claimed benefit so that the Commission can verify its likelihood and magnitude.[309] Further, the Commission is "more likely to find marginal cost reductions to be cognizable than reductions in fixed cost"[310] as, in general, reductions in marginal cost are more likely to result in lower prices for consumers. And benefits expected to occur only in the distant future may be discounted or dismissed because, among other things, predictions about the distant future are inherently more speculative than predictions that are expected to occur closer to the present.[311]

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[305] Joint Opposition at 13-14; *see also* Public Interest Statement, Orszag Decl. ¶ 128.

[306] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214.

[307] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50 (citing *AT&T-BellSouth Order*, 22 FCC Rcd at 5761, para. 202); *AT&T-DIRECTV Order*, 30 FCC Rcd at 9237, paras 273-74.

[308] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

[309] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58. In addition, "the magnitude of benefits must be calculated net of the cost of achieving them." *See, e.g.*, *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

[310] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

[311] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

90. We find here, in the context of the instant transaction, that it would result in increased network efficiencies and spectrum utilization, resulting in additional capacity and coverage benefits for both T-Mobile and UScellular mobile customers with increased data speeds and coverage quality. In addition, the resulting excess capacity with expanded coverage will be able to be used to serve current and new FWA users with higher speeds than either standalone company can provide.

A. Network-Related Claims

91. *Record*. The Applicants claim that the transaction will generate benefits to consumers from the realization of network and engineering efficiencies.[312] T-Mobile asserts that the proposed transaction will result in a greater number of customers receiving faster speeds as 5G will become available across a much greater expanse of the combined network.[313] T-Mobile contends that integrating UScellular's wireless assets, including approximately 30% of its licensed spectrum, into T-Mobile's network will result in greater capacity and faster speeds as compared to either standalone network.[314] The Applicants assert that incorporating use of the leased UScellular towers into T-Mobile's network will improve the combined network's capacity, speed, and performance[315] and will reduce network congestion in the footprint.[316] T-Mobile further asserts that, because all of the spectrum being acquired is within bands already supported by radios on existing T-Mobile towers and all towers that will be added to the combined network going forward, the cost of this additional capacity for those towers is zero.[317] The Applicants further assert that T-Mobile's improved network performance, in turn, will induce AT&T and Verizon to augment their deployments to enhance the performance and service quality of their networks, and that this competition will extend to EchoStar and to the cable wireless providers.[318]

92. EchoStar asserts that the proposed network benefits should be treated with skepticism because they have been previously claimed by T-Mobile as a result of its acquisition of Sprint and in other recent transactions and because they are not transaction-specific.[319] EchoStar claims that the

[312] Public Interest Statement, Orszag Decl. ¶¶ 129-135.

[313] Public Interest Statement at 22; Public Interest Statement, Kapoor Decl. ¶ 14.

[314] Public Interest Statement at 19-22; Joint Opposition at 2-5; *see also* Public Interest Statement, Kapoor Decl. ¶¶ 3, 9-10 (stating that T-Mobile's network performance in the UScellular footprint is below T-Mobile's national averages due to a lack of spectrum depth across all bands).

[315] Public Interest Statement, Kapoor Decl. ¶ 12.

[316] Public Interest Statement at ii, 21, 24; Public Interest Statement, Kapoor Decl. ¶ 16. T-Mobile projects that {[ ]}% fewer sectors will experience network congestion compared to the standalone UScellular network and {[ ]}% fewer sectors will experience congestion compared to the standalone T-Mobile network. Public Interest Statement at ii, 21, 24; Public Interest Statement, Kapoor Decl. ¶ 16. T-Mobile states that it used "an actual speed (as opposed to offered speed) threshold of 8 Mbps to define congestion during the busy hour." Public Interest Statement, Kapoor Decl. ¶ 16; *see also* Public Interest Statement at 24 & n.98. T-Mobile asserts that these reductions in congested sectors will directly improve customer experience and customer satisfaction.

[317] Public Interest Statement, Kapoor Decl. ¶ 12. The Applicants state that the cost of adding additional capacity to the T-Mobile network in the UScellular footprint will also be reduced as a result of the transaction. Public Interest Statement at 20. The estimated capital expenditure cost-per-gigabit post-transaction when T-Mobile needs to split a cell will be reduced by {[ ]} percent as compared to the standalone T-Mobile network. *Id.*

[318] Public Interest Statement at 42; *see also* Public Interest Statement, Therivel Decl. ¶¶ 31-32.

[319] EchoStar Petition at 14-15 (arguing that T-Mobile already claimed population coverage of 98.2% nationwide and 90% rural coverage with low-band spectrum and 88% nationwide and 66.7% rural of mid-band coverage from the T-Mobile/Sprint transaction); *id.* at 14-15 (arguing that T-Mobile has alleged duplicative benefits for network performance and 5G coverage in several recent proceedings including transfers from Sprint, Columbia Capital and SoniqWave, and that T-Mobile fails to show that it would suffer from network congestion in the absence of the proposed transaction); *see also* Letter from Carri Bennet, outside General Counsel, Stephen Sharbaugh, Regulatory (continued….)

Applicants have not provided evidence of network congestion now or in the future to justify the spectrum acquisition.[320] EchoStar contends that UScellular's exit from the market demonstrates that wireless competitors lack contiguous spectrum blocks to compete in the market.[321] EchoStar further argues that the spectrum aggregation benefits T-Mobile claims from the instant transaction denies competitors spectrum efficiencies[322] while enhancing T-Mobile's ability to exercise spectrum foreclosure.[323] Public Knowledge argues that the benefits are not transaction-specific, verifiable, or supported by the public interest.[324] RWA asserts that UScellular customers may be harmed by the transaction because it may deprive them of any advanced mobile services or leave them with diminished service following the network integration.[325] RWA requests that the Commission require T-Mobile to operate certain cell sites for at least five years.[326]

93. The Applicants respond that the fact-based technical showings in the Public Interest Statement demonstrate the substantial, transaction-specific public interest benefits that will result solely from the combination of unique network assets at issue in the transaction.[327] They argue that currently the standalone T-Mobile and UScellular networks each have limitations in the UScellular footprint.[328] The Applicants contend that their benefits showing quantifies the improvements in network performance that will result from the transaction—including substantial improvements compared to the standalone networks.[329] The Applicants argue that the petitioners fail to substantiate their claims that the benefits are not transaction-specific.[330]

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Counsel, RWA; Grant Gendron, Senior Corporate Counsel, EchoStar Corporation, Peter Gregory, Broadband Policy Fellow, Public Knowledge, Nell Geiser, Director of Research, CWA, and Jessica Dine, Policy Analyst, New America's Open Technology Institute to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (filed May 15, 2025) (RWA et al. May 15, 2025 *Ex Parte* Letter).

[320] EchoStar Petition at 10; EchoStar Reply at 3, 9-10.

[321] EchoStar Reply at 4-5, 8 (arguing that low-band spectrum as well as 600 MHz spectrum is essential to EchoStar's spectral efficiency and carrier aggregation).

[322] EchoStar Petition at 2-3; EchoStar Reply at 1-3, 8-9 & n.23 (asserting that T-Mobile's justification for the proposed transaction would deny competitors the same multiplicative spectrum efficiency).

[323] EchoStar Reply at 8-9. EchoStar adds that T-Mobile currently holds the most spectrum from any carrier and the transaction would further extend T-Mobile's lead in low-band spectrum holdings. EchoStar Reply 9-10 (citing FCC-TMUS_000000001, at FCC-TMUS_000000011 (Supplemental Materials, No date available)) ({[

]}).

[324] Public Knowledge et al. Petition at 10.

[325] RWA Petition at 6 (noting that the Applicants imply that approximately 0.5% of UScellular customers, approximately 22,500 customers according to RWA, will not obtain the same or better coverage from the combined network).

[326] RWA Petition at 19-21 (stating the possibility of service interruptions if cell sites where UScellular is the only provider are shut down to ensure the continuance of operations in rural areas).

[327] Joint Opposition at 4.

[328] Public Interest Statement at 18.

[329] Joint Opposition at 5.

[330] Joint Opposition at 5 & n.20 (asserting that T-Mobile has a well-documented history of using acquired spectrum and network assets to improve network performance increasing the likelihood and verifiability of the public interest benefits).

94. *Network Engineering Submissions*. The Applicants base their network engineering analysis and performance claims on a broad variety of engineering data and calculations submitted between January 17, 2025 and May 21, 2025 which, taken together, constitute the Applicants' network engineering plans.[331] In support of the network performance estimates, the Applicants produced the models for offered capacity and offered speed, as well as network performance metrics utilized in T-Mobile's ordinary course of business and network planning. These models were run for the combined network, the standalone UScellular network, and the standalone T-Mobile network.[332] Additionally, T-Mobile submitted its demand model for the standalone T-Mobile network.[333] With respect to the Applicants' claim that the combined network will deploy more spectrum resulting in increased data speeds and improved customer experience,[334] the Applicants performed an analysis of the network capacity at the sector level on all T-Mobile sites including UScellular sites to be leased by T-Mobile post-transition in areas where T-Mobile currently has no coverage or marginal coverage.[335] T-Mobile submitted spectrum efficiency estimates of the network model and associated modifications as the T-Mobile network has evolved from LTE to 5G.[336]

95. *Coverage Submissions*. T-Mobile submitted data and information in support of its claim that the transaction will result in an increase in 5G availability overall,[337] and that, for almost all UScellular customers, there will be no decrease in coverage. While T-Mobile's initial estimates suggested that a small percentage of UScellular's current customers might experience some degradation of coverage (estimated to be 0.5%),[338] T-Mobile later indicated that its additional analysis found that

[331] *See* T-Mobile Jan. 17 Response. T-Mobile filed supplemental responses on February 3, 2025, February 27, 2025, March 17, 2025, April 10, 2025, May 2, 2025, May 12, 2025, May 20, 2025, and May 21, 2025. T-Mobile filed responses to the Data Request on February 3, 2025, May 2, 2025, May 12, 2025, May 16, 2025, and May 20, 2025 relating to network engineering data.

[332] T-Mobile Jan. 17 Response at 7; FCC-TMUS_000026346; FCC-TMUS_000026347; FCC-TMUS_000026348 (T-Mobile network coverage metrics in the engineering model); *see also* T-Mobile May 2 Response at 2-4.

[333] T-Mobile Jan. 17 Response at 7.

[334] Public Interest Statement, Kapoor Decl. ¶ 11. T-Mobile submitted its results of its network engineering model and the associated network inputs. T-Mobile May 2 Response at 2 (stating that the network engineering model used to calculate capacity and speed was provided to the Commission at Bates No. FCC-FCC-TMUS_000026350 for T-Mobile and at Bates No. FCC-TMUS_000026348 for UScellular and the post-transaction T-Mobile).

[335] T-Mobile Jan. 17 Response at 8. Specifically, T-Mobile contends that its network analysis shows the average spectrum holdings for these UScellular sites pre-transaction are {[ ]} megahertz of low-band spectrum and {[ ]}megahertz of mid-band spectrum; post-transaction, when these sites and spectrum are incorporated into the T-Mobile network, these figures rise to {[ ]} megahertz of low-band spectrum and {[ ]} megahertz of mid-band spectrum. T-Mobile contends that its network analysis shows the transaction will have a demonstrable impact on network performance in these same areas, with {[ ]} offered speed ({[ ]} Mbps for standalone UScellular compared to {[ ]} Mbps for the combined network). T-Mobile explained that its engineering model is updated periodically to incorporate new licensed spectrum added to T-Mobile's network as well as actual performance measurements from T-Mobile's network. *Id.* In support of the claims, T-Mobile produced the following analysis and supporting calculations. *See* FCC-TMUS_000026345; FCC-TMUS_000026349; FCC-TMUS_000026350_2; FCC-TMUS_000047014; FCC-TMUS_000047304 (LTE spectrum efficiency data from T-Mobile's network). T-Mobile May 2 Response at 3 & n.4. *See infra* Appx. E at § II.

[336] T-Mobile May 12 Response at 2. T-Mobile states that within the UScellular footprint, the post-transaction plans will result in less than {[ ]} percent of traffic being on LTE (consistent with its national network). *Id.*

[337] *See* FCC-TMUS_000026345; FCC-TMUS_000026349; FCC-TMUS_000026350_2, T-Mobile May 12 Response at 3 (T-Mobile Data Request Response, Attachment A); UScellular May 8 Response at 1-2 (UScellular Data Request Response, Attachment A).

[338] Public Interest Statement at 22-23. The Applicants explain that the estimated coverage metrics in the network model were modified during the pendency of this transaction. T-Mobile Feb. 3 Response at 3-4 (describing T-

(continued….)

certain measures that it will implement post-transaction will ensure that all UScellular customers will experience comparable or improved coverage post-implementation.[339]

96. *Network Planning and Competition Submissions*. T-Mobile submitted data and documents on its network planning process which is designed to maintain nationwide competitiveness against AT&T and Verizon.[340] T-Mobile explains that it evaluates the localized measures of AT&T's and Verizon's coverage and network performance to identify areas in which to prioritize cell site builds.[341] T-Mobile also submitted documents and information in support of its claims that the network improvements from the proposed transaction will increase competition. Specifically, T-Mobile contends that the increase in the number of cell sites and spectrum will improve its competitive positioning as a result of this transaction.[342] T-Mobile states that due to the multiplicative nature of spectrum and tower assets, T-Mobile will be able to service a greater number of subscribers using the combined network post-transaction.[343] T-Mobile explains that the spectrum that T-Mobile will acquire from UScellular is currently used within T-Mobile's existing Radio Access Network (RAN) in the UScellular footprint, and therefore will require no additional equipment to be installed in LTE and 5G base stations.[344]

(Continued from previous page)
Mobile's keep-site analysis to reflect {[ ]}); T-Mobile May 2 Response at 2-4 (citing FCC-TMUS_000026348 and FCC-TMUS_000026350); *see also* FCC-TMUS_000026349. T-Mobile states that to determine which sites to keep, T-Mobile engaged in what it refers to as a Coverage Based Retention Analysis (CBRA) methodology that uses the Atoll propagation software.

[339] T-Mobile May 12 Response at 2-3 (stating that the measures it will implement post-transaction to ensure coverage are: {[ ]}).

[340] T-Mobile Jan. 17 Response at 9 (citing FCC-TMUS_000031967; FCC-TMUS_000031999; FCC-TMUS_000032000).

[341] T-Mobile Jan. 17 Response at 9-10; *see* FCC-TMUS_000031967 at 14-16, 32 (Aug. 20, 2024) ({[ ]}); *see also* T-Mobile May 2 Response at 5 (stating that the datasets include only AT&T and Verizon and do not include UScellular data into the analysis). T-Mobile provided data and documentation on its ordinary course Customer Driven Coverage (CDC) model with associated datasets that include only AT&T and Verizon and did not include any UScellular data. T-Mobile May 2 Response at 5. T-Mobile's model is a {[ ]}. *Id*.

[342] T-Mobile May 2 Response at 5-6 (explaining that T-Mobile uses a combination of {]} to classify as Small Markets and Rural Areas (SMRA) consisting of approximately 128 million POPs divided into 775 areas used to evaluate T-Mobile's competitive positioning). The SMRA markets are used to {[ ]}. *Id*.; s*ee also* FCC-TMUS_000033604; FCC-TMUS_000046871; FCC-TMUS_000046872.

[343] T-Mobile Feb. 27 Response at 2-4.

[344] T-Mobile Jan. 17 Response at 11-12. T-Mobile contends that there is virtually no cost to updating T-Mobile's facilities to utilize the acquired UScellular spectrum because the network changes needed to deploy the UScellular spectrum on existing T-Mobile towers only requires the reconfiguration of the site channel usage by T-Mobile's network engineers, which can be done remotely without the need to visit the sites. *Id*. T-Mobile states that its cell sites are typically {[ ]}. T-Mobile May 2 Response at 8 (citing T-Mobile Data Request Response, Attachment A); *see also* T-Mobile Feb. 3 Response at 8-9; FCC-TMUS_000033319.

97. *Discussion*. T-Mobile provided two similar offered capacity and offered speed models: one for the UScellular standalone network (UScellular Capacity Model),[345] and one for T-Mobile's standalone and combined networks (T-Mobile Capacity Model).[346] The T-Mobile Capacity Model calculates the overall offered downlink speeds, overall offered downlink capacities, rural offered downlink speeds, and rural offered downlink capacities for the T-Mobile standalone network and the combined network. The UScellular Capacity Model calculates the overall offered downlink speeds and overall offered downlink capacities for the UScellular standalone network. The offered downlink speeds and capacities are calculated for each sector at all available sites based on the average spectral efficiencies and the amount of available spectrum for each sector in each band of operation.[347] The combined network has {[ ]} UScellular keep-sites in addition to the acquired UScellular spectrum.[348]

98. The Applicants contend that the improvements relative to the standalone T-Mobile network are expected to be an estimated {[ ]}times in offered network capacity, from {[ ]} EB to {[ ]} EB, and an estimated {[ ]}times in offered speed, from {[ ]} Mbps to {[ ]} Mbps.[349] In addition, T-Mobile estimates that the improvements relative to the standalone UScellular network are expected to be an estimated {[ ]}times in offered network capacity, from {[ ]} EB to {[ ]} EB, and an estimated {[ ]}times in offered speed, from {[ ]} Mbps to {[ ]} Mbps.[350] T-Mobile's aforementioned models show that the expected improvements relative to standalone T-Mobile network are estimated to be {[ ]}times in offered network capacity, from {[ ]} EB to {[ ]} EB, and an estimated {[ ]}times in offered speed, from {[ ]} Mbps to {[ ]} Mbps; whereas, the expected improvements relative to standalone UScellular network are estimated to be {[ ]}times in offered network capacity, from {[ ]} EB to {[ ]} EB, and an estimated {[ ]}times in offered speed, from {[ ]} Mbps to {[ ]} Mbps. T-Mobile asserts that these changes to the combined networks' capacities are the result of T-Mobile's addition of {[ ]} more sites to the "keep site" list after the Public Interest Statement was prepared. We generally agree with T-Mobile's assertion as a justification for the slight differences. We find that the modeled standalone T-Mobile and UScellular network offered speeds and capacities are similar to the claimed values.

99. In response to the data request, T-Mobile and UScellular each submitted cell site data, deployed carriers, offered capacity, and traffic demand information for their respective networks within the UScellular footprint.[351] We have analyzed each data set and present our analysis in the attached Technical Appendix.[352] In analyzing the spectrum data for spectrum utilization, which is a measure of how much spectrum is deployed compared to the amount available, we find that T-Mobile seems to be more intensely deploying its available spectrum resources, whereas UScellular seems to be generally underutilizing its spectrum resources.[353] Post-transaction, T-Mobile is expected to increase the acquired spectrum utilization to current T-Mobile's high utilization rates by deploying additional spectrum resources.

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[345] T-Mobile Jan. 17 Response at 8. In support of the claims T-Mobile produced the following analysis and supporting calculations: FCC-TMUS_000026345; T-Mobile May 2 Response at 3 & n.4.

[346] *See* FCC-TMUS_000026350_2; T-Mobile May 20 Response at 3.

[347] *See infra* Appx. E at § II.

[348] *See* FCC-TMUS_000026345; FCC-TMUS_000026348.

[349] Public Interest Statement, Kapoor Decl. ¶ 10; *see also* Public Interest Statement at ii, 19, 20-22.

[350] Public Interest Statement, Kapoor Decl. ¶ 10; *see also* Public Interest Statement at ii, 19, 20-22.

[351] T-Mobile Data Request Response, Attachment A; UScellular Data Request Response, Attachment A.

[352] *See infra* Appx. E.

[353] *See infra* Appx. E at § II.

100. In addition, we analyzed T-Mobile and UScellular's data to obtain sector traffic loading statistics, which provide some insights into traffic demand versus deployed capacity. The Broadband Data Collection (BDC) service availability data specifications require LTE and 5G network average sector loading of 50%,[354] and higher loadings can result in more traffic congestion and reduced average user speeds. In our analysis of the data, we find that the vast majority of sectors in the T-Mobile and UScellular networks have sector loading of less than 50%, but the trend towards higher sector loading, and thus higher traffic, is clearly evident for T-Mobile in 2024 as compared to 2022 and 2023; but, not so for UScellular, where the sector loading data appears to stay nearly the same from 2023 to 2024.[355] In analyzing sector loading by band and technology, we observe that, by 2024, a higher percentage of sectors are loaded in T-Mobile's network as compared to UScellular's, for mid-band spectrum using 5G technology.[356] Post-transaction, we expect T-Mobile to have more capacity available and a less loaded or congested network. Since these analyses focus on 2024 and earlier for standalone networks of the Applicants, we find that the Applicants' overall offered capacity and speed models based on the amount of spectrum deployed at each sector, verified by our spectrum utilization analysis, is sound and that the increase in offered capacity for the combined network should alleviate network loading and congestion[357] compared to the standalone companies.

101. T-Mobile states that it can only achieve the broad coverage and deep capacity necessary to deploy robust 5G services throughout the UScellular footprint by adding the complementary spectrum and leased access to complementary tower assets of UScellular.[358] T-Mobile contends that, in areas where UScellular currently provides service but T-Mobile does not, the combined network post-transaction will deploy more spectrum than UScellular currently does, so UScellular customers in these areas will see increased data speeds and improved customer experience.[359] T-Mobile states that it utilized a CBRA methodology that identified the UScellular towers that could improve T-Mobile's coverage and capacity when added to the T-Mobile network, thereby improving T-Mobile's overall network performance and coverage while retaining UScellular's existing coverage.[360] While T-Mobile initially forecasted that, post-transaction, 0.5% of UScellular customers might have a coverage class change (a degradation in coverage), it states that it has performed additional analysis and expects that implementing certain measures will ensure that all UScellular customers will experience comparable or improved coverage.[361] T-Mobile provided a list of the {[ ]} UScellular keep-sites it had identified.[362] To

[354] *BDC Second Report and Order*, 35 FCC Rcd at 7477, para. 39.

[355] *See infra* Appx. E at § II, Figs. 1, 2, Tbl. 4.

[356] *See infra* Appx. E at § II, Figs. 1, 2, Tbls. 4, 5.

[357] *See infra* Appx. E at § II.

[358] Joint Opposition at 5.

[359] Public Interest Statement, Kapoor Decl. ¶ 11.

[360] Public Interest Statement, Kapoor Decl. ¶ 13; T-Mobile May 2 Response at 4; *see also* FCC-TMUS_000031332 (Project Odyssey Coverage Based Retention Analysis, Dec. 11, 2023); FCC-TMUS_000031959 (UScellular Coverage Based Retention Analysis CBRA 2.0, Sept. 3, 2024) (explaining the CBRA modeling methodology).

[361] T-Mobile May 12 Response at 2-3 (stating that the measures it will implement post-transaction to ensure coverage are: {[

]}); see also FCC-TMUS_000031959 (explaining the CBRA modeling methodology and the use of {[ ]}).

[362] T-Mobile May 2 Response at 3-4; *see also* FCC-TMUS_000026345; FCC-TMUS_000026348; FCC-TMUS_000026349.

assess their coverage claims, we analyzed the Applicants' LTE and 5G coverage using the BDC December 2024 service availability data. We found that there are areas where UScellular offers service while T-Mobile does not.[363] Based on the provided site data, we examined the map of current T-Mobile sites and UScellular keep-sites along with the coverage data, and found that many of the UScellular keep-sites are complementary to current T-Mobile sites for coverage.[364] After reviewing the map of the keep-sites and the CBRA methodology along with the use of certain measures it will implement,[365] we generally find that the overall methodology employed is sound and, given the increased number of sites and the additional spectrum deployed, we agree with the Applicants' claim that the combined network post-transaction represents a "broad and deep" improvement in 5G performance in the UScellular footprint.

102. We have reviewed Applicants' claims regarding the network and engineering benefits that would result from the proposed transaction, as well as their responses to our requests for additional information along with the documents and data submitted. We find that the record supports the Applicants' contentions that the proposed transaction would result in network benefits, including for UScellular and T-Mobile customers.

103. We disagree with EchoStar that the network benefits are not transaction-specific or that the transaction is aimed at harming specific competitors or competition either on a national or CMA basis.[366] EchoStar has not offered evidence in support of its generalized arguments that the network benefits have previously been achieved in other transactions. In contrast, we find that the Applicants have submitted sufficient supporting documentation and data to verify the claim that the transaction will generate significant improvements in network performance. Likewise, EchoStar has failed to demonstrate that the transaction is "taking spectrum out of circulation," that it will "foreclos[e] the ability of

[363] *See infra* Appx. E at § III.

[364] *See infra* Appx. E at § III.

[365] *See* FCC-TMUS_000031332 (Project Odyssey Coverage Based Retention Analysis, Dec. 11, 2023); FCC-TMUS_000031959 (UScellular Coverage Based Retention Analysis CBRA 2.0, Sept. 3, 2024); T-Mobile May 12 Response at 2-3 (stating the measures it will implement post-transaction to ensure comparable or improved coverage).

[366] The Applicants' internal documents relating to the proposed transaction show that T-Mobile's interest in UScellular was predicated on {[ ]} in UScellular's footprint as compared to {[ ]}. *See* FCC-TMUS_000000236-FCC-TMUS_000000239 ({[ ]}, Dec. 13, 2023). Further, T-Mobile expected cost savings in the form of a {]}, and it had concerns that {[ ]}. *Id*. at FCC-TMUS 000000237. T-Mobile's preliminary analysis of the network benefits of the transaction includes a determination that {[ ]}. FCC-TMUS_000000244, at FCC-TMUS_000000254 (Project Odyssey: Approach and Progress, Oct. 5, 2023). Further, within the UScellular footprint T-Mobile indicated that {[ ]} with an evaluation that T-Mobile's network {[ ]}. *Id*. at FCC-TMUS_000000257. T-Mobile's spectrum interest was based on {[ ]}. *Id*. at FCC-TMUS_000000260. With respect to UScellular's exit from the market, UScellular's documents indicate that {[ ]}. *See* TDS-USCC-FCC-001-00000204, at TDS-USCC-FCC-001-00000217 (2024 Strategic Long-Range Forecast, Aug. 6, 2024). Further, due to UScellular's {[ ]}. *See* TDS-USCC-FCC-001-00000204, at TDS-USCC-FCC-001-00000217 (2024 Strategic Long-Range Forecast, Aug. 6, 2024).

competitors to compete in the wireless market on a standalone basis" based on spectrum utilization analysis, or that it is aimed at the foreclosure of markets or spectrum.[367] As the Commission has noted previously, "[o]ur statutory duty is to protect efficient competition, not competitors."[368]

104. Similarly we reject Public Knowledge's arguments that the transaction will harm the public interest and that the claimed benefits are not verifiable, as we find these arguments to be unsubstantiated and generalized claims not supported by the record.[369] With respect to RWA's claim that the transaction may cause some UScellular customers to experience lost or diminished service or that the Bureau should condition the transaction on a requirement to maintain specific UScellular towers, we accept T-Mobile's explanations that, since the filing of the Public Interest Statement, it performed additional analysis and expects to implement additional network optimization measures post-transaction that will ensure that all UScellular customers will experience comparable or improved coverage post-implementation.[370] We find that T-Mobile's network model along with the company's representation to the Bureau on measures that the company will implement post-transaction to ensure that all UScellular customers will experience comparable or improved coverage are sufficient in the instant case and that the network benefits are supported by the record.[371]

B. Fixed Wireless Access

105. *Record.* The Applicants assert that T-Mobile will leverage the increased capacity of the combined network to expand its 5G FWA service throughout UScellular's footprint, which would increase the number of households eligible for its FWA offering by over {[ ]}, and the number of households that can be supported by the offering by approximately {[ ]} households.[372] The Applicants also explain that T-Mobile's FWA service, which is 5G-based, would generally provide faster speeds than UScellular's offering, which is 4G- and 5G-based, and note that this should reduce customer churn.[373] The Applicants claim that these improvements would increase FWA competition in UScellular's footprint and likely spur competitors to improve their offerings and/or lower their prices.[374] By contrast, UScellular explains that, while it offers an FWA service, FWA is generally sold as an add-on to its mobile service only when it has available site capacity from its underlying mobile network.[375]

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[367] EchoStar Reply at 2; EchoStar Petition at 8. We also reject EchoStar's argument that we must find that T-Mobile's network is congested as a prerequisite for an approval in the instant case. EchoStar Reply at 3-4, 9-10. Our analysis sets forth an explanation of the public interest benefits of the instant transaction. EchoStar Reply at 2, 7.

[368] *AT&T-BellSouth Order*, 22 FCC Rcd at 5756, para. 195.

[369] Public Knowledge et al. Petition at 9-10 (stating that the Commission should find, regardless of whether the proposed transaction harms the public interest, that the public interest is not benefited by this transaction).

[370] T-Mobile May 12 Response at 2-3.

[371] T-Mobile May 12 Response at 2-3.

[372] Public Interest Statement at iii-iv, 19, 28-29, 42-43; Public Interest Statement, Katz Decl. ¶ 9; Public Interest Statement, Kapoor Decl. ¶ 19; Joint Opposition at 3; T-Mobile Feb. 27 Response at 7-8. The Applicants claim that this increase in supported households "is more than twice the maximum number of households {[ ]} that UScellular has the ability to serve today." Public Interest Statement at 29.

[373] *See* Public Interest Statement at 1-2, 28 (T-Mobile's FWA uses 5G); FCC-TMUS_000035789 (Broadband Facts, No date available) (UScellular's FWA uses 4G and 5G); FCC-TMUS_000035790 (Broadband Facts, No date available) (same); FCC-TMUS_000035791 (Broadband Facts, No date available) (same); Public Interest Statement at 42 (UScellular's customer churn depends on offered FWA speeds).

[374] *See* Public Interest Statement at iv, 42-43; *see also* Public Interest Statement, Kapoor Decl. ¶19.

[375] *See* UScellular May 21 Response at 4-6; UScellular Feb. 28 Response at 18-19; Public Interest Statement, Irizarry Decl. ¶ 36.

UScellular explains that it would be uneconomical for UScellular to invest in increasing its mobile network capacity strictly in an attempt to grow its FWA business.[376] To support these claims, the Applicants submitted narrative explanations and business and technical documents describing their respective FWA offerings, competitive analyses and future plans.[377] We also analyzed the Applicants' recent BDC data for LTE and 5G coverage.[378] For the reasons below, we conclude that the Applicants' claimed FWA benefits are verifiable and creditable public interest benefits arising from the proposed transaction.

106. Most commenters agree that T-Mobile would enhance FWA availability and quality in UScellular's footprint,[379] and several commenters concur that the improved FWA would increase broadband competition.[380] RWA, however, argues that UScellular's current FWA service already provides competitive benefits, as evidenced by UScellular's continually growing FWA user base, and that the proposed transaction puts these benefits at risk as certain customers will lose coverage under the combined network.[381] The Applicants respond that, while demand for UScellular's FWA service

[376] *See* UScellular May 21 Response at 4-6; UScellular Feb. 28 Response at 18-19; Public Interest Statement, Irizarry Decl. ¶ 36; TDS-USCC-FCC-001-00000204, at TDS-USCC-FCC-001-00000227 (2024 Strategic Long-Range Forecast, Aug. 6, 2024) (non-investment in FWA capacity); TDS-USCC-FCC-001-00008434, at TDS-USCC-FCC-001-00008436 (UScellular B2B HSI Pricing & Capacity Utilization Strategy, Nov. 2023) (FWA offerings require capacity and may not be cost-effective); TDS-USCC-FCC-001-00008458, at USCC-FCC-001-00008459-460 (FWA usage per subscriber is greater than mobile usage per subscriber), USCC-FCC-001-00008467 (FWA alone does not justify increasing network capacity) ({]}, Aug. 12, 2024).

[377] *See*, *e.g.*, Public Interest Statement at iii-iv, 1-2, 19, 28-29, 42-43; UScellular Feb. 28 Response at 16-20; UScellular May 21 Response; TDS-USCC-FCC-001-00000051, at TDS-USCC-FCC-001-00000062 (2024 SLRF Stage Setting, May 2024); TDS-USCC-FCC-001-00000089, at TDS-USCC-FCC-001-00000104 (2022 Strategic Long-Range Forecast, Aug. 2022); TDS-USCC-FCC-001-00000151, at TDS-USCC-FCC-001-00000176 (2023 Strategic Long-Range Forecast, Aug. 2023); TDS-USCC-FCC-001-00001188, at TDS-USCC-FCC-001-00001196 (2020 Strategic Long Range Forecast, Aug. 2020); TDS-USCC-FCC-001-00000151, at TDS-USCC-FCC-001-00000200 (2023 Strategic Long-Range Forecast, Aug. 2023); TDS-USCC-FCC-001-00000204, at TDS-USCC-FCC-001-00000227, TDS-USCC-FCC-001-00000232, TDS-USCC-FCC-001-00000237 (2024 Strategic Long-Range Forecast, Aug. 6, 2024); TDS-USCC-FCC-001-00001268, at TDS-USCC-FCC-001-00001281 (2021 Strategic Long-Range Forecast, Aug. 2021); TDS-USCC-FCC-001-00008434, at TDS-USCC-FCC-001-00008436 (UScellular B2B HSI Pricing & Capacity Utilization Strategy, Nov. 2023); TDS-USCC-FCC-001-00008451, at TDS-USCC-FCC-001-00008452 (2023 SLRF – FWA Capacity Review, May 24, 2023); TDS-USCC-FCC-001-00008458, at TDS-USCC-FCC-001-00008459-460 ({[ ]}, Aug. 12, 2024); T-Mobile Feb. 27 Response at 6-9; T-Mobile May 2 Response at 11; T-Mobile May 20 Response at 1-3, Exhibit G, "TMO and Combined Network_HSI Eligible and Supported Homes.xlsx."; FCC-TMUS_000035789 (Broadband Facts, No date available); FCC-TMUS_000035790 (Broadband Facts, No date available); FCC-TMUS_000035791 (Broadband Facts, No date available); FCC-TMUS_000035792; FCC-TMUS_000035838 (T-Mobile and US Cellular FWA Plans, Feb. 13, 2025).

[378] *See infra* Appx. E at § IV (analyzing the Applicants' BDC-submitted December 2024 LTE coverage data to estimate available households in the footprint).

[379] *See*, *e.g.*, ACI *Ex Parte* Letter at 3; ACLP Reply at 7; CFIF *Ex Parte* Letter at 1; FSF Opposition at 1-5 (the transaction would enable more subscribers to receive FWA speeds that meet or exceed the Commission's benchmark); ICLE *Ex Parte* Letter at 12-13; ITIF Opposition at 1; LULAC *Ex Parte* Letter at 2; NREA *Ex Parte* Letter at 2; AWBC *Ex Parte* Letter at 1-2; Kansas Farm Bureau et al. *Ex Parte* Letter at 1.

[380] CFIF *Ex Parte* Letter at 1; FSF Opposition at 1-2; Westling *Ex Parte* Letter at 4-5; ITIF Opposition at 1.

[381] RWA Petition at 5-6 (contending that UScellular remains competitive based in part on its FWA offering and that by Applicants' admission, approximately 22,500 customers will lose coverage under the combined network); *see also* RWA et al. Mar. 21, 2025 *Ex Parte* Letter (contending that the transaction would result in loss of coverage for UScellular subscribers due to a shutdown of USF-funded cell sites); RWA et al. May 15, 2025 *Ex Parte* Letter 1-2 (same). RWA also proposes that T-Mobile be required to "continue operation of cell sites where UScellular is the

(continued….)

continues to grow, UScellular is technologically and financially unable to meet demand long-term as UScellular's FWA relies on extra capacity and existing infrastructure from its mobile network, which is on a long-term declining trajectory.[382] RWA responds that UScellular will thus have the capacity to continue to grow its FWA service since more mobile network capacity is "likely to become available due to UScellular's decreasing mobile wireless subscribership as UScellular uses the same spectrum for its mobile and fixed wireless offerings."[383]

107. *Discussion*. Based on our review of the record, we substantially credit the Applicants' claimed public interest benefits related to improved FWA service. In doing so, we reject RWA's view that UScellular's FWA offering is already highly competitive and will be able to continue to grow to keep pace with expected long-term increases in demand. The Applicants have submitted sufficient information evidencing that UScellular's FWA service currently offers low speeds.[384] The Applicants have also provided sufficient information evidencing that UScellular is unlikely to have sufficient available mobile network capacity to meet increasing FWA demand based on an inability to adequately invest in its underlying mobile network.[385] We find that this decline in investment will not, as RWA suggests, result in additional capacity for FWA but, rather, make it even less likely that UScellular will have network capacity to dedicate to its (lower priority) FWA offering.[386] The submitted information demonstrates that T-Mobile, on the other hand, would have significant resources and incentives to expand the availability and quality of FWA service within its footprint.[387] Based on this information provided by Applicants, and our related analyses,[388] we find that there is significant corroborating record evidence supporting the

(Continued from previous page)
only mobile wireless carrier" as a condition for approval, however, based on our review of T-Mobile's network coverage and capacity plans post-transaction discussed in this section, we find this condition is not warranted. *See* RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 3.

[382] *See* Joint Opposition at 14-15.

[383] RWA Reply at 4-5.

[384] *See*, *e.g.*, Public Interest Statement, Irizarry Decl. ¶ 36; UScellular Feb. 28 Response at 20; UScellular May 21 Response at 4-6 (describing UScellular's target and threshold speeds for selling FWA service to customers); TDS-USCC-FCC-001-00008458, at TDS-USCC-FCC-001-00008465-466 ({[ ]}, Aug 12. 2024) ({[ ]}); FCC-TMUS_000035789 (Broadband Facts, No date available) (UScellular's FWA uses 4G and 5G); FCC-TMUS_000035790 (Broadband Facts, No date available) (same); FCC-TMUS_000035791 (Broadband Facts, No date available) (same).

[385] *See*, *e.g.*, UScellular May 21 Response at 4-6; UScellular Feb. 28 Response at 18-19; Public Interest Statement, Irizarry Decl. ¶ 36; TDS-USCC-FCC-001-00000151, at TDS-USCC-FCC-001-00000153 (UScellular detailing plans to significantly reduce network investment), TDS-USCC-FCC-001-00000159 (2023 Strategic Long-Range Forecast, Aug. 2023); TDS-USCC-FCC-001-00000204, at TDS-USCC-FCC-001-00000215 (2024 Strategic Long-Range Forecast, Aug. 6, 2024) (detailing declining network investment).

[386] *See*, *e.g.*, UScellular May 21 Response at 4-6; UScellular Feb. 28 Response at 18-19; Public Interest Statement, Irizarry Decl. ¶ 36; TDS-USCC-FCC-001-00000204, at TDS-USCC-FCC-001-00000227 (2024 Strategic Long-Range Forecast, Aug. 6, 2024); TDS-USCC-FCC-001-00008434, at TDS-USCC-FCC-001-00008436 (UScellular B2B HSI Pricing & Capacity Utilization Strategy, Nov. 2023); TDS-USCC-FCC-001-00008458, at TDS-USCC-FCC-001-00008459-460, TDS-USCC-FCC-001-00008467 ({[ ]}, Aug 12. 2024).

[387] T-Mobile May 20 Response at 1-3, Exhibit G, "TMO and Combined Network_HSI Eligible and Supported Homes.xlsx" (identifying sector-level data supporting the Applicants' claims related to FWA Eligible and Supported Households); T-Mobile Feb. 27 Response at 6-7 (describing T-Mobile's FWA market share and revenues), 8-9 (describing T-Mobile's technical ability and business goals related to expanding FWA in the footprint); *see also* FCC-TMUS_000035792 (describing T-Mobile's FWA business trends); FCC-TMUS_000035838 (T-Mobile and US Cellular FWA Plans, Feb. 13, 2025).

[388] *See infra* Appx. E at § IV.

Applicants' claims concerning the number of additional households that T-Mobile would make eligible, and be able to support, for FWA. We conclude that T-Mobile is likely to have both the additional network capacity and the available households required to realize these and the other claimed benefits.

108. We also reject RWA's claim that FWA competition would be harmed by the transaction. While T-Mobile initially estimated that a small percentage of UScellular's current customers might experience some degradation of coverage post-transaction, we are persuaded by the evidence, including supplemental information supplied by T-Mobile in response to the Bureau's information requests, that practically all UScellular customers will experience comparable or improved coverage post-transaction.[389] Further, even if a small minority of UScellular customers were to receive a reduced level of FWA service quality initially post-transaction, information submitted by the Applicants demonstrates that these deficiencies are likely to be short-lived.[1] In particular, T-Mobile will have financial incentives to utilize its excess 5G network capacity to continue to expand and improve its FWA service post-transaction, consistent with the Applicants' comprehensive customer transition and migration plans and T-Mobile's demonstrated history of rapidly growing its FWA service subscriber base in recent years.[390] We are also persuaded by the evidence that T-Mobile's FWA service would improve cost and performance compared to either company's current offering and find that T-Mobile's FWA offering would thus enhance customer choice and fixed wireless competition in the footprint.

C. Rural Areas

109. *Record*. The Applicants assert that the combined network would significantly improve mobile and fixed network service quality and availability for rural populations in the footprint.[391] In these areas, the Applicants claim that the combined network would offer increased: (i) capacity (to {[ ]} exabyte (EB));[392] (ii) percentage of covered rural POPs with speeds of at least 50 Mbps and 500 Mbps (to {[ ]} percent and {[ ]} percent, respectively);[393] and (iii) availability of FWA service (an additional {[ ]} households will be eligible for FWA and {[ ]} households will be able to be supported, relative to T-Mobile's existing FWA offering).[394] The Applicants maintain that T-Mobile would not increase prices in rural areas and that the combined network would bring "increased competition and choice" to these regions.[395] To support these claims, the Applicants provide narrative explanations, data, and documents characterizing their current standalone networks, including

[389] *See supra* para. 95.

[390] *See* Earnings Release, T-Mobile, T-Mobile Leads the Industry Once Again With Continued Durable Customer Growth, Including Best Ever Q1 Postpaid Gross and Net Additions, Translating to Outstanding Financial Growth, at 2 (Mar. 31, 2025), https://s29.q4cdn.com/310188824/files/doc_financials/2025/q1/Q1-2025-Earnings-Release-vFinal.pdf (reporting approximately 6.9 million High Speed Internet customers as of Q1 2025, an increase from approximately 5.2 million customers in Q1 2024); FCC-TMUS_000035792; FCC-TMUS_000035838 (T-Mobile and US Cellular FWA Plans, Feb. 13, 2025); *infra* section VII.B.

[391] *See, e.g.*, Public Interest Statement at 18, 26-27, 29; Public Interest Statement, Kapoor Decl. ¶¶ 20-23.

[392] Compared to current capacities of {[ ]} EB for T-Mobile and {[ ]} EB for UScellular. *See* Public Interest Statement at 26, 45; Public Interest Statement, Kapoor Decl. ¶ 20 (discussing T-Mobile's planned use of low-band spectrum for improving service in rural areas).

[393] Compared to current 50 Mbps figures of {[ ]} percent for the standalone UScellular network and {[ ]} percent for the standalone T-Mobile network and current 500 Mbps figures of {[ ]} percent for the standalone UScellular network and {[ ]} percent for the standalone T-Mobile network. *See* Public Interest Statement at 27.

[394] *See* Public Interest Statement at 29; T-Mobile Feb. 27 Response at 8; Public Interest Statement, Kapoor Decl. ¶ 23.

[395] *See*, *e.g.*, Public Interest Statement at ii (discussing competition and choice), ii-iii, 41 (discussing T-Mobile's pricing in the UScellular footprint); Public Interest Statement, Katz Decl. ¶¶ 10 and 13.

descriptions of constraints that each standalone company faces in expanding its offerings in rural areas, T-Mobile's post-transaction rural area plans to retain, expand and/or modify network and spectrum assets and offer target capacities and speeds to customers, and forecasts comparing the competitiveness of standalone T-Mobile's offerings in rural areas and its projected competitive improvements post-transaction.[396]

110. A majority of commenters agree that the transaction would expand and/or accelerate the deployment of high-quality mobile and fixed wireless options in rural communities based on the technical superiority of T-Mobile's network, its demonstrated history of such results in other contexts, and/or financial incentives that T-Mobile would have to do so.[397] ICLE opines that T-Mobile's offerings would provide a competitive alternative service to traditional broadband service in rural areas.[398] AWCB suggests that the improvements would provide rural businesses with access improved business tools, fostering economic growth.[399] No commenters directly dispute these claimed technical benefits.[400]

[396] *See*, *e.g.*, T-Mobile Feb. 27 Response at 8 (FWA expansion in rural areas); T-Mobile May 2 Response at 5-7 (describing T-Mobile's Small Markets and Rural Area development plans), 11; T-Mobile Mar. 17 Response at 17-21 (describing T-Mobile's plans to develop its network in rural portions of the UScellular footprint post-transaction, commitments to rural communities, and challenges developing its standalone network in rural areas); Public Interest Statement, Kapoor Decl. ¶¶ 3, 7,13, 20-23; T-Mobile May 16, 2025 production, TMO and Combined Network_Offered Traffic and Speed_Jan-25.xlsx (T-Mobile May 16th Offered Traffic and Speed Model) (modeling T-Mobile's post-transaction sites in rural areas); T-Mobile May 16, 2025 production, SMRA Markets Graduation_TMO and Combined.xlsx (T-Mobile May 16th SMRA Markets Graduation Analysis); UScellular Feb. 28 Response at 13-15; *see also* FCC-TMUS_000000236, at FCC-TMUS_000000238 (Dec. 13, 2023); FCC-TMUS_000000586, at FCC-TMUS_000000661-662 (Jan 24, 2024); FCC-TMUS_000000758, at FCC-TMUS_000000767, FCC-TMUS_000000829-830 (Jan. 31, 2024); FCC-TMUS_000000969, at FCC-TMUS_000000995, FCC-TMUS_000000998, FCC-TMUS_000001001 (Dec. 11, 2023); FCC-TMUS_000046870; FCC-TMUS_000046996.TDS-USCC-FCC-001-00000237; TDS-USCC-FCC-001-00000227; TDS-USCC-FCC-001-00000176; TDS-USCC-FCC-001-00000232; TDS-USCC-FCC-001-00000062.

[397] ACI *Ex Parte* Letter at 2-3 (citing improving coverage and service in rural areas); ACLP Reply at 8 (the transaction would provide rural customers with fast, reliable, and affordable broadband service, and competition would flourish as other firms respond); CFIF *Ex Parte* Letter at 1, 3; CNBC *Ex Parte* Letter at 1; ICLE *Ex Parte* Letter at 2-3, 12-13; Westling *Ex Parte* Letter at 5-6 (the transaction's improved mobile wireless offerings would spur additional competition); Kansas Farm Bureau et al. *Ex Parte* Letter at 1; LULAC *Ex Parte* Letter; NREA *Ex Parte* Letter; StartOut *Ex Parte* Letter; TechFreedom *Ex Parte* Letter at 3.

[398] ICLE *Ex Parte* Letter at 12.

[399] AWCB *Ex Parte* Letter at 1.

[400] RWA, however, contends that nationwide providers "have historically underinvested in rural areas and often lack the community engagement necessary to provide reliable service in these regions." RWA et al. June 3, 2025 *Ex Parte* Letter at 2-3. We find that T-Mobile has submitted sufficient documentation and adequately addressed these concerns for reasons set forth below. Several commenters filed Petions to Deny or related comments contending that the transaction could create harms impacting rural populations. RWA contends that the transaction would harm rural customers and other rural carriers since T-Mobile may enter into unfavorable roaming agreements with those carriers. RWA Petition at 12-13, 18-19; RWA Reply at 12-13; RWA et al. Mar. 21, 2025 *Ex Parte* Letter at 2; RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 2; RWA et al. Apr. 24, 2025 *Ex Parte* Letter at 2; RWA et al. May 15, 2025 *Ex Parte* Letter at 2-3; *see also* CWA Petition at 31-33 (raising roaming concerns). RWA requests a requirement that "T-Mobile offer fair and reasonable roaming arrangements to rural carriers with whom UScellular has an existing roaming arrangement." RWA Petition at 12-13, 18-19; RWA Reply at 12-13; *see also* RWA et al. May 15, 2025 *Ex Parte* Letter at 3. RWA also contends that the transaction would result in undue spectrum concentration among nationwide providers post-transaction making it difficult for rural providers to survive. RWA Petition at 9-11; RWA et al. Mar. 21, 2025 *Ex Parte* Letter at 2; RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 2; RWA et al. Apr. 24, 2025 *Ex Parte* Letter at 2; *see also, e.g.*, RWA et al. May 15, 2025 *Ex Parte* Letter at 2-3 (raising concerns related to ensuring the fair access to UScellular's remaining spectrum by other carriers); RWA et

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111. *Discussion.* Based on our review of the record, we substantially credit the Applicants' claimed public interest benefits related to improved network performance, higher quality service offerings, better user experiences for mobile services, and an increased availability of fixed wireless access offerings. The Applicants have submitted sufficient documentation for us to corroborate that the combined network in rural areas would merge complementary spectrum and network assets, while also retaining sufficient assets from the standalone T-Mobile and UScellular networks, to achieve the claimed network performance benefits.[401] We also find that T-Mobile's network planning documents support its claims that it would add a significant number of sites ({[ ]}) to rural areas post-transaction and that approximately 90% of the sites T-Mobile would lease from UScellular are located in rural areas.[402] We have also found sufficient evidence from T-Mobile's planning documents that it would prioritize increasing the commercial competitiveness of its network across the footprint's rural areas post-transaction.[403] We find that the UScellular keep-sites would provide expanded and enhanced coverage, and additional capacity, to current T-Mobile standalone coverage.[404]

112. Taken as a whole, these findings support the Applicants' claims that the combined network in rural areas would have greater capacity than the sum of the two standalone networks and offer enhanced coverage compared to either standalone network. The findings also support Applicants' claims that the number of T-Mobile's covered rural POPs with offered speeds equal to or greater than 50 Mbps and 500 Mbps, respectively, would increase compared to the number under either standalone network. Based on the information provided by Applicants[405] and our related analyses,[406] we find there is sufficient

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al. Apr. 24, 2025 *Ex Parte* Letter at 3 (same); RWA et al. June 3, 2025 *Ex Parte* Letter at 2 (same); EchoStar Petition at 5-6 (same). CWA contends that the proposed transaction would harm retail store workers and customers in rural areas. CWA Petition at 13-14, 23-25; *see also* Public Knowledge et al. Reply at 5-8, 12. EchoStar and Public Knowledge each contend that the Applicants' claimed benefits are not verifiable and/or transaction-specific. *See, e.g.*, EchoStar Petition at 13-16; Public Knowledge et al. Petition at 9-13. We deny each of these requests for reasons discussed elsewhere. *See*, *e.g.*, *infra* section VIII.B (denying petitioners' roaming claims in view of the Commission's existing roaming policies and rules); *supra* section VI.B.2.b (denying petitioners' spectrum concentration arguments); *supra* section VIII.C (denying petitioners' claims related to retail store workers and customers); *infra* section VII.A (denying petitioners' claims that the cited benefits are not verifiable and transaction-specific).

[401] *See, e.g.*, T-Mobile Mar. 17 Response at 17-21; T-Mobile May 2 Response at 5-7 (describing T-Mobile's forecast network improvements in the UScellular footprint); T-Mobile May 16, 2025 production, SMRA Markets Graduation_TMO and Combined.xlsx (T-Mobile May 16th SMRA Markets Graduation Analysis) (same); T-Mobile May 2 Response at 11 (describing T-Mobile's plans to add new cell sites in the UScellular footprint); FCC-TMUS_000046870 (same); TMUS_000046996 (No date available); T-Mobile May 16, 2025 production, TMO and Combined Network_Offered Traffic and Speed_Jan-25.xlsx (T-Mobile May 16th Offered Traffic and Speed Model) (describing T-Mobile's planned keep-sites); T-Mobile Feb. 27 Response at 7-8.

[402] *See, e.g.*, T-Mobile Mar. 17 Response at 17-21 (describing T-Mobile's post-transaction plans to add {[ ]} cellular sites in rural portions of the UScellular footprint and that approximately 90 percent of the more than 2,000 cellular sites T-Mobile plans to lease from UScellular are to be located in rural portions of the UScellular footprint); T-Mobile May 2 Response at 5-7 (describing T-Mobile's forecast network improvements in the UScellular footprint), 11; FCC-TMUS_000046870; TMUS_000046996 (No date available); T-Mobile May 16, 2025 production, TMO and Combined Network_Offered Traffic and Speed_Jan-25.xlsx (T-Mobile May 16th Offered Traffic and Speed Model) (describing T-Mobile's planned keep-sites).

[403] *See*, *e.g.* T-Mobile May 16, 2025 production, SMRA Markets Graduation_TMO and Combined.xls

[404] *See infra* Appx. E at § III.

[405] *See infra* para. 109. The findings we make here also address RWA's concerns that certain key cell sites would be removed post-transaction, and we thus decline to adopt a formal requirement that T-Mobile continue operation of cell sites where UScellular is currently the only mobile wireless carrier. *See*, *e.g.*, RWA et al. Apr. 15, 2025 *Ex*
(continued….)

corroborating evidence supporting the Applicants' claims on the number of additional households that T-Mobile would make eligible, and be able to support, for FWA in rural areas. We find it likely that T-Mobile would leverage its greater economies of scale,[407] and experience gained from developing mobile and fixed services in other rural areas,[408] to enhance customer choice and competition in rural areas of the UScellular footprint.

VIII. OTHER PUBLIC INTEREST ISSUES

A. Network Integration and Customer Migration

113. We find it likely that T-Mobile can replicate the success of prior customer transitions in the instant case and find customer transition conditions are unnecessary. We begin by noting that in T-Mobile's Annual Progress Report on compliance with the conditions set forth in the *T-Mobile-Sprint Order*, T-Mobile states that it has "already met seven of its commitments related to 5G network deployment and all of its commitments related to in-home broadband deployment" for that specific transaction.[409] T-Mobile produced its network integrations and customer migration plans, which include detailed customer transition planning for retail postpaid, retail prepaid, wholesale, enterprise, government, and IoT customers.[410] According to T-Mobile, it will utilize its experience to quickly complete network integration and customer migration, promptly delivering synergies and enhancing the customer experience in the process.[411] T-Mobile asserts that the vast majority of benefits will be realized soon after closing, due to the complementary nature of the network assets at issue and the compatibility of devices of the UScellular customer base.[412] Almost immediately after the transaction closes, T-Mobile states that it plans to rapidly deploy the UScellular spectrum in its network and to activate a built-in network feature

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Parte Letter at 3. As set forth in this section, the Applicants have made a sufficient showing that T-Mobile's network plans would ensure continued coverage following the transaction.

[406] *See infra* Appx. E at §§ II, IV.

[407] *See*, *e.g.*, Public Interest Statement at 10-14; Public Interest Statement, Therivel Decl. ¶¶ 6-15, 23-26.

[408] *See*, *e.g.*, T-Mobile Mar. 17 Response at 17-21.

[409] *See* T-Mobile US, Inc., Fifth Annual Progress Report on T-Mobile's 5G Network Deployment, Rural 5G Network Deployment, and In-Home Broadband Commitments, WT Docket No. 22-211, 7 (filed May 30, 2025).

[410] T-Mobile Feb. 3 Response at 4-8; *see also* FCC-TMUS_000033288 ({[ ]}, No date available); FCC-TMUS_000033112 ({]}, Oct. 28, 2024); FCC-TMUS_000037261 at FCC-TMUS_000037305 (T-Mobile Board of Directors Meeting, Sept. 12-13, 2024); FCC-TMUS_000047008 (T-Mobile Network Experience, No date available); T-Mobile May 2 Response at 11 (stating that any MVNO contracts between UScellular and MVNOs hosted on UScellular's network would continue pursuant to their terms after the closing of the transaction). As part of its customer planning, T-Mobile has indicated that current UScellular customers will have the choice to switch to a T-Mobile plan or keep their current UScellular plan. Public Interest Statement at 24-25; T-Mobile Feb. 3 Response at 6-7.

[411] Public Interest Statement at 29; *see also* Public Interest Statement, Kapoor Decl. ¶¶ 24-25. T-Mobile states that the company has considerable experience with customer and network integration based on its prior acquisitions of MetroPCS and Sprint, and insights from these transactions have informed T-Mobile's planning for the UScellular transition. T-Mobile Feb. 3 Response at 5. Contrary to the claims of Public Knowledge et al., based on the information T-Mobile provided, the record does not support Public Knowledge's speculation that T-Mobile would fail to ensure that vulnerable populations (e.g., the elderly, disabled, or digitally disadvantaged) are successfully transferred or transitioned following the transaction. *See* Public Knowledge et al. Reply at 9.

[412] Public Interest Statement at 29-30; Public Interest Statement, Kapoor Decl. ¶¶ 24-25. T-Mobile estimates network integration to be fully completed 18 to 24 months after closing. Public Interest Statement, Kapoor Decl. ¶ 25; *see also* Public Interest Statement at iii, 31.

known as Multi-Operator Core Network (MOCN).[413] T-Mobile claims that MOCN will allow its customers and nearly all UScellular customers to receive service from whichever network will provide them with better service.[414]

114. T-Mobile claims that nearly all of the UScellular consumer handsets are compatible with T-Mobile's network, stating that these customers can be migrated shortly after closing via an over-the-air software update with no need to obtain new handsets or SIM cards.[415] T-Mobile states that because MOCN will allow for the unification of the UScellular and T-Mobile radio access networks almost immediately after closing, UScellular customers with compatible devices will be able to receive uninterrupted service from both the T-Mobile and UScellular networks during the integration process.[416]

115. T-Mobile states that it will utilize the T-Mobile network as the anchor network and increase network density and coverage by integrating the UScellular base stations into its network and adding the UScellular spectrum to its towers in the UScellular footprint.[417] T-Mobile further claims that because the acquired UScellular spectrum is located in bands already supported on T-Mobile's network, it can be quickly and easily deployed on T-Mobile sites within the UScellular footprint via a software reconfiguration in most cases almost immediately after closing.[418] According to T-Mobile, the UScellular base stations will then be integrated by adding T-Mobile radios and equipment to the selected sites, which is the most time-consuming process of network integration and is estimated to be completed in 18-24 months.[419]

116. Based on the record, we disagree with RWA's arguments that the proposed transaction will harm consumers and competition and that a condition is necessary to remedy service impacts to some UScellular subscribers.[420] The record indicates that as T-Mobile approaches network integration, it will adjust its plans to ensure better coverage for all customers, such as supplemental site builds, network optimization, and power level adjustments[421] and will address any handset compatibility issues.[422] We

[413] Public Interest Statement at 30; Public Interest Statement, Kapoor Decl. ¶ 24.

[414] Public Interest Statement at 30; Public Interest Statement, Kapoor Decl. ¶ 24.

[415] Public Interest Statement at iii, 30; Public Interest Statement, Kapoor Decl. ¶ 24; *see also* Joint Opposition at 10; Joint Opposition, Appx. A, Reply Declaration of Ankur Kapoor ¶ 5 (Jan. 8, 2025) (Joint Opposition, Kapoor Reply Decl.). T-Mobile states that "T-Mobile plans to upgrade all UScellular customers with incompatible handsets to a T-Mobile handset that supports all bands T-Mobile has deployed not only in the UScellular footprint but nationwide." Joint Opposition, Kapoor Reply Decl. ¶ 5. T-Mobile further states that this process is fully funded in T-Mobile's business plan, and T-Mobile will begin provisioning compatible handsets to these customers as soon as practicable after the closing of the transaction. Joint Opposition, Kapoor Reply Decl. ¶ 5; Joint Opposition at 10.

[416] Public Interest Statement at 30; Public Interest Statement, Kapoor Decl. ¶ 24.

[417] Public Interest Statement, Kapoor Decl. ¶ 26; Public Interest Statement at 30.

[418] Public Interest Statement at 30-31; Public Interest Statement, Kapoor Decl. ¶ 26.

[419] Public Interest Statement at 31; Public Interest Statement, Kapoor Decl. ¶ 26.

[420] RWA Petition at 6-7 (citing to the Applicants' public interest statement and expert declarations in support for the contention that not all UScellular customers will be transitioned to the T-Mobile network).

[421] Joint Opposition at 9-10; Joint Opposition, Kapoor Reply Decl. ¶ 4; T-Mobile May 12 Response at 2-3.

[422] T-Mobile Feb. 3 Response at 7-8. T-Mobile states that for the small number of customers that have incompatible devices, T-Mobile plans to upgrade these customers to an "all bands" supported device which should give these customers an immediate uplift in performance. *Id*. T-Mobile contends that the device-upgrade plan is fully funded in the business plans and T-Mobile will start executing it promptly after the transaction closes. *Id*. T-Mobile asserts that it continues to assess compatibility of UScellular devices other than handsets, but that compatibility in certain cases will depend upon the availability of vendor support and the potential for module replacement. *Id*. T-Mobile currently believes over 96 percent of all UScellular devices will be compatible, with the overwhelming majority of

(continued….)

credit T-Mobile's network analysis that it will implement engineering measures that will ensure that all UScellular customers will experience comparable or improved coverage post-implementation.[423] Accordingly, we reject RWA's request for a condition.

117. *Short-Term Spectrum Manager Leases*. The Applicants state that the parties have filed a series of short-term spectrum manager leases for a period not exceeding one year post-closing.[424] The Applicants assert that these leases are necessary to ensure that UScellular customers, including those primarily reliant on spectrum that T-Mobile is not buying from UScellular, experience continuity of service during integration, which the Applicants claim will ensure a seamless transition for UScellular subscribers to T-Mobile's network.[425]

118. EchoStar argues that the Applicants' short-term spectrum leases are not justified and would undermine competition by foreclosing the use of spectrum by competing providers.[426] EchoStar contends that the Applicants' estimation of a seamless and timely integration is inconsistent with the length of time the additional spectrum would be available to T-Mobile as part of the transaction.[427] Further, EchoStar asserts that the leases could be vehicles for T-Mobile to acquire more spectrum or subject to extension requests that would further delay the use of spectrum by competing providers.[428]

119. The Applicants respond that the compatibility of both networks with MOCN functionality will almost immediately permit T-Mobile subscribers to access the current UScellular network and allow UScellular subscribers to access the T-Mobile network in its present form.[429] The Applicants assert that short-term leases are needed because having access to each of two separate networks does not confer the same benefit as having access to a fully integrated single network.[430] The Applicants contend that the short-term leases do not provide T-Mobile with the ability to lock up spectrum for long periods that could otherwise be used by competitors given the leases are for a one-year period.[431]

120. We note that T-Mobile was able to successfully transition customers in prior transactions in an efficient and expedient manner without suffering substantial customer loss.[432] In T-Mobile's acquisition of Sprint, the Commission recognized that customer transition conditions were unnecessary

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identified incompatibilities related to M2M, IOT, or FWA devices and not customer handsets. *Id.* Further, we reject RWA's request that pricing commitments should be imposed as part of the transaction, as UScellular customers will have the choice to switch to a T-Mobile plan or retain their UScellular plan. Further, our competitive analysis fully sets forth our evaluation of pricing pressure following the transaction and rejects RWA's speculation on prices as unsupported by the record. *See* RWA Reply at 5-7.

[423] T-Mobile has stated: {[

]}. T-Mobile May 12 Response at 2-3.

[424] Public Interest Statement at 4.

[425] Public Interest Statement at 4.

[426] EchoStar Petition at 11; EchoStar Reply at 3.

[427] EchoStar Petition at 11; EchoStar Reply at 3.

[428] EchoStar Petition at 11.

[429] Joint Opposition at 23; *see also* Public Interest Statement at 30.

[430] Joint Opposition at 23; *see also* Public Interest Statement at 4.

[431] T-Mobile May 2 Response at 8.

[432] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10728, para. 339; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2347, para. 70.

based upon T-Mobile's prior successful transition and the submission of internal documentation of T-Mobile's customer transition plans.[433] We find it likely that T-Mobile can replicate the success of prior customer transitions in the instant case and find customer transition conditions unnecessary. We disagree with RWA and EchoStar and find that T-Mobile has submitted sufficient documentation in response to WTB and OEA's Information Request that indicates that the company has developed sufficient customer transition plans for each of the customer segments in the instant transaction. The one year lease of spectrum as part of T-Mobile's customer transition plans is reasonable given the large number of UScellular customers transitioning to T-Mobile's network as part of the transaction. EchoStar's concerns over additional spectrum transactions in the future are merely speculative in nature and we decline to consider potential transactions that have not been filed.

B. Roaming

121. In light of the Commission's existing regulatory framework, we decline CWA and RWA's requests to impose roaming conditions on this transaction.[434] A mobile wireless provider purchases roaming service from another mobile wireless provider to enable its subscribers, when traveling outside its service area, to use the facilities of the other provider to place and receive calls, continue in-progress calls, and transmit and receive data.[435] The Commission has previously determined that the availability of both voice and data roaming arrangements is critical to promoting seamless consumer access to mobile services nationwide, to promoting innovation and investment, and to promoting facilities-based competition among providers.[436] The Commission also has established a special dispute-resolution framework to ensure that providers negotiate in good faith to develop commercially reasonable terms and conditions for roaming agreements and to confirm that host providers are properly implementing such agreements when supplying roaming services.[437]

122. We disagree with petitioners, RWA and CWA, that the Commission should require T-Mobile to offer the same roaming terms and conditions that UScellular offered with rural and regional providers, or to impose reciprocal roaming terms.[438] The Applicants respond that the conditions proposed by petitioners—that a facilities-based provider is required to have the same terms and roaming terms as another provider—represents an abrupt departure from the existing regulatory framework and would be inappropriate to adopt in the context of the instant transaction.[439] As they note, to comply with the

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[433] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10728, paras. 338-39.

[434] *See* CWA Petition at 33; RWA Petition at 18-19.

[435] *Verizon-TracFone Order*, 36 FCC Rcd at 17031, para. 99; *T-Mobile-Sprint Order,* 34 FCC at 10708, para. 293.

[436] *T-Mobile-Sprint Order,* 34 FCC at 10708-09, para. 293 (citing *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Second Report and Order, 26 FCC Rcd 5411, 5418-23, paras. 13-21 (2011) (*Data Roaming Order*), *aff'd sub nom. Cellco Partnership v. FCC*, 700 F.3d 534 (D.C. Cir. 2012); *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 25 FCC Rcd 4181, 4182, para. 2 (2010)); *see also AT&T-Leap Order*, 29 FCC Rcd at 2784-85, para. 108.

[437] *See, e.g.*, *Data Roaming Order,* 26 FCC Rcd at 5448-53, paras. 74-87; 47 CFR § 20.12(e)(1); *see also Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-265, Declaratory Ruling, 29 FCC Rcd 15483, 15484, para. 1, (WTB 2014) (granting T-Mobile petition regarding Commission review of data roaming disputes).

[438] CWA Petition at 33; RWA Petition at 18-19; *see also* RWA et al. May 15, 2025 *Ex Parte* Letter at 3, ("RWA asks the FCC consider . . . ensuring fair roaming agreements are in place with T-Mobile prior to UScellular exiting [the market] . . . .").

[439] Joint Opposition at 34; *see also id.* at 33 (arguing that any need to impose additional roaming requirements on T-Mobile should be done in a rulemaking proceeding which could afford broad industry participation) (citing *General*

(continued….)

Commission's data roaming rule, a facilities-based commercial mobile radio service provider is required only to negotiate in good faith to permit data service customers to roam on its network in accordance with commercially reasonable terms (i.e., inbound roaming).[440] We find that concerns about the availability of roaming service post-transaction are addressed adequately by the Commission's general roaming policies and rules, which are designed to ensure that entities can obtain roaming agreements on reasonable terms and conditions.[441] Furthermore, if any provider encounters difficulties in obtaining reasonable roaming services or roaming rates, it can file complaints with the Commission pursuant to our established roaming rules.[442] For these reasons, we decline petitioners' request to impose roaming conditions to this transaction.

C. Employment

123. We recognize T-Mobile's commitment to equal opportunity employment and nondiscrimination as strengthening its investment and service quality efforts.[443] T-Mobile states that it is modifying its practices, including its leadership and public messaging; hiring and recruiting; career development, mentorship, and training; supplier and vendor diversity, corporate sponsorships, and memberships; and employee resource groups.[444] We accept T-Mobile's commitment to modify its practices as firm and definite, and expect that these changes will prevent DEI discrimination in the post-transaction company, as consistent with the law and the public interest.

124. After review of the record, however, we decline petitioners' request that we impose job-related conditions on approval of the transaction.[445] We recognize that the current workforce needs of the telecommunications industry are critical, and that the telecommunications industry requires a robust and safe workforce.[446] However, we do not find sufficient evidence demonstrating the transaction will have

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Motors Corporation and Hughes Electronics Corporation, Transferors and the News Corporation Limited, Transferee, for Authority to Transfer Control, MB Docket No. 03-124, Memorandum Opinion and Order, 19 FCC Rcd 473, 534, para. 131 (2004)).

[440] Joint Opposition at 33-34 (citing 47 CFR § 20.12(e)). T-Mobile states, {[

]}. Public Interest Statement at 22 & n.94; Public Interest Statement, Kapoor Decl. ¶ 5; *see also* Public Interest Statement, Orszag Decl. ¶ 133; Public Interest Statement, Irizarry Decl. ¶ 8.

[441] *See Verizon-Tracfone Order*, 36 FCC Rcd at 17033, para. 102; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10710, para. 297; *AT&T-Leap Order*, 29 FCC Rcd at 2784, para. 107; *see also* FSF Opposition at 7 ("[T]o the extent that roaming concerns are valid, the Commission has existing rules that address roaming practices and disputes.").

[442] *Data Roaming Order*, 26 FCC Rcd at 5448-53, paras. 74-87; *see also, e.g.*, *Verizon-TracFone Order*, 36 FCC Rcd at 17033, para. 102 (citing *T-Mobile-Sprint Order*, 34 FCC Rcd at 10710, para. 297) (finding roaming conditions unnecessary because general roaming policies, rules, and dispute resolution process provide adequate protection).

[443] Letter from Mark W. Nelson, Executive Vice President and General Counsel, T-Mobile, to Hon. Brendan Carr, Chairman, FCC, WC Docket No. 24-244, GN Docket No. 24-286 (filed July 8, 2025).

[444] *See id.* at 2-4.

[445] *See* Public Knowledge et al. Petition at 15; CWA Petition at 31; National Wireless Independent Dealer Association Comments (NWIDA Comments).

[446] *See Verizon-Frontier Order*, 2025 WL 1431138, at *7, para. 23 & n. 73 (citing *Lumen Technologies, Inc. and Connect Holding, LLC Application for Consent to Transfer Control*, WC Docket No. 21-350, Memorandum Opinion and Order and Declaratory Ruling, 37 FCC Rcd 9523, 9544, para. 45 (WCB Aug. 19, 2022)).

employment effects warranting the employment conditions proposed by CWA or that such conditions are transaction-related.

125. CWA argues that the transaction will further entrench T-Mobile's dominant position in many local labor markets for retail wireless workers, pointing to what it claims is direct evidence of T-Mobile's market power.[447] It also points to its own market share analysis of postpaid wireless retail store market share that would result from approval of the transaction and identifies an area of "extensive overlap between store locations."[448] CWA argues that T-Mobile and UScellular bear the burden to show that the transaction will enhance competition in the upstream labor and downstream retail markets, and have failed to do so for multiple labor markets.[449]

126. The Applicants respond that "CWA's unsubstantiated and unverified claims regarding the impact of the [t]ransaction on wireless retail store employment competition are both legally wrong and not transaction-specific."[450] The Applicants further contend that CWA's assertion that the Commission should consider the transaction's impact on competition in the relevant labor market misstates the applicable precedent.[451] The Applicants explain that the Commission has limited its transaction review to markets that are squarely within its expertise and statutory authority,[452] and notes the Commission's references to labor market concentration in previous transaction decisions were limited to describing CWA's advocated positions.[453]

127. We agree with the Applicants that there is insufficient evidence that ties job losses to this transaction, and we believe that CWA has failed to demonstrate the need for labor specific conditions.[454]

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[447] CWA Petition at 5-22 (arguing, among other things, that there were anticompetitive effects on the labor market from the T-Mobile-Sprint merger; that the absence of collective bargaining agreements is evidence of anti-union actions; and that retail wireless store employees fear that this merger will result in job losses); *see also, e.g.*, RWA et al. May 15, 2025 *Ex Parte* Letter at 4; RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 3-4; RWA et al. Mar. 21, 2025 *Ex Parte* Letter at 3-4; Letter from Nell Geiser, Director of Research, Hooman Hedayati, Senior Strategic Research Associate for Telecommunications Policy, CWA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286 (filed July 10, 2025).

[448] CWA Petition at 22-25 (conducting state-level analysis, and deeper dive for Dane County, Wisconsin, of wireless retail store market shares).

[449] CWA Petition at 3; Public Knowledge et al. Reply at 5-8; *see also, e.g.*, RWA et al. Mar. 21, 2025 *Ex Parte* Letter at 3; RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 3; RWA et al. May 15, 2025 *Ex Parte* Letter at 3.

[450] Joint Opposition at 34.

[451] Joint Opposition at 34.

[452] Joint Opposition at 35; *see also* TechFreedom *Ex Parte* Letter at 6 ("[W]hile the FCC may be the expert agency when it comes to telecommunications markets, it lacks the expertise necessary to understand and assess labor markets as part of its merger review process."); FSF Opposition at 7 ("To the extent such [employment market] claims have validity, they are more fitting for review by agencies such as the National Labor Relations Board.").

[453] Joint Opposition at 35 & n.147 (asserting "the Commission has not addressed labor market concentration in any of its subsequent public interest analyses, which instead examined only whether a transaction would result in job gains or losses" and citing to *T-Mobile-Sprint Order*, 34 FCC Rcd at 10722-24, paras. 325-30; *Verizon-TracFone Order*, 36 FCC Rcd at 17034-36, paras. 106-09).

[454] Additionally, we disagree with RWA's assertion that the Applicants are disregarding our administrative process with the decision of UScellular to reduce employment. *See* RWA et al. May 15, 2025 *Ex Parte* Letter at 1-2. Consistent with our precedent, we decline to impose job related conditions and find that it is not in the public interest to impose employment conditions in the current instance. *T-Mobile-Sprint Order*, 34 FCC Rcd at 10724, para. 330.

D. High-Cost Support and Lifeline Program

128. *High-Cost Support*. UScellular is a competitive eligible telecommunications carrier (ETC) that receives mobile legacy high-cost support to provide mobile services in rural areas of the U.S. As a condition to receiving this support, mobile legacy high-cost support recipients are currently required to use all of this support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G service.[455] As detailed below, we decline petitioners' request to impose conditions requiring the repayment of UScellular's mobile legacy high-cost support or the reallocation of high-cost funds to other mobile legacy high-cost recipients. The record does not indicate that USF support was used improperly. We also conclude that any reallocation of funding as requested by petitioners would require a broader rulemaking proceeding.

129. RWA asserts that mobile high-cost support to UScellular should have ceased while the transaction was pending,[456] and that the transaction would result in wasted universal service funds because the Applicants "imply that some of the UScellular's cell sites will be decommissioned" which RWA claims is a waste of taxpayer dollars.[457] RWA further contends that the Commission should exercise its audit authority to review whether UScellular has spent its funds pursuant to Commission rules.[458] RWA and Public Knowledge et al. assert that any Commission approval of the transaction

[455] *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Report and Order, 35 FCC Rcd 12174, 12200-01, para. 65 (2020).

[456] *See* RWA Comments, WC Docket No. 09-197, GN 24-286, at 2-3, & n.11 (June 5, 2025) (RWA Comments on ETC Relinquishment) ("RWA believes that UScellular's receipt of USF should cease effective May 28, 2024, the date of the announcement of the transaction with T-Mobile . . . .").

[457] RWA Petition at 14 (citing Public Interest Statement at 31). RWA points to statements from the Applicants that "UScellular base stations will then be integrated by adding T-Mobile radios and equipment to *the selected sites*," and concludes that based on this language, the "only reasonable conclusion is that the non-selected sites will be decommissioned." RWA Petition at 14; *see also* RWA Reply at 9 (stating that it is unclear which UScellular towers will be used by T-Mobile as part of its network integration); RWA et al. Mar. 21, 2025 *Ex Parte* Letter at 2 (asserting that the proposed transaction may result in wasted USF funds "when T-Mobile inevitably shuts down UScellular's USF-funded cell sites"); RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 2 (same); RWA et al. Apr. 24, 2025 *Ex Parte* Letter at 2 (same); RWA et al. May 15, 2025 *Ex Parte* Letter at 3 (asserting the proposed transaction may result in wasted USF funds "when UScellular shutters its network, which includes USF-funded cell sites"). To support its claims, RWA references T-Mobile's decommissioning of certain Sprint cell towers following the T-Mobile-Sprint transaction. RWA Petition at 14 & n.42. However, that was a different transaction, and here, in contrast to the T-Mobile-Sprint transaction, UScellular's cell towers will not be transferred to T-Mobile. Thus, T-Mobile lacks the ability to decommission UScellular's towers. Public Knowledge et al. also argue that T-Mobile will likely cease to use many of the high-cost supported UScellular towers and related infrastructure, or will reap the benefits of these funds which it claims should not be used by a top-three national carrier. Public Knowledge et al. Petition at 9.

[458] RWA Petition at 15; *see also* RWA Reply at 10-11 (advocating for an audit of UScellular to review how it spent its legacy mobile high-cost support); RWA et al. Mar. 21, 2025 *Ex Parte* Letter at 2 (advocating for the FCC to audit UScellular's use of high-cost support); RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 2 (same); RWA et al. Apr. 24, 2025 *Ex Parte* Letter at 2 (same); RWA et al. June 3, 2025 *Ex Parte* Letter at 3 (same); RWA Comments on ETC Relinquishment at 3. RWA also cites to a publicly posted letter from UScellular announcing UScellular's plans to lay off employees. RWA Comments on ETC Relinquishment at 4 (citing Letter from Izik Youker, UScellular, Director, HR Strategic Business Partner and Employee Relations, to James Clopton, Department of Employment Services (Mar. 26, 2025), https://abc17news.b-cdn.net/abc17news.com/2025/04/USCellular-Layoff-Notice-003.pdf). RWA asserts that UScellular's recent reduction in force announcements are "inconsistent with the ongoing operation and maintenance of a robust mobile network" and further evidence that UScellular is winding down its network while continuing to receive USF support. RWA Comments on ETC Relinquishment at 3-4. However, the reductions in force largely impact retail store locations, and there is no evidence in the record that these employment actions have impacted UScellular's service or network operations. *See, e.g.*, Letter from Izik Youker, UScellular, (continued….)

should be conditioned upon the return of high-cost support disbursed to UScellular while the transaction was pending and that previously allocated support should be reallocated to other mobile legacy high-cost support recipients.[459]

130. The Applicants state that UScellular has used its high-cost support consistent with the Commission's rules, which allow for high-cost support to be applied towards tower buildouts, equipment upgrades, and associated maintenance, among other uses.[460] The Applicants point out that if the transaction is approved and consummated, UScellular no longer will be eligible for the monthly high-cost support it currently receives, and this support would not be transferred to T-Mobile.[461] The Applicants assert that granting the Applications is the most expedient way to achieve RWA's favored outcome—accelerating the transition of UScellular's high-cost support to other purposes, which, the Applicants contend, the Commission may determine in a separate rulemaking.[462] The Applicants argue that there is no precedent for the kind of remedy that RWA and Public Knowledge, et al. request in any of the transactions that the Commission has approved involving the acquisition of high-cost support recipients or their assets by non-USF recipient providers.[463]

131. We conclude that the transaction does not warrant any action to protect universal service high-cost funds. UScellular will relinquish its ETC designations and cease being eligible for mobile legacy high-cost support, and UScellular's current mobile legacy high-cost support will not be transferred to T-Mobile.[464] Consistent with this Order, UScellular's exit from the mobile business is imminent.

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Director, HR Strategic Business Partner and Employee Relations, to James Clopton, Department of Employment Services (Mar. 26, 2025), https://abc17news.b-cdn.net/abc17news.com/2025/04/USCellular-Layoff-Notice-003.pdf (providing locations impacted by reductions in force).

[459] RWA Petition at 15, 16-17; *see also* RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 3 (advocating for the Commission to claw back high-cost funds received by UScellular since the announcement of the transaction and for the reallocation of legacy mobile high-cost support allocated to UScellular to other carriers in need of additional support); RWA et al. Apr. 24, 2025 *Ex Parte* Letter at 3 (same); RWA et al. May 15, 2025 *Ex Parte* Letter at 3 (same); RWA Comments on ETC Relinquishment at 7. In support of its request to reallocate UScellular's high-cost support to other carriers, RWA cites to recent waiver petitions filed by Carolina West Wireless, LLC and East Kentucky Network, LLC concerning the amount of their mobile legacy high-cost support. *See* RWA et al. May 15, 2025 *Ex Parte* Letter at 3 & n. 9; RWA Comments on ETC Relinquishment at 7 & n.23 (same).

[460] Joint Opposition at 26.

[461] Joint Opposition at 26-27; *see also* UScellular Feb. 28 Response at 15; T-Mobile Feb. 27 Response at 10, 14 (Feb. 27, 2025). The Applicants state that T-Mobile is not a high-cost eligible telecommunications carrier in the areas where UScellular receives support and the Applicants are not requesting the transfer of UScellular's high-cost support to T-Mobile. Joint Opposition at 27 & n.117; *see also* T-Mobile Feb. 27 Response at 14 (Feb. 27, 2025) ("T-Mobile has no plans to obtain designations to receive legacy High-Cost Universal Support post-Transaction.").

[462] Joint Opposition at 27.

[463] Joint Opposition at 27 (citing *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444 (2008); *Applications of AT&T Inc. and Atlantic Tele-Network, Inc. for Consent to Transfer Control of and Assign Licenses and Authorizations*, WT Docket No. 13-54, Memorandum Opinion and Order, 28 FCC Rcd 13670 (WTB/IB 2013)).

[464] Joint Opposition at 26-27, 27 n.117; UScellular Feb. 28 Response at 15; T-Mobile Feb. 27 Response at 10, 14; TDS May 28 Form 8-K, Purchase Agreement at 153, Section 9.16. UScellular has already started the process of relinquishing its ETC designations with the FCC and the states in its service territory contingent with and conditioned upon approval and closing of the transaction. *See, e.g.*, UScellular Corporation Petition for Relinquishment of Eligible Telecommunications Carrier Designations, WC Docket No. 09-197, GN Docket No. 24-286 (filed Apr. 30, 2025); Letter from David A. LaFuria and Steven M. Chernoff, Counsel to UScellular, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-197 and GN Docket No. 24-286, at 2-3 (filed May 23, 2025) (providing the status of UScellular's state-level ETC relinquishment petitions).

Therefore, all mobile legacy high-cost support payments to UScellular will cease for periods following the release of this Order.[465]

132. During the transaction's pendency, UScellular remained eligible for mobile legacy high-cost support and was authorized to use that support for the intended purposes of deployment, maintenance and operation of qualifying voice and broadband networks that support 5G.[466] We agree with Applicants' assertion that there is no basis in prior Commission precedent for requiring the repayment of high-cost support properly disbursed to UScellular.

133. We also find no basis for acting on RWA's request that the Commission direct the Universal Service Administrative Company (USAC) to audit UScellular's use of high-cost support since the transaction was announced. There is no evidence in the record that UScellular failed to use its mobile legacy high-cost support for its intended purposes or that UScellular otherwise failed to comply with its ETC service obligations while the transaction was pending.[467] The Applicants affirmatively state that UScellular used its mobile high-cost support for its intended purposes of the deployment, maintenance and operation of voice and broadband networks that support 5G service meeting the Commission's performance requirements.[468] UScellular also provided state-by-state documentation of its annual 5G tower expenses and high-cost support for 2020 through the third quarter of 2024. These documents indicate that UScellular's 5G tower expenses included operating expenses, tower maintenance and capital expenses the total of which{[ ]}, the annual mobile legacy high-cost support it received for each state, with {[ ]} accounting for most of UScellular's 5G tower-related expenses during this period.[469] Thus, the record does not indicate concern about UScellular's use of high-cost support.

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[465] To the extent UScellular is still owed USF support for periods prior to the release of this Order, UScellular would still be eligible for that support, and must comply with the applicable rules governing that support.

[466] *See* 47 U.S.C. § 254(e); 47 CFR §§ 54.7(a), 54.322(c).

[467] Reply Comments of United States Cellular Corporation, WC Docket No. 09-197, GN Docket No. 24-286, at 2 (June 20, 2025) (UScellular ETC Reply Comments).

[468] Joint Opposition at 26.

[469] *See generally* TDS-USCC-FCC-001_00008469-00008543. We note that this documentation indicates that the vast majority of UScellular's 5G tower upgrades occurred before 2024. *See id*. RWA has not identified any specific issues in the provided documentation concerning UScellular's use of high-cost funds, and instead makes generalized claims that the documentation should be more granular and does not cover enough time. *See* UScellular ETC Reply Comments at 2 (stating RWA raises concerns about "unexplained 'recent actions' but does not describe any such actions related to UScellular's 5G investments"). Despite RWA's arguments to the contrary, the documentation UScellular provided covers a sufficient time period and provides enough information for us to preliminarily assess whether there are apparent issues concerning UScellular's use of mobile high-cost support. In addition, we note that UScellular annually certifies its compliance with the rules governing mobile legacy high-cost support, designating states have also certified UScellular's compliance with the rules governing high-cost support, and UScellular is in compliance with the Commission's reporting requirements for mobile legacy high-cost support. *See* 47 CFR §§ 54.313(c)(4), 54.314(a)-(b); *see also* UScellular ETC Reply Comments 2-3, 2 n.9 (citing UScellular Feb. 28 Response, Attachment at 15) ("RWA's challenges to the adequacy of UScellular's responses to the adequacy of UScellular's response to a USF-related FCC information request are. . . unfounded—UScellular has fully responded to the Commission's questions"). As noted below, the record does not indicate any real issues concerning UScellular's use of mobile legacy high-cost support, and there is no indication that UScellular has failed to meet its ETC service obligations since the transaction was announced. UScellular has received mobile high-cost support for fifteen states in its service area. In 2023, UScellular received approximately $95 million annually in mobile legacy high-cost support. *See, e.g.*, FCC, 2024 Universal Service Monitoring Report, at 53, Table 3.9 (OEA Jan. 15, 2025) (2023 frozen high-cost support claims for TDS including UScellular). In 2024, UScellular received approximately $96 million "High-Cost Funding Disbursement Search," Universal Service Administrative Company, USAC Open Data, https://opendata.usac.org/High-Cost/High-Cost-Funding-Disbursement-Search/cegz-dzzi.

134. For the foregoing reasons, we decline to condition approval of the transaction on the repayment of UScellular's mobile legacy high-cost support since May 2024, or the repayment of UScellular's mobile legacy high-cost support for any UScellular towers that are decommissioned within five years after the close of the transaction. As explained above, precedent does not support these proposed conditions, and the record does not indicate that the transaction will give T-Mobile a USF windfall or result in wasted USF funds.

135. We also decline RWA's request that we condition approval of the transaction on the reallocation of UScellular's annual mobile legacy high-cost support to other mobile carriers serving high-cost areas. Mobile legacy high-cost support payments are calculated as specified in the *2011 USF/ICC Transformation Order*.[470] When high-cost support recipients exit the market, the Commission does not redistribute their high-cost mobile legacy high-cost support amounts to other carriers. A rulemaking would be required to increase mobile legacy high-cost support amounts for all ETCs eligible for this type of support.

136. *Lifeline Program.* We decline Public Knowledge, et al.'s, suggestion that we impose a condition to this transaction involving Lifeline participation.[471] As noted by the Applicants, UScellular is not a major participant in the Lifeline program, and numerous other providers offer Lifeline in UScellular's service area.[472]

137. We find that the transaction will have a limited impact on the Lifeline marketplace or Lifeline customers. UScellular is not a major participant in the Lifeline program, having only approximately {[ ]} Lifeline customers in fifteen states.[473] Further, UScellular is not the only Lifeline provider, nor the only wireless Lifeline provider, in any of the fifteen states where UScellular offers Lifeline service.[474] In contrast, T-Mobile's Assurance Wireless brand is a significant provider of Lifeline service, and there is no indication that Assurance intends to cease providing Lifeline service.[475]

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[470] *See Connect America Fund*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17675, para. 29 (2011).

[471] Public Knowledge et al. Petition at 15.

[472] Joint Opposition at 28.

[473] T-Mobile Feb. 27 Response at 10; *see also* FCC-TMUS_000035793 (UScellular Lifeline subscriber counts excluding Oklahoma and Oregon). In 2023, Lifeline program claims from TDS (UScellular's parent company) accounted for 0.2 percent of total Lifeline program claims). 2024 Universal Service Monitoring Report, at 35, Table 2.5 (2025), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf (2024 Universal Service Monitoring Report). In December 2024, there were approximately 8.79 million Lifeline subscribers nationwide. *See* Universal Serv. Admin. Co. Website, Table: Lifeline Participation Rate (data as of December 2024), *available at* https://www.usac.org/lifeline/resources/program-data/#Participation. Given UScellular's limited participation in Lifeline and relatively low Lifeline subscribership, this transaction is readily distinguishable from the Verizon-Tracfone transaction where Verizon made commitments related to Lifeline advertising and service offerings to address the effect of the transaction on Lifeline consumers.

[474] *See* UScellular, *Helping Families Connect*, https://www.uscellular.com/plans/lifeline (identifying the fifteen states where UScellular offers Lifeline service) (last visited May 7, 2025); *see also, e.g.*, Universal Serv. Admin. Co., *FCC Filings*, Third Quarter 2025, Low Income, Appx. LI-03 Eligible Telecommunications Carriers 1Q 2025, https://www.usac.org/about/reports-orders/fcc-filings/#results (last visited June 11, 2025) (identifying all ETCs by state); UScellular Corporation Petition for Relinquishment of Eligible Telecommunications Carrier Designations, WC Docket No. 09-197, GN Docket No. 24-286, at 5 (filed Apr. 30, 2025) (UScellular FCC ETC Relinquishment Petition) (requesting to relinquish UScellular's ETC designation in New Hampshire, North Carolina, Tennessee and Virginia and stating that in these states "UScellular's ETC service area is served by more than one ETC, including the incumbent LEC and multiple wireless ETCs").

[475] 2024 Universal Service Monitoring Report, at 35, Table 2.5 (indicating that in 2023 T-Mobile accounted for 22.3% of total Lifeline claims).

138. The record confirms that UScellular's Lifeline customers, excluding in Oklahoma and Oregon, will have the option to remain on their current UScellular Lifeline plan without taking any further action[476] and T-Mobile indicates that it has "no plans to change the terms and conditions of those plans."[477] UScellular indicates that T-Mobile's network integration and seamless customer migration will result in "continuity of service" with "no risk of customers being left without service."[478] In Oregon and Oklahoma, while T-Mobile does not offer or intend to offer Lifeline service, UScellular is taking steps to help its approximately {[ ]} Lifeline customers (approximately 10% of its total Lifeline customers) transition to other Lifeline providers.[479] We find that these measures are sufficient to ensure the transaction has minimal impact on UScellular Lifeline customers' service. Further, UScellular's Lifeline customers within T-Mobile's designated ETC service area have the option to switch to an Assurance Wireless Lifeline plan[480] which T-Mobile states are "competitive and consistent with FCC requirements," and "generally comparable or better than current UScellular Lifeline service plans."[481] T-Mobile states that it currently has no plans to change the terms and conditions of Assurance Wireless's Lifeline plans.[482] UScellular's Lifeline customers also have the option to transfer to another Lifeline provider.

E. Handset Unlocking

139. We decline to impose any specific handset unlocking requirements on T-Mobile as part of this transaction because there is no indication that handset unlocking concerns are related to this

[476] T-Mobile Feb. 27 Response at 10; *see also* UScellular FCC ETC Relinquishment Petition at 6 (stating that for New Hampshire, Virginia, North Carolina and Tennessee "[i]mmediately following the closing of the Transaction, all UScellular Lifeline customers will continue on their current plans if they choose. These customers will not need to take any action in order for that to occur"). T-Mobile identified eight states (Illinois, Iowa, Kansas, Missouri, Nebraska, Tennessee, Washington and Wisconsin) where UScellular and Assurance Wireless' Lifeline service area may not be identical, but its filings indicate Lifeline customers in these non-overlap areas will also remain on their current plans. *See* T-Mobile Feb. 27 Response at 12, 14; U.S. Cellular Corp.'s Notice of Relinquishment of its Eligible Telecommunications Carrier Designation Pursuant to 47 U.S.C. § 214(E)(4), and request for Waiver of WAC 480-120-083 at 3-4, (Wash. Utils. and Transp. Comm'n Mar. 18, 2025), https://www.utc.wa.gov/casedocket/2025/250179/docsets.

[477] T-Mobile Feb. 27 Response at 12.

[478] *See* UScellular FCC ETC Relinquishment Petition at 6; *see also* Public Interest Statement at iii (estimating that "nearly all of UScellular's customer devices are compatible with T-Mobile's network, and thus the migration of the vast majority of UScellular customers can be accomplished almost immediately after closing"); T-Mobile Feb. 27 Response at 10 ("T-Mobile intends to facilitate a seamless transition of UScellular Lifeline customers at closing").

[479] *See* T-Mobile Feb. 27 Response at 11 (stating that for UScellular Lifeline customers in Oregon and Oklahoma "T-Mobile will support those customers on their current UScellular Lifeline plans for a period of time following closing, while assisting them in transitioning to one of the myriad authorized Lifeline providers in those states"); *see also* United States Cellular Corp.'s Notice of Relinquishment of its Eligible Telecommunications Carrier and Eligible Telecommunications Provider Designations Pursuant to 47 U.S.C. § 214(e)(4) at 7, Corp. Petition for ETC Designation, States Cellular Corp., No. UM 1084 (filed with Oregon Pub. Utils. Comm'n Mar. 11, 2025) (specifying the timing and types of notices to UScellular Lifeline customers in Oregon), https://edocs.puc.state.or.us/efdocs/HAQ/um1084haq335367026.pdf.

[480] T-Mobile Feb. 27 Response at 10.

[481] T-Mobile Feb. 27 Response at 13; *see also* Assurance Wireless, *Our Plans*, https://www.assurancewireless.com/plans (last visited June 11, 2025) (describing Assurance Wireless's Lifeline plans) and UScellular, *Helping Families Connect*, https://www.uscellular.com/plans/lifeline (last visited June 11, 2025) (describing UScellular's Lifeline plans).

[482] T-Mobile Feb. 27 Response at 13.

transaction.[483] Several parties have argued that the Commission should impose specific handset unlocking requirements on T-Mobile claiming that its current policies are anti-competitive.[484]

140. We agree with the Applicants and certain commenters that the handset unlocking-related concerns of the above parties and their requests for unlocking conditions are not related to this transaction.[485] The Applicants note that the Commission's recent handset unlocking Notice of Proposed Rulemaking inquired into the costs and benefits of a rule that would require all mobile wireless service providers to unlock handsets 60 days after they are activated with the service provider.[486] The Applicants point to arguments from Public Knowledge and others submitted in that proceeding in favor of a general rule applicable to all mobile wireless providers as evidence underscoring that their concerns are entirely separate from this transaction.[487] We conclude that commenters' concerns are more adequately addressed through that rulemaking proceeding.[488]

F. Tower Construction and Maintenance

141. In addition, T-Mobile reports that it has had very productive discussions with NATE: The Communications Infrastructure Contractors Association over the last several months on topics related to tower construction and maintenance.[489] T-Mobile commits to institute updates to certain practices related to pricing, master service agreements, third party vendors and operational mandates, workforce integrity, and turf vendor models, and to continue constructive dialogue with NATE and its members.[490] We accept T-Mobile's commitment as firm and definite, and expect that it will help ensure that post-transaction, T-Mobile will invest in its network and strengthen services for all customers.

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[483] The Commission previously considered handset unlocking issues in a broader rulemaking proceeding. *See, e.g., Promoting Consumer Choice and Wireless Competition Through Handset Unlocking Requirements and Policies*, WT Docket No. 24-186, Notice of Proposed Rulemaking, 39 FCC Rcd 8111 (2024) (*Handset Unlocking NPRM*).

[484] RWA Petition at 21-22; Public Knowledge et al. Petition at 14. RWA requests that the Commission require T-Mobile to "unlock its customer handsets, including any UScellular customer handsets acquired through this transaction, within 60 days of closing on the transaction." RWA Petition at 21. Public Knowledge similarly advocates for requiring T-Mobile "to adhere to the same 60-day unlocking period" that the Commission previously adopted in the *T-Mobile-Mint/Ultra Order*. Public Knowledge et al. Petition at 14 (citing *T-Mobile-Mint/Ultra Order*, 39 FCC Rcd at 4061, para. 19). New America also notes the "similar handset unlocking requirements" adopted in the *T-Mobile-Mint/Ultra Order. See, e.g.*, RWA et al. Mar. 21, 2025 *Ex Parte* Letter at 4-5; RWA et al. Apr. 15, 2025 *Ex Parte* Letter at 4; RWA et al. May 15, 2025 *Ex Parte* at 5; RWA et al. June 3, 2025 *Ex Parte* Letter at 4.

[485] *See* Joint Opposition at 31-32; *see also* Westling *Ex Parte* Letter at 7-8 (advocating against a handset unlocking condition and stating "[t]he FCC should take care not to impose conditions as a means to impose regulations, which should be promulgated through notice and comment rulemaking, unrelated to the actual competitive concerns of the transaction"); TechFreedom *Ex Parte* Letter at 9 (advocating against a handset unlocking condition); ACLP Reply at 8 (same) Center for Individual Freedom Comments at 2-3 (advocating against certain "pro-consumer" conditions).

[486] Joint Opposition at 31-32 (citing *Handset Unlocking NPRM*).

[487] Joint Opposition at 32 & n.134 (citing Public Knowledge, Consumer Reports, and Open Technology Institute Reply, WT Docket No 24-186, at 2 (filed Sept. 24, 2024)).

[488] *See Applications of AT&T Inc. and Cellco Partnership d/b/a Verizon Wireless for Consent to Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement*, WT Docket No. 09-104, Memorandum Opinion and Order, 25 FCC Rcd 8704, 8749, para. 104 (2010); *AT&T-Centennial Order*, 24 FCC Rcd at 13972, para. 141.

[489] Letter from Mike Simpson, Senior Vice President and Chief Procurement Officer, T-Mobile, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-244, GN Docket No. 24-286 (filed July 8, 2025).

[490] *Id.* at 1-3.

IX. NATIONAL SECURITY, LAW ENFORCEMENT, FOREIGN POLICY, AND TRADE CONCERNS

142. 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.[491] As part of our public interest analysis, the Commission coordinates with the relevant Executive Branch agencies that have expertise in these particular issues.[492] 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.[493] The Commission, however, ultimately makes an independent decision on the application based on the record in the proceedings.

143. Pursuant to Commission practice, the Applications 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.[494] On November 19, 2024, the Committee requested that the Commission refer the Applications for the Committee's review 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 Applications until the Committee concluded its review.[495] On November 26, 2024, the Commission

[491] *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*, 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*), *Pet. for Recon. denied*, *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket No. 97-142, Order on Reconsideration, 15 FCC Rcd 18158 (2000) (explaining that 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 applications 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 T-Mobile-Sprint Order*, 34 FCC Rcd at 10732-33, para. 349.

[492] *See Executive Branch Review Order*, 35 FCC Rcd at 10935-36, paras. 17, 24.

[493] *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, para. 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,* GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272, 11277, para. 6 (2016), *Pet. for Recon. dismissed, Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended,* GN Docket No. 15-236, Order on Reconsideration, 32 FCC Rcd 4780 (2017).

[494] *See Applications Filed for the Transfer of Control of Conterra Ultra Broadband, LLC, Network USA, LLC, Detel Wireless, LLC, Broadplex, LLC, and Tim Ron Enterprises, LLC d/b/a Network Communications*, WC Docket No. 20-240, Public Notice, 35 FCC Rcd 10658, 10664 (WCB/IB/WTB 2020) (citing the *Foreign Participation Order*, 12 FCC Rcd at 23918-19, paras. 61-63); *Referral Public Notice*, DA 24-1194 (referring the Applications to the Committee).

[495] *See* Letter from Makenzie B. Skopowski, Attorney Advisor, Foreign Investment Review Section, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 24-286, File No. ITC-ASG-20240913-00139 (filed Nov. 19, 2024).

referred the Applications to the Committee and deferred action on the Applications until the Committee completed its review.[496] On April 10, 2025, the Committee notified the Commission that the Applicants 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 Applications would pose a risk to the national security or law enforcement interests of the United States.[497] On June 20, 2025, NTIA notified the Commission that the Committee has no recommendation regarding the Commission approving the Applications and no objection to their grant.[498] The letter also stated that the Applicants have made representations to the Committee that the customers, licenses, and other assets acquired by T-Mobile will be subject to the requirements of T-Mobile's Amended and Restated National Security Agreement with CFIUS and that the Committee may take action to address T-Mobile's failure to comply with the NSA.[499]

X. FOREIGN OWNERSHIP

144. On November 5, 2019 the Commission granted a petition for a declaratory ruling filed by T-Mobile to approve the aggregate foreign equity and voting interests in T-Mobile as the controlling U.S. parent of the "subject common carrier Licensee-Subsidiaries", in excess of the section 310(b)(4) statutory benchmarks (2019 Declaratory Ruling).[500] The 2019 Declaratory Ruling also granted specific and advance approval of certain foreign individuals and entities,[501] 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 the T-Mobile Licensee-Subsidiaries exceeds the terms and conditions of the 2019 Declaratory Ruling.[502] According to the Applicants, "T-Mobile's foreign

[496] *Referral Public Notice*, DA 24-1194; *see also Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector Reviewing T-Mobile-UScellular Transfer of Control and Assignment Applications*, GN Docket No. 24-286, Public Notice, DA 24-1221 (OIA/WTB Dec. 5, 2024) (announcing the review by the Committee).

[497] Letter from Makenzie B. Skopowski, Department of Justice, Attorney Advisor, Foreign Investment Review Section, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, GN 24-286, ICFS File No. ITC-ASG-20240913-00139, and Attach. (corrected version filed Apr. 10, 2025).

[498] Letter from Andrew Coley, NTIA, Attorney Advisor, to Thomas Sullivan, Acting Chief, Office of International Affairs, FCC, GN Docket No. 24-286, ITC-ASG-20240913-00139 (filed June 20, 2025) (NTIA June 20, 2025 Letter).

[499] *See* Letter from Mary Jean Fell, Vice President, Legal, T-Mobile US. Inc., and Adriana Rios Welton, General Counsel and Chief Government Affairs, United States Cellular Corporation (June 18, 2025) (attached to the NTIA June 20, 2025 Letter).

[500] 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1); *see also T-Mobile-Sprint Order*, 34 FCC Rcd at 10738-39, paras. 361-63 (granting petition for declaratory ruling).

[501] The 2019 Declaratory Ruling states: "pursuant to section 1.5001(i) of the rules, this ruling specifically permits the following direct and/or indirect foreign equity and voting interests which we find would be held in T-Mobile upon closing: DT Holding, T-Mobile Holding, T-Mobile Global, and Deutsche Telekom (42% equity and 69% voting interest); KfW (7.14% equity and 17% voting interest); the FRG (12% equity and 32% voting interest); SoftBank Capital and SoftBank (27% equity and 0.00% voting interest); and Mr. Son (5.67% equity and 0.00% voting interest). This ruling also specifically permits DT Holding, T-Mobile Holding, T-Mobile Global, and Deutsche Telekom to increase the aggregate level of their controlling ownership interests in the reorganized T-Mobile, at some future time, up to any amount, including 100% of T-Mobile's equity and voting interests; and specifically permits the combined company's non-controlling foreign interest holders, SoftBank Group, SoftBank, and Mr. Son, to increase their aggregate interests in T-Mobile, at some future time, up to and including a non-controlling 49.99% equity and voting interest in T-Mobile." *T-Mobile-Sprint Order*, 34 FCC Rcd at 10738 para. 362.

[502] *T-Mobile-Sprint Order*, 34 FCC Rcd at 10738, para. 361; *see also* 47 CFR § 1.5004. The 2019 Declaratory Ruling also stated that "under this ruling, after closing T-Mobile would continue to have an affirmative duty to

(continued….)

ownership, as approved, has not materially changed since November 5, 2019, and will not be affected by the Transaction."[503] Based on the information provided in the T-Mobile/UScellular Applications, the proposed transaction does not require a new section 310(b) petition for declaratory ruling pursuant to section 1.5004(e) of the Commission's rules.[504] T-Mobile continues to be subject to the terms and conditions set forth in the 2019 Declaratory Ruling and section 1.5004 of the Commission's rules, including the requirement to obtain Commission approval before foreign ownership of the T-Mobile Licensee-Subsidiaries exceeds the terms and conditions of the 2019 Declaratory Ruling.[505]

XI. CONCLUSION

145. Based on our review of the record and our competitive analysis, we conclude that the risk of public interest harms is low. The record demonstrates that, post-transaction, all local markets will remain competitive. T-Mobile largely competes on a nationwide basis with AT&T and Verizon, and in addition, cable MVNOs are playing a significantly more important role in the mobile wireless marketplace. Further, we find that UScellular is currently unable to act as an effective competitive constraint on the three nationwide wireless providers. Moreover, it is unlikely to play such a role in the future as UScellular's declining customer base, combined with its higher per subscriber costs, would impede its ability to meet continually growing consumer demand for advanced services. Accordingly, we find that the transaction is unlikely to lead to anti-competitive unilateral or coordinated effects and is unlikely to harm the public interest.

146. In addition, we substantially credit the Applicants' claims that T-Mobile's combined network will produce public interest benefits based largely on greater network efficiencies and spectrum utilization compared to either standalone network. We find it likely that the combined network will thus offer improved coverage and greater capacity, which will enable higher data speeds, reduced congestion and more widely available mobile and fixed wireless access services throughout the UScellular footprint. We also find it likely that these benefits will be particularly pronounced in rural areas based in large part on T-Mobile's plans to use the acquired spectrum and network assets to densify its network in these regions. We thus conclude that overall, the proposed transaction would serve the public interest, convenience, and necessity.

(Continued from previous page)
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." *T-Mobile-Sprint Order*, 34 FCC Rcd at 10738-39, para. 363; *see also* 47 CFR §§ 1.5002-1.5003; 1.5004, Note to paragraph (a).

[503] Public Interest Statement at 45.

[504] 47 CFR § 1.5004(e).

[505] 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 a *pro forma* 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 or 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 ruling 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.

XII. ORDERING CLAUSES

147. Accordingly, having reviewed the record in this matter, **IT IS ORDERED**, pursuant to sections 4(i) and (j), 5(c), 214, 303(b), 303(r), 309, 310(b), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 155(c), 214, 303(b), 303(r), 309, 310(b), and 310(d), and sections 1.948, 63.04, 63.18, and 63.24 of the Commission's rules, 47 CFR §§ 1.948, 63.04, 63.18, 63.24, and pursuant to the authority delegated under sections 0.131, 0.19, 0.331 and 0.351 of the Commission's rules, 47 CFR §§ 0.131, 0.19, 0.331 and 0.351, that the Applications seeking consent to the transfer of control and assignment of certain spectrum licenses, an international section 214 authorization, and spectrum leases held by UScellular and its subsidiaries to T-Mobile listed in Appendix A **ARE GRANTED**, to the extent specified in this Memorandum Opinion and Order.

148. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i) and (j), 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), 309, 310(d), the Petitions to Deny filed by Communications Workers of America, EchoStar, Rural Wireless Association, and collectively, Public Knowledge, Open Technology Institute at New America, Benton Institute for Broadband & Society, Access Humboldt, and Institute for Local Self-Reliance, and the Petition to Hold in Abeyance, Deny, or Dismiss filed by Mark J. O'Connor and Sara F. Leibman, **ARE DENIED** for the reasons stated herein.

149. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order **SHALL BE EFFECTIVE** upon release, in accordance with section 1.102 of the Commission's rules, 47 CFR § 1.102. Petitions for reconsideration under section 1.106 of the Commission's Rules, 47 CFR § 1.106, may be filed within thirty days of the release date of this Memorandum Opinion and Order.

FEDERAL COMMUNICATIONS COMMISSION

Joel Taubenblatt
Acting Chief, Wireless Telecommunications Bureau

Thomas P. Sullivan
Acting Chief, Office of International Affairs

APPENDIX A

List of Applications[1]

SECTION 310(d) APPLICATIONS

Parts 24, 27, 30, and 101—Wireless Radio Services

Applications for consent to the transfer of control and assignment of licenses held by subsidiaries of UScellular from UScellular to T-Mobile:

File No.	Licensee	Lead Call Sign
0011180491[2]	UNITED STATES CELLULAR OPERATING COMPANY LLC	WHT381
0011227092	Advantage Spectrum, L.P.	WQXW424
0011227112	Advantage Spectrum, L.P.	WQXW422
0011227171	Advantage Spectrum, L.P.	WQXW427
0011227216	Advantage Spectrum, L.P.	WQXW509
0011181428	BANGOR CELLULAR TELEPHONE, L.P.	WLT437
0011181434	CALIFORNIA RURAL SERVICE AREA #1, INC.	WLR339
0011181438	CEDAR RAPIDS CELLULAR TELEPHONE, L.P.	WLT332
0011181441	DUBUQUE CELLULAR TELEPHONE, L.P.	WLT769
0011181447	HARDY CELLULAR TELEPHONE COMPANY	WMG753
0011181450	JACKSONVILLE CELLULAR TELEPHONE COMPANY	WLL515
0011181454	KANSAS #15 LIMITED PARTNERSHIP	WMK428
0011181460	KENOSHA CELLULAR TELEPHONE, L.P.	WLS605
0011227307	King Street Wireless, LP	WQLE654
0011227342	King Street Wireless, LP	WQLE660
0011227390	King Street Wireless, LP	WQLE657
0011181463	MADISON CELLULAR TELEPHONE COMPANY	WPOV373
0011181470	MAINE RSA #1, INC.	WMQ586
0011181472	MAINE RSA #1, INC.	KNLF933
0011181481	MAINE RSA #4, INC.	WPJD830
0011181484	MCDANIEL CELLULAR TELEPHONE COMPANY	WLU826
0011181494	NH #1 RURAL CELLULAR, INC.	WLK946
0011181500	OREGON RSA #2, INC.	WLS661
0011181505	OREGON RSA #2, INC.	WQYB217
0011181509	PCS WISCONSIN, LLC	KNLG200
0011181514	RACINE CELLULAR TELEPHONE COMPANY	WML773
0011181520	UNITED STATES CELLULAR OPERATING COMPANY LLC	WQUI699
0011164921	UNITED STATES CELLULAR OPERATING COMPANY OF CHICAGO, LLC	WQNT941
0011181533	UNITED STATES CELLULAR OPERATING COMPANY OF KNOXVILLE	WLB807
0011181544	UNITED STATES CELLULAR OPERATING COMPANY OF MEDFORD	WLR434

[1] In addition, as noted in the *Pleading Cycle Public Notice*, to assist with transitioning UScellular's customers to T-Mobile's network, the parties have filed a series of short-term spectrum manager leases for a period not to exceed one year after the closing of this transaction. *Pleading Cycle Public Notice*, 39 FCC Rcd at 11710, n.3. These applications are also being accepted today. *Id.*

[2] This application is the lead application for the wireless radio services.

File No.	Licensee	Lead Call Sign
0011237194	UNITED STATES CELLULAR OPERATING COMPANY OF MEDFORD	WQZM894
0011164929	USCC SERVICES, LLC	WRJI984
0011181548	USCOC NEBRASKA/KANSAS, LLC	WLS717
0011181557	USCOC NEBRASKA/KANSAS, LLC	WQGD659
0011181560	USCOC OF CENTRAL ILLINOIS, LLC	WHA717
0011181565	USCOC OF CUMBERLAND, LLC	WLV260
0011181572	USCOC OF GREATER IOWA, LLC	WHB481
0011181577	USCOC OF GREATER IOWA, LLC	KNLF881
0011181583	USCOC OF GREATER MISSOURI, LLC	WLR440
0011181586	USCOC OF GREATER NORTH CAROLINA, LLC	WLL518
0011181592	USCOC OF GREATER OKLAHOMA, LLC	WLA261
0011181599	USCOC OF GREATER OKLAHOMA, LLC	KNLF590
0011181602	USCOC OF LACROSSE, LLC	WLU542
0011181615	USCOC OF OREGON RSA #5, INC.	WMQ867
0011237204	USCOC OF OREGON RSA #5, INC.	WQZM878
0011181631	USCOC OF PENNSYLVANIA RSA NO. 10-B2, LLC	WQVL740
0011181634	USCOC OF RICHLAND, INC.	WLS669
0011181641	USCOC OF VIRGINIA RSA #3, INC.	WMJ224
0011181643	USCOC OF WASHINGTON-4, INC.	WLS666
0011181650	VERMONT RSA NO. 2-B2, INC.	WPOR638
0011181659	WESTERN SUB-RSA LIMITED PARTNERSHIP	WMS469
0011181669	YAKIMA MSA LIMITED PARTNERSHIP	WMR566

Part 27 – Wireless Radio Services Spectrum Leasing Arrangements

Applications for consent to the transfer of control of spectrum leasing arrangements, pursuant to which subsidiaries of UScellular are the spectrum lessee, from UScellular to T-Mobile have been assigned the file numbers listed below:

File No.	Lessee/Sublessee	Lead Call Sign or Lease ID
7007ATNL24	USCC Services, LLC	WQXW422[3]
7008WYNL24	USCC Services, LLC	WQLE654[4]
0011239681	USCC Services, LLC	L000043874

INTERNATIONAL SECTION 214 AUTHORIZATION

Applications for consent to the assignment of international section 214 authorization held by USCC Wireless Holdings, LLC, a subsidiary of UScellular, to T-Mobile:

File No.	Authorization Holder	Authorization Number
ITC-ASG-20240913-00139	USCC Wireless Holdings, LLC	ITC-214-19981009-00698

[3] *See also* Sublease File Number 6053ATSL24 (filed Sept. 13, 2024) for related sublease application.

[4] *See also* Sublease File Number 6054WYSL24 (filed Sept. 13, 2024) for related sublease application.

APPENDIX B

Petitioners and Commenters

Petitions to Deny Filed on or Before December 9, 2024

Communications Workers of America (CWA) Petition to Deny (rec. Dec. 9, 2024) (CWA Petition)
EchoStar Corporation Petition to Deny (EchoStar) (rec. Dec. 9, 2024) (EchoStar Petition)
Mark J. O'Connor and Sara F. Leibman Petition to Hold in Abeyance, Deny, or Dismiss (rec. Dec. 9, 2024) (O'Connor/Leibman Petition)
Public Knowledge, Open Technology Institute at New America, Benton Institute For Broadband & Society, Access Humboldt, and Institute For Local Self-Reliance, Petition to Deny (rec. Dec. 9, 2024) (Public Knowledge et al. Petition)
Rural Wireless Association, Inc. (RWA) Petition to Deny (rec. Dec. 9, 2024) (RWA Petition)
Zafa II LLC and HMZ Madison Inc. (Zafa) Petition for Review (rec. Dec. 9, 2024) (*Withdrawn*)

Comments Filed on or Before December 9, 2024

Computer and Communications Industry Association (CCIA) (rec. Dec. 9, 2024) (CCIA Comments)
National Wireless Independent Dealer Association (rec. Nov. 20, 2024) (NWIDA Comments)
Redzone Wireless, LLC (Redzone Wireless) (rec. Dec. 9, 2024) (Redzone Wireless Comments)
Robert Grodevant (rec. Nov. 8, 2024) (*Text*)

Comments in Opposition to the Petitions to Deny Filed on or Before January 8, 2025

Free State Foundation Opposition to Petitions to Deny (rec. January 8, 2025) (FSF Opposition)
Information Technology and Innovation Foundation Opposition to Petitions to Deny (rec. January 8, 2025) (ITIF Opposition)

Reply Comments Filed on or Before January 28, 2025

Advanced Communications Law and Policy Institute at New York Law School Reply Comments (rec. Jan. 28, 2025) (ACLP Reply)
EchoStar Corporation Reply (rec. Jan. 28, 2025) (EchoStar Reply)

Replies to Opposition to the Petitions to Deny Filed on or Before January 28, 2025

Mark J. O'Connor and Sara F. Leibman Reply to Opposition of United States Cellular Corporation (rec. Jan. 28, 2025) (O'Connor/Leibman Reply)
Public Knowledge, Communications Workers of America, Open Technology Institute at New America, Benton Institute For Broadband & Society, Access Humboldt, and Institute For Local Self-Reliance, Reply to Opposition of Petitions to Deny (rec. Jan. 28, 2025) (Public Knowledge et al. Reply)
Rural Wireless Association, Inc. Reply to Opposition (rec. Jan. 28, 2025) (RWA Reply)

Filers of *Ex Parte* Submissions and Letters

Altice USA, Inc.
American Consumer Institute
Association of Women's Business Centers
AT&T Services, Inc.
Brandon Wright
Center for Individual Freedom
Charter Communications, Inc.
Comcast Corporation

Conference of National Black Churches
Cox Communications, Inc.
EchoStar Corporation
Kansas Farm Bureau, Oregon Farm Bureau, Washington Farm Bureau, Wisconsin Farm Bureau
International Center for Law & Economics
Jeffrey Westling, Director, Technology & Innovation Policy, the American Action Forum, in his individual capacity
King Street Wireless, L.P., United States Cellular Corporation
League of United Latin American Citizens
Mark O'Connor and Sara Leibman
Matthew Lawrence LeFluer
Mediacom Communications Corporation
Nathan Skinner
National Rural Education Association
Public Knowledge, Communications Workers of America, Open Technology Institute at New America, Benton Institute for Broadband & Society
Public Knowledge, Open Technology Institute at New America, Benton Institute for Broadband & Society
Rural Wireless Association, Inc.
Rural Wireless Association, Inc., Communications Workers of America, Public Knowledge, New America's Open Technology Institute
Rural Wireless Association, Inc., Communications Workers of America, Public Knowledge, New America's Open Technology Institute, Benton Institute for Broadband & Society
Rural Wireless Association, Inc., EchoStar Corporation, Communications Workers of America, Public Knowledge, New America's Open Technology Institute
Rural Wireless Association, Inc., EchoStar Corporation, Public Knowledge, Communications Workers of America, New America's Open Technology Institute, Benton Institute for Broadband & Society
Rural Wireless Association, Inc., EchoStar Corporation, Public Knowledge, Communications Workers of America, New America's Open Technology Institute, Benton Institute for Broadband & Society, Computer & Communications Industry Association
StartOut
TechFreedom
T-Mobile US, Inc.
T-Mobile US, Inc., United States Cellular Corporation
US Black Chambers, Inc. and United States Hispanic Chamber of Commerce Comments
United States Cellular Corporation
Verizon Communications Inc.
Womble Bond Dickinson (US) LLP

APPENDIX C

List of CMAs that Trigger the Market Concentration Screen

CMA	Name	2020 Population	2020 Population Density
21	Milwaukee, WI	1,574,731	1,082.47
45	Oklahoma City, OK	1,360,341	388.38
57	Tulsa, OK	1,002,118	177.07
65	Omaha, NE-IA	868,797	572.43
79	Knoxville, TN	711,176	436.94
98	Davenport-Rock Island, IA-IL	368,625	215.73
102	Des Moines, IA	644,482	372.09
103	Peoria, IL	351,640	195.79
113	Madison, WI	561,504	469.00
125	Appleton-Oshkosh-Neenah, WI	414,877	298.42
131	Rockford, IL	338,798	426.65
133	Manchester-Nashua, NH	422,937	482.73
152	Portland, ME	339,768	312.02
157	Roanoke, VA	257,692	218.71
172	Lincoln, NE	322,608	385.18
183	Asheville, NC	290,645	262.73
189	Racine, WI	197,727	594.67
191	Yakima, WA	256,728	59.77
195	Cedar Rapids, IA	230,299	321.25
201	Waterloo-Cedar Falls, IA	156,132	155.94
203	Lynchburg, VA	182,131	133.88
214	Richland-Kennewick-Pasco, WA	303,622	103.18
216	Janesville-Beloit, WI	163,687	227.93
218	Wilmington, NC	362,395	348.96
224	Bangor, ME	152,199	44.80
229	Medford, OR	223,259	80.21
233	Wichita Falls, TX	139,568	81.31
239	Joplin, MO	181,409	143.60
244	Kenosha, WI	169,151	621.90
256	Charlottesville, VA	206,749	176.23
257	Hagerstown, MD	154,705	337.95
258	Jacksonville, NC	204,576	268.21
260	Lawton, OK	121,125	113.28
263	Wausau, WI	138,013	89.33
269	Cumberland, MD-WV	95,044	126.39
277	Sheboygan, WI	118,034	230.87
278	Columbia, MO	183,610	267.88
279	Lewiston-Auburn, ME	111,139	237.51
286	Dubuque, IA	99,266	163.18

CMA	Name	2020 Population	2020 Population Density
290	La Crosse, WI	120,784	267.41
296	Iowa City, IA	152,854	248.93
302	Enid, OK	62,846	59.37
305	Alton-Granite City, IL	21,512	58.26
336	California 1 – Del Norte	224,394	15.99
344	California 9 – Mendocino	159,764	33.54
394	Illinois 1 – Jo Daviess	324,411	73.57
396	Illinois 3 – Mercer	174,257	35.67
397	Illinois 4 – Adams	199,015	41.06
413	Iowa 2 – Union	49,325	17.14
414	Iowa 3 – Monroe	87,307	31.35
415	Iowa 4 – Muscatine	147,019	66.61
416	Iowa 5 – Jackson	105,096	42.27
417	Iowa 6 – Iowa	161,339	38.64
420	Iowa 9 – Ida	56,277	20.72
421	Iowa 10 – Humboldt	199,830	57.90
422	Iowa 11 – Hardin	112,022	36.36
423	Iowa 12 – Winneshiek	108,736	27.27
424	Iowa 13 – Mitchell	62,007	24.53
425	Iowa 14 – Kossuth	96,891	27.73
426	Iowa 15 – Dickinson	80,372	26.27
431	Kansas 4 – Marshall	154,357	44.70
435	Kansas 8 – Ellsworth	130,554	26.91
436	Kansas 9 – Morris	53,030	12.47
437	Kansas 10 – Franklin	115,975	25.31
441	Kansas 14 – Reno	165,808	28.75
442	Kansas 15 – Elk	140,394	28.70
463	Maine 1 – Oxford	87,233	23.12
464	Maine 2 – Somerset	134,382	9.23
465	Maine 3 – Kennebec	239,093	98.86
467	Maryland 1 – Garrett	28,806	44.52
506	Missouri 3 –Schuyler	54,472	19.28
508	Missouri 5 – Linn	65,310	20.72
509	Missouri 6 – Marion	90,095	30.89
514	Missouri 11 – Moniteau	166,548	53.36
518	Missouri 15 – Stone	147,023	41.04
519	Missouri 16 – Laclede	117,799	36.63
534	Nebraska 2 – Cherry	24,913	1.91
535	Nebraska 3 – Knox	109,621	16.47
537	Nebraska 5 – Boone	155,198	28.79
542	Nebraska 10 – Cass	86,993	22.95
548	New Hampshire 1 – Coos	241,907	50.96

CMA	Name	2020 Population	2020 Population Density
549	New Hampshire 2 – Carroll	267,620	118.13
567	North Carolina 3 – Ashe	174,793	89.75
568	North Carolina 4 – Henderson	430,960	181.24
571	North Carolina 7 – Rockingham	343,714	111.31
572	North Carolina 8 – Northampton	288,747	107.96
573	North Carolina 9 – Camden	127,600	55.97
574	North Carolina 10 – Harnett	466,900	240.75
575	North Carolina 11 – Hoke	248,841	78.96
576	North Carolina 12 – Sampson	167,954	63.84
577	North Carolina 13 – Greene	265,427	98.71
578	North Carolina 14 – Pitt	292,678	79.67
598	Oklahoma 3 – Grant	239,005	42.67
599	Oklahoma 4 – Nowata	213,137	49.86
601	Oklahoma 6 – Seminole	213,992	38.99
602	Oklahoma 7 – Beckham	131,562	20.32
603	Oklahoma 8 – Jackson	85,465	21.72
604	Oklahoma 9 – Garvin	226,834	33.93
605	Oklahoma 10 – Haskell	76,835	14.46
607	Oregon 2 – Hood River	92,651	8.86
608	Oregon 3 – Umatilla	169,134	6.53
610	Oregon 5 – Coos	287,666	29.06
611	Oregon 6 – Crook	308,059	10.20
645	Tennessee 3 – Macon	417,295	73.27
649	Tennessee 7 – Bledsoe	341,117	114.65
682	Virginia 2 – Tazewell	126,842	56.63
683	Virginia 3 – Giles	228,617	94.83
684	Virginia 4 – Bedford	198,372	108.00
685	Virginia 5 – Bath	61,780	38.93
687	Virginia 7 – Buckingham	93,899	37.26
697	Washington 5 – Kittitas	174,949	18.99
698	Washington 6 – Pacific	220,666	46.56
699	Washington 7 – Skamania	34,771	9.86
703	West Virginia 3 – Monongalia	294,334	130.96
704	West Virginia 4 – Grant	251,351	79.65
705	West Virginia 5 – Tucker	119,859	24.94
707	West Virginia 7 – Raleigh	232,055	65.58
713	Wisconsin 6 – Trempealeau	132,838	34.67
714	Wisconsin 7 – Wood	302,898	58.42
715	Wisconsin 8 – Vernon	259,245	43.89
716	Wisconsin 9 – Columbia	443,418	127.70
717	Wisconsin 10 – Door	131,988	93.37

Note: 2020 U.S. Census population data.

APPENDIX D

Cluster Market Characteristics

1. *Central East*: There are 47 CMAs in the Central Eastern United States[1] in which T-Mobile triggers the HHI screen.[2] 20 of these CMAs are non-rural markets with populations ranging from approximately 99,300 to 1.6 million, and population densities of 125 to 1,069 people per square mile,[3] while 27 CMAs are rural markets with populations ranging from approximately 21,500 to 324,400, and population densities of 17 to 92 people per square mile.

2. Considering first the 20 non-rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}. In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%, and Verizon currently holds {[ ]}%. No other service provider currently has a significant market share in these non-rural markets.[4] Cellcom currently has some market presence in Appleton-Oshkosh-Neenah, WI with a market share of {[ ]}%.

[1] Within the Central East region, there are 19 other CMAs that do not trigger the HHI screen but would trigger the total spectrum screen or enhanced factor review if the T-Mobile-Grain transaction were not approved. We have conducted a competitive analysis of these CMAs and found that the likelihood of competitive harm is low.

[2] In numerical order, the 20 non-rural CMAs are: CMA 21: Milwaukee, WI; CMA 65: Omaha, NE-IA; CMA 98: Davenport-Rock Island, IA-IL; CMA 102: Des Moines, IA; CMA 103: Peoria, IL; CMA 113: Madison, WI; CMA 125: Appleton-Oshkosh-Neenah, WI; CMA 131: Rockford, IL; CMA 189: Racine, WI; CMA 195: Cedar Rapids, IA; CMA 201: Waterloo-Cedar Falls, IA; CMA 216: Janesville-Beloit, WI; CMA 239: Joplin, MO; CMA 244: Kenosha, WI; CMA 277: Sheboygan, WI; CMA 278: Columbia, MO; CMA 286: Dubuque, IA; CMA 290: La Crosse, WI; CMA 296: Iowa City, IA; and CMA 716: Wisconsin 9 – Columbia. In numerical order, the 27 rural CMAs are: CMA 263: Wausau, WI; CMA 305: Alton-Granite City, IL; CMA 394: Illinois 1 – Jo Daviess; CMA 396: Illinois 3 – Mercer; CMA 397: Illinois 4 – Adams; CMA 413: Iowa 2 – Union; CMA 414: Iowa 3 – Monroe; CMA 415: Iowa 4 – Muscatine; CMA 416: Iowa 5 – Jackson; CMA 417: Iowa 6 – Iowa; CMA 420: Iowa 9 – Ida; CMA 421: Iowa 10 – Humboldt; CMA 422: Iowa 11 – Hardin; CMA 423: Iowa 12 – Winneshiek; CMA 424: Iowa 13 – Mitchell; CMA 425: Iowa 14 – Kossuth; CMA 426: Iowa 15 – Dickinson; CMA 506: Missouri 3 – Schuyler; CMA 508: Missouri 5 – Linn; CMA 509: Missouri 6 – Marion; CMA 514: Missouri 11 – Moniteau; CMA 518: Missouri 15 – Stone; CMA 519: Missouri 16 – Laclede; CMA 713: Wisconsin 6 – Trempealeau; CMA 714: Wisconsin 7 – Wood; CMA 715: Wisconsin 8 – Vernon; and CMA 717: Wisconsin 10 – Door.

[3] The population density is measured by the number of people per square mile using 2020 Census data. Rural markets are characterized by fewer than 100 people per square mile. *See Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, WT Docket No. 02-381, Report and Order, 19 FCC Rcd 19078, 19087-88, paras. 11-12 (2004).

[4] In these markets, Charter holds up to {[ ]}% of subscribers and Comcast holds up to {[ ]}%. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's shares would be {[ ]}%, and Altice has started to offer service in some of these markets. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

To calculate market shares that include cable and hybrid MVNOs, we relied on zip-code level subscriber data submitted by the MVNOs, or, in certain cases, an allocation of subscribers based on a provider's publicly available SEC filings and BDC Fixed Subscription data. In the cases where these market shares were based on zip-code level subscriber data submitted by the providers, we aggregated data from the level of the zip code to the CMA. In the cases where we relied instead on SEC filings and BDC data, we first used the SEC 10-Q for the period ending June 30, 2024 to identify the reported number of mobile nationwide subscribers for given provider. As cable MVNOs offer mobile service in their fixed service areas, we allocated the reported number of nationwide subscribers of that same provider to a given CMA, based on the percentage of its fixed subscribers that were located that CMA, as

(continued….)

3. In these 20 non-rural markets, T-Mobile is attributed with 255 to 350 megahertz of spectrum on a county-by-county basis pre-transaction, including 44 to 66 megahertz of below-1-GHz spectrum.[5] With T-Mobile acquiring 30 to 102 megahertz of spectrum, including 10 to 32 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 313 to 390 megahertz of spectrum, including 66 to 76 megahertz of below-1-GHz spectrum.[6] AT&T is attributed with 206 to 285 megahertz of spectrum on a county-by-county basis, including 6 to 55 megahertz of below-1-GHz spectrum, and Verizon is attributed with 227 to 362 megahertz of spectrum, including 22 to 72 megahertz of below-1-GHz spectrum.[7] Additionally, EchoStar is attributed with 96 to 131 megahertz of spectrum, including 16 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 116.5 megahertz of spectrum, including up to 24 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with 80 to 159 megahertz of spectrum on a county-by-county basis post-transaction, including 10 to 59 megahertz of below-1-GHz spectrum.[8]

4. According to providers' BDC coverage data, regarding service coverage[9] in these 20 non-rural markets,[10] AT&T and T-Mobile have significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in 16 of the markets,[11] and Verizon has significant 4G LTE population and

(Continued from previous page)
reported in its June 2024 BDC Fixed Subscription Data filing. As an example, if a provider reported having 5,000,000 mobile subscribers as of June 30, 2024, and reported that 2% of its fixed subscribers were located in a given CMA, we would assign 2% of its 5,000,000 mobile subscribers, or 100,000, to that CMA.

We then proceeded to modify the MNO subscriber numbers by removing these MVNO subscriber totals from the NRUF subscriber count of their respective MNO partners. The MNO partner for Charter, Comcast, and Cox is Verizon. The MNO partner for Altice is T-Mobile. For EchoStar, which is a hybrid MVNO/MNO that reports some of its subscribers through the NRUF system, we first subtracted the NRUF reported EchoStar subscribers from the subscriber total that EchoStar provided to us as part of this proceeding. We then considered the remaining subscribers as MVNO subscribers. As EchoStar is a partner with both AT&T and T-Mobile, we assigned 50% of the subscribers in each CMA to AT&T and T-Mobile, respectively, and removed these MVNO subscribers from AT&T's and T-Mobile's NRUF totals, as we did with the cable MVNO subscribers. Finally, we recalculated HHIs that include the MVNOs as separate entities, and with the modified subscriber totals from their MNO partners.

[5] We derive spectrum holdings from the Applicants' submissions and our licensing databases as of June 2, 2025.

[6] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 299 to 376 megahertz of spectrum post-transaction in these markets, including 52 to 62 megahertz of below-1-GHz spectrum.

[7] The spectrum holdings for licensees other than T-Mobile in our market-by-market analysis do not incorporate pending transactions.

[8] There are currently several pending transactions before the Commission that would reduce UScellular's spectrum holdings. These transactions include applications where UScellular would assign 700 MHz and 3.45 GHz licenses to AT&T (*see AT&T UScellular Transaction Public Notice* at 1), Cellular, PCS, AWS-1, and AWS-3 licenses to Verizon (*see Verizon Wireless UScellular Transaction Public Notice* at 1), C-Band licenses to Nsight (*see* ULS File No. 0011246540), and 700 MHz licenses to Nex-Tech Wireless (*see* ULS File No. 0011297172).

[9] We base the coverage analysis on providers' coverage data they submitted pursuant to the Broadband Data Collection (BDC) as of December 31, 2024. *See* supra para. 73 & n.265.

[10] The Commission has previously found that coverage of 70% or more of the population and 50% or more of the land area is presumptively sufficient for a service provider to have a competitive presence in the market. *See*, *e.g.*, *Sprint-Shentel Order*, 31 FCC Rcd at 3642-43, para. 25 & n.77; AT*&T-Leap Order*, 29 FCC Rcd at 2769-70, para. 81 & n.279; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2339, para. 50 & n.119. As noted above, we base the coverage analysis on providers' coverage data they submitted pursuant to the BDC as of December 31, 2024.

[11] These markets are Omaha, NE-IA, Davenport-Rock Island, IA-IL, Des Moines, IA, Peoria, IL, Madison, WI, Appleton-Oshkosh-Neenah, WI, Rockford, IL, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, Janesville-Beloit, WI, Joplin, MO, Columbia, MO, Dubuque, IA, La Crosse, WI, Iowa City, IA, and Wisconsin 9 – Columbia.

land area coverage at speeds of at least 5/1 Mbps in 19 of the markets.[12] Further, T-Mobile has significant 4G LTE population coverage at speeds of at least 5/1 Mbps in four of the markets,[13] while AT&T has significant 4G LTE population coverage and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in one of the markets,[14] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in three of the markets,[15] and Verizon has significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[16] Also, Cellcom has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in one of the markets,[17] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[18]

5. T-Mobile has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in 15 of the markets,[19] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in one of the markets,[20] and significant 5G-NR population coverage at speeds of at least 7/1 Mbps in four[21] of the markets.[22] AT&T has significant 5G-NR

[12] These markets are Milwaukee, WI, Omaha, NE-IA, Davenport-Rock Island, IA-IL, Des Moines, IA, Peoria, IL, Madison, WI, Appleton-Oshkosh-Neenah, WI, Rockford, IL, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, Janesville-Beloit, WI, Joplin, MO, Columbia, MO, Kenosha, WI, Sheboygan, WI, Dubuque, IA, La Crosse, WI, Iowa City, IA, and Wisconsin 9 – Columbia.

[13] These markets are Milwaukee, WI, Racine, WI, Kenosha, WI, and Sheboygan, WI.

[14] This market is Milwaukee, WI.

[15] These markets are Racine, WI, Kenosha, WI, and Sheboygan, WI.

[16] This market is Racine, WI.

[17] This market is Appleton-Oshkosh-Neenah, WI.

[18] This market is Sheboygan, WI.

[19] These markets are Omaha, NE-IA, Davenport-Rock Island, IA-IL, Des Moines, IA, Peoria, IL, Madison, WI, Appleton-Oshkosh-Neenah, WI, Rockford, IL, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, Janesville-Beloit, WI, Joplin, MO, Columbia, MO, Dubuque, IA, Iowa City, IA, and Wisconsin 9 – Columbia.

[20] This market is La Crosse, WI.

[21] These markets are Milwaukee, WI, Racine, WI, Kenosha, WI, and Sheboygan, WI.

[22] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population and land area coverage in Omaha, NE-IA, Davenport-Rock Island, IA-IL, Des Moines, IA, Peoria, IL, Madison, WI, Appleton-Oshkosh-Neenah, WI, Rockford, IL, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, Janesville-Beloit, WI, Joplin, MO, Dubuque, IA, and Iowa City, IA, significant population coverage and close-to-significant land area coverage in Wisconsin 9 – Columbia, and significant population coverage in Milwaukee, WI, Racine, WI, Kenosha, WI, Sheboygan, WI, Columbia, MO, and La Crosse, WI. Further, AT&T has significant 5G-NR population and land area coverage at speeds of at least 35/3 Mbps in Davenport-Rock Island, IA-IL and Des Moines, IA, significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Omaha, NE-IA and Iowa City, IA, significant 5G-NR population coverage at speeds of at least 35/5 Mbps in Milwaukee, WI, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, and Kenosha, WI, significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Joplin, MO, close-to-significant 5G-NR population and land area coverage at speeds of at least 35/3 Mbps in Madison, WI, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Peoria, IL, Appleton-Oshkosh-Neenah, WI, Rockford, IL, Racine, WI, Janesville-Beloit, WI, Sheboygan, WI, Columbia, MO, Dubuque, IA, La Crosse, WI, and Wisconsin 9 – Columbia. Additionally, Verizon has significant 5G-NR population and land area coverage at speeds of at least 35/3 Mbps in Omaha, NE-IA, significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Des Moines, IA, significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Kenosha, WI, close-to-significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Milwaukee, WI and Rockford, IL, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Davenport-Rock Island, IA-IL, Peoria, IL, Madison, WI, Appleton-Oshkosh-Neenah, WI, Racine, WI, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, Janesville-Beloit, WI, Sheboygan, WI, Dubuque, IA, La Crosse, WI,
(continued….)

population and land area coverage at speeds of at least 7/1 Mbps in 10 of the markets,[23] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in two of the markets,[24] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in six of the markets,[25] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in two of the markets.[26] Verizon has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in four of the markets,[27] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in one of the markets,[28] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in four of the markets,[29] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in three of the markets,[30] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in eight of the markets.[31] Finally, EchoStar has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in 13 of the markets,[32] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in three of the markets,[33] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[34] close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in one of the markets,[35] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in

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Iowa City, IA, and Wisconsin 9 – Columbia. Finally, EchoStar has significant 5G-NR population and land area coverage at speeds of at least 35/3 Mbps in Milwaukee, WI, Madison, WI, Rockford, IL, Racine, WI, Janesville-Beloit, WI, Kenosha, WI, La Crosse, WI, and Iowa City, IA, significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Omaha, NE-IA, Peoria, IL, and Sheboygan, WI, significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Davenport-Rock Island, IA-IL, Des Moines, IA, Appleton-Oshkosh-Neenah, WI, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, Columbia, MO, and Dubuque, IA, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Joplin, MO and Wisconsin 9 – Columbia, while Cellcom has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Appleton-Oshkosh-Neenah, WI.

[23] These markets are Davenport-Rock Island, IA-IL, Des Moines, IA, Peoria, IL, Madison, WI, Appleton-Oshkosh-Neenah, WI, Rockford, IL, Janesville-Beloit, WI, Joplin, MO, Columbia, MO, and Wisconsin 9 – Columbia.

[24] These markets are Omaha, NE-IA and Iowa City, IA.

[25] These markets are Milwaukee, WI, Racine, WI, Cedar Rapids, IA, Waterloo-Cedar Falls, IA, Kenosha, WI, and Sheboygan, WI.

[26] These markets are Dubuque, IA and La Crosse, WI.

[27] These markets are Omaha, NE-IA, Des Moines, IA, Peoria, IL, and Rockford, IL.

[28] This market is Davenport-Rock Island, IA-IL.

[29] These markets are Milwaukee, WI, Madison, WI, Cedar Rapids, IA, and Kenosha, WI.

[30] These markets are Racine, WI, La Crosse, WI, and Iowa City, IA.

[31] These markets are Appleton-Oshkosh-Neenah, WI, Waterloo-Cedar Falls, IA, Janesville-Beloit, WI, Joplin, MO, Sheboygan, WI, Columbia, MO, Dubuque, IA, and Wisconsin 9 – Columbia.

[32] These markets are Milwaukee, WI, Omaha, NE-IA, Peoria, IL, Madison, WI, Appleton-Oshkosh-Neenah, WI, Rockford, IL, Racine, WI, Cedar Rapids, IA, Janesville-Beloit, WI, Kenosha, WI, Sheboygan, WI, La Crosse, WI, and Iowa City.

[33] These markets are Davenport-Rock Island, IA-IL, Des Moines, IA, and Columbia, MO.

[34] These markets are Waterloo-Cedar Falls, IA and Dubuque, IA.

[35] This market is Wisconsin 9 – Columbia.

one of the markets,[36] while Cellcom has close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets.[37]

6. In 24 of the 27 rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.[38] In these 24 rural Central Eastern markets, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%, and Verizon currently holds {[ ]}% in 23 of the 24 markets.[39] Additionally, Cellcom currently holds {[ ]}%, {[ ]}%, and {[ ]}% in Wausau, WI, Wisconsin 7 – Wood, and Wisconsin 10 – Door, respectively. No other service provider currently has a significant market share in these 24 rural markets.[40]

7. In these 27 rural markets, T-Mobile is attributed with 186 to 348 megahertz of spectrum on a county-by-county basis pre-transaction, including 44 to 66 megahertz of below-1-GHz spectrum. With T-Mobile acquiring 30 to 131.5 megahertz of spectrum, including 10 to 32 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 228 to 395 megahertz of spectrum, including 66 to 76 megahertz of below-1-GHz spectrum.[41] AT&T is attributed with 178 to 288 megahertz of spectrum on a county-by-county basis, including 6 to 80 megahertz of below-1-GHz spectrum, and Verizon is attributed with 207 to 347 megahertz of spectrum, including 22 to 47 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 96 to 126 megahertz of spectrum, including 16 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 156.5 megahertz of spectrum, including up to 47 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with 12 to 179 megahertz of spectrum on a county-by-county basis post-transaction, including up to 59 megahertz of below-1-GHz spectrum.

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[36] This market is Joplin, MO.

[37] This market is Appleton-Oshkosh-Neenah, WI.

[38] In the three remaining rural markets—Alton-Granite City, IL, Iowa 3 – Monroe, and Iowa 6 – Iowa—the post-transaction HHIs would be {[ ]}, respectively, and the changes in HHI would be {[ ]}, respectively. In terms of significant market share in Alton-Granite City, IL, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%. Verizon has some market presence in Alton-Granite City, IL with a market share of {]}%. In terms of significant market share in Iowa 3 – Monroe and Iowa 6 – Iowa, T-Mobile would hold {[ ]}% post-transaction, respectively, while AT&T currently holds {[ ]}%, respectively, and Verizon currently holds {]}%, respectively. Based on porting data, subscribers do not tend to switch to UScellular when leaving T-Mobile in these three rural markets. In Alton-Granite City, IL, Iowa 3 – Monroe, and Iowa 6 – Iowa, approximately {[ ]}% of T-Mobile's subscribers who ported out, respectively, ported to UScellular from November 2023 to October 2024. *See* 2023-2024 LNP Data. Including cable providers' shares in the market share calculations for Alton-Granite City, IL, Iowa 3 – Monroe, and Iowa 6 – Iowa would lower T-Mobile's post-transaction market shares to {[ ]}%, respectively, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}%, respectively. In addition, EchoStar's shares would be {[ ]}%, respectively. Based on these numbers, the post-transaction HHI in these three markets would be {[ ]} with changes in the HHI of {[ ]}, respectively.

[39] In Wausau, WI, Verizon has {[ ]} market share.

[40] In these markets, Charter holds up to {[ ]}% of subscribers and Comcast holds up to {[ ]}%. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}% in 23 of the 24 markets. In addition, EchoStar's shares would be {]}%, and Altice has started to offer service in some of these markets. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

[41] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 214 to 381 megahertz of spectrum post-transaction in these markets, including 52 to 62 megahertz of below-1-GHz spectrum.

8. According to providers' BDC coverage data, regarding service coverage in these 27 rural markets, T-Mobile has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in 23 of the markets,[42] close-to-significant 4G LTE population coverage and significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in one of the markets,[43] significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets,[44] and significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in one of the markets.[45] AT&T has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in 24 of the markets,[46] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[47] Verizon has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in 26 of the markets.[48] Also, Cellcom has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in one of the markets,[49] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[50]

9. T-Mobile has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in 14 of the markets,[51] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in three of the markets,[52] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in four of the markets,[53] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[54] and has deployed its 5G-NR at speeds of

[42] These markets are Wausau, WI, Alton-Granite City, IL, Illinois 1 – Jo Daviess, Illinois 3 – Mercer, Illinois 4 – Adams, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 5 – Jackson, Iowa 6 – Iowa, Iowa 9 – Humboldt, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 13 – Mitchell, Iowa 14 – Kossuth, Iowa 15 – Dickinson, Missouri 3 – Schuyler, Missouri 5 – Linn, Missouri 6 – Marion, Missouri 11 – Moniteau, Missouri 15 – Stone, Missouri 16 – Laclede, Wisconsin 6 – Trempealeau, and Wisconsin 7 – Wood.

[43] This market is Iowa 2 – Union.

[44] This market is Wisconsin 10 – Door.

[45] This market is Iowa 12 – Winneshiek.

[46] These markets are Wausau, WI, Alton-Granite City, IL, Illinois 1 – Jo Daviess, Illinois 3 – Mercer, Illinois 4 – Adams, Iowa 2 – Union, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 5 – Jackson, Iowa 6 – Iowa, Iowa 9 – Ida, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 13 – Mitchell, Iowa 14 – Kossuth, Iowa 15 – Dickinson, Missouri 3 – Schuyler, Missouri 5 – Linn, Missouri 6 – Marion, Missouri 11 – Moniteau, Missouri 15 – Stone, Missouri 16 – Laclede, Wisconsin 6 – Trempealeau, and Wisconsin 7 – Wood.

[47] This market is Wisconsin 10 – Door.

[48] These markets are Alton-Granite City, IL, Illinois 1 – Jo Daviess, Illinois 3 – Mercer, Illinois 4 – Adams, Iowa 2 – Union, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 5 – Jackson, Iowa 6 – Iowa, Iowa 9 – Ida, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 12 – Winneshiek, Iowa 13 – Mitchell, Iowa 14 – Kossuth, Iowa 15 – Dickinson, Missouri 3 – Schuyler, Missouri 5 – Linn, Missouri 6 – Marion, Missouri 11 – Moniteau, Missouri 15 – Stone, Missouri 16 – Laclede, Wisconsin 6 – Trempealeau, Wisconsin 7 – Wood, Wisconsin 8 – Vernon, and Wisconsin 10 – Door.

[49] This market is Wausau, WI.

[50] This market is Wisconsin 10 – Door.

[51] These markets are Alton-Granite City IL, Illinois 1 – Jo Daviess, Illinois 3 – Mercer, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 5 – Jackson, Iowa 6 – Iowa, Iowa 9 – Ida, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 13 – Mitchell, Iowa 14 – Kossuth, Iowa 15 – Dickinson, and Missouri 6 – Marion.

[52] These markets are Wausau, WI, Illinois 4 – Adams, and Missouri 3 – Schuyler.

[53] These markets are Missouri 5 – Linn, Missouri 11 – Moniteau, Missouri 15 – Stone, and Wisconsin 10 – Door.

[54] These markets are Missouri 16 – Laclede and Wisconsin 7 – Wood.

at least 7/1 Mbps to some extent in four[55] of the markets.[56] AT&T has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in five of the markets,[57] close-to-significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in one of the markets,[58] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[59] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in 15 of the markets.[60] Verizon has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[61] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in 24 of the markets.[62] Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets[63] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in eight of

[55] These markets are Iowa 2 – Union, Iowa 12 – Winneshiek, Wisconsin 6 – Trempealeau, and Wisconsin 8 – Vernon.

[56] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population and land area coverage in Illinois 1 – Jo Daviess, Iowa 4 – Muscatine, Iowa 5 – Jackson, Iowa 6 – Iowa, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 13 – Mitchell, Iowa 14 – Kossuth, and Iowa 15 – Dickinson, significant population and close-to-significant land area coverage in Iowa 3 – Monroe, significant population coverage in Wausau, WI, Missouri 3 – Schuyler, Missouri 5 – Linn, Missouri 6 – Marion, Missouri 11 – Moniteau, and Wisconsin 10 – Door, significant land area coverage in Iowa 9 – Ida, close-to-significant population coverage in Illinois 3 – Mercer, and has deployed its network to some extent in Alton-Granite City, IL, Illinois 4 – Adams, Iowa 2 – Union, Iowa 12 – Winneshiek, Missouri 15 – Stone, Missouri 16 – Laclede, Wisconsin 6 – Trempealeau, Wisconsin 7 – Wood, and Wisconsin 8 – Vernon. Further, AT&T has significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Illinois 4 – Adams and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Wausau, WI, Alton-Granite City, IL, Illinois 1 – Jo Daviess, Illinois 3 – Mercer, Iowa 2 – Union, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 6 – Iowa, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 12 – Winneshiek, Iowa 14 – Kossuth, Missouri 3 – Schuyler, Missouri 5 – Linn, Missouri 6 – Marion, Missouri 11 – Moniteau, Missouri 15 – Stone, Missouri 16 – Laclede, Wisconsin 6 – Trempealeau, Wisconsin 7 – Wood, and Wisconsin 10 – Door. Additionally, Verizon has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Illinois 1 – Jo Daviess, Illinois 3 – Mercer, Illinois 4 – Adams, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 5 – Jackson, Iowa 6 – Iowa, Iowa 9 – Ida, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 12 – Winneshiek, Iowa 13 – Mitchell, Iowa 14 – Kossuth, Iowa 15 – Dickinson, Wisconsin 6 – Trempealeau, Wisconsin 7 – Wood, Wisconsin 8 – Vernon, and Wisconsin 10 – Door. Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Wausau, WI and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Alton-Granite City, IL, Illinois 1 – Jo Daviess, Iowa 6 – Iowa, Iowa 10 – Humboldt, Missouri 11 – Moniteau, Wisconsin 7 – Wood, and Wisconsin 10 – Door, while Cellcom has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Wisconsin 10 – Door.

[57] These markets are Alton-Granite City, IL, Illinois 4 – Adams, Missouri 6 – Marion, Missouri 11 – Moniteau, and Wisconsin 7 – Wood.

[58] This market is Illinois 3 – Mercer.

[59] This market is Wisconsin 10 – Door.

[60] These markets are Wausau, WI, Illinois 1 – Jo Daviess, Iowa 2 – Union, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 6 – Iowa, Iowa 10 – Humboldt, Iowa 11 – Hardin, Iowa 12 – Winneshiek, Iowa 14 – Kossuth, Missouri 3 – Schuyler, Missouri 5 – Linn, Missouri 15 – Stone, Missouri 16 – Laclede, and Wisconsin 6 – Trempealeau.

[61] This market is Iowa 10 – Humboldt.

[62] These markets are Alton-Granite City, IL, Illinois 1 – Jo Daviess, Illinois 3 – Mercer, Illinois 4 – Adams, Iowa 3 – Monroe, Iowa 4 – Muscatine, Iowa 5 – Jackson, Iowa 6 – Iowa, Iowa 9 – Ida, Iowa 11 – Hardin, Iowa 12 – Winneshiek, Iowa 13 – Mitchell, Iowa 14 – Kossuth, Iowa 15 – Dickinson, Missouri 3 – Schuyler, Missouri 5 – Linn, Missouri 6 – Marion, Missouri 11 – Moniteau, Missouri 15 – Stone, Missouri 16 – Laclede, Wisconsin 6 – Trempealeau, Wisconsin 7 – Wood, Wisconsin 8 – Vernon, and Wisconsin 10 – Door.

[63] This market is Wausau, WI.

the markets,[64] while Cellcom has deployed its 5G-NR network at speeds of at least 7/1 Mbps in one of the markets.[65]

10. *Central West*: There are 23 CMAs in the Central Western United States[66] in which T-Mobile triggers the HHI screen.[67] Four of these CMAs are non-rural markets with populations ranging from approximately 121,100 to 1.4 million, and population densities of 112 to 386 people per square mile, while nineteen CMAs are rural markets with populations ranging from approximately 24,900 to 239,000, and population densities of 2 to 81 people per square mile.

11. Considering first the four non-rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}. In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%, and Verizon currently holds {[ ]}%. No other service provider currently has a significant market share in these non-rural markets.[68]

12. In these four non-rural markets, T-Mobile is attributed with 282 to 328 megahertz of spectrum on a county-by-county basis pre-transaction, including 44 to 54 megahertz of below-1-GHz spectrum. With T-Mobile acquiring 22 to 62 megahertz of spectrum, including 12 to 22 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 326.5 to 390 megahertz of spectrum, including 56 to 76 megahertz of below-1-GHz spectrum.[69] AT&T is attributed with 246 to 308 megahertz of spectrum on a county-by-county basis, including 6 to 80 megahertz of below-1-GHz spectrum, while Verizon is attributed with 222 to 377 megahertz of spectrum, including 22 to 72 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 101 to 131 megahertz of spectrum, including 16 to 26 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 10 and 20 megahertz of spectrum, including up to 10 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with 20 to 125 megahertz of spectrum on a county-by-county basis post-transaction, including up to 37 megahertz of below-1-GHz spectrum.

13. According to providers' BDC coverage data, regarding service coverage in these four non-rural markets, AT&T, T-Mobile, and Verizon each have significant 4G LTE population and land area

[64] These markets are Alton-Granite City, IL, Illinois 1 – Jo Daviess, Iowa 6 – Iowa, Iowa 10 – Humboldt, Iowa 11 – Hardin, Missouri 11 – Moniteau, Wisconsin 7 – Wood, and Wisconsin 10 – Door.

[65] This market is Wisconsin 10 – Door.

[66] Within the Central West region, there are 13 other CMAs that do not trigger the HHI screen but would trigger the total spectrum screen or enhanced factor review if the T-Mobile-Grain transaction were not approved. We have conducted a competitive analysis of these CMAs and found a low likelihood of competitive harm.

[67] In numerical order, the four non-rural CMAs are: CMA 45: Oklahoma City, OK; CMA 57: Tulsa, OK; CMA 172: Lincoln, NE; and CMA 260: Lawton, OK. In numerical order, the 19 rural CMAs are: CMA 233: Wichita Falls, TX; CMA 302: Enid, OK; CMA 431: Kansas 4 – Marshall; CMA 435: Kansas 8 – Ellsworth; CMA 436: Kansas 9 – Morris; CMA 437: Kansas 10 – Franklin; CMA 441: Kansas 14 – Reno; CMA 442: Kansas 15 – Elk; CMA 534: Nebraska 2 – Cherry; CMA 535: Nebraska 3 – Knox; CMA 537: Nebraska 5 – Boone; CMA 542: Nebraska 10 – Cass; CMA 598: Oklahoma 3 – Grant; CMA 599: Oklahoma 4 – Nowata; CMA 601: Oklahoma 6 – Seminole; CMA 602: Oklahoma 7 – Beckham; CMA 603: Oklahoma 8 – Jackson; CMA 604: Oklahoma 9 – Garvin; and CMA 605: Oklahoma 10 – Haskell.

[68] In these markets, Charter holds up to {[ ]}% of subscribers. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's shares would be {[ ]}%. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

[69] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 322.5 to 376 megahertz of spectrum post-transaction in these markets, including 52 to 62 megahertz of below-1-GHz spectrum.

coverage at speeds of at least 5/1 Mbps in these markets. AT&T, T-Mobile, and Verizon have significant 5G-NR population coverage at speeds of at least 7/1 Mbps in these markets, AT&T and T-Mobile have significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in these markets, and Verizon has significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in three[70] of the markets.[71] Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in these markets and significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in two of the markets.[72]

14. In 17 of the 19 rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.[73] In these 17 rural Central Western markets, T-Mobile would hold {[ ]}% post-transaction, while in 16 of the 17 Central Western markets, AT&T holds {[ ]}% and Verizon holds {[ ]}%.[74] Additionally, Nex-Tech Wireless has a significant market share of {[ ]}% in Kansas 8 – Ellsworth, Viaero Wireless has a significant market share of {[ ]}% in Nebraska 2 – Cherry, and Pine Cellular has a significant market share of {[ ]}% in Oklahoma 10 – Haskell. No other service provider currently has a significant market share in these 17 rural markets.[75] AT&T has some market presence in Nebraska 2 – Cherry with a market share of {[ ]}%, while Nex-Tech Wireless has some market presence in Kansas 9 – Morris with a market share of {[ ]}% and Viaero Wireless has some market presence in Nebraska 3 – Knox with a market share of {[ ]}%.

[70] These markets are Oklahoma City, OK, Lincoln, NE and Lawton, OK.

[71] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, AT&T, T-Mobile, and Verizon have significant population coverage in these markets. AT&T and T-Mobile have significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in these markets, and Verizon has significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Oklahoma City, OK, Lincoln, NE, and Lawton, OK. Additionally, EchoStar has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in these markets, significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Lincoln, NE, and close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Lawton, OK.

[72] These markets are Lincoln, NE and Lawton, OK.

[73] In the two remaining rural markets—Nebraska 10 – Cass and Oklahoma 6 – Seminole—the post-transaction HHIs would be {[ ]}, respectively, and the changes in HHI would be {[ ]}, respectively. In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, respectively, while AT&T currently holds {[ ]}% in Oklahoma 6 – Seminole, and Verizon currently holds {[ ]}% in Nebraska 10 – Cass. In addition, AT&T currently has some market presence in Nebraska 10 – Cass with a market share of {[ ]}%. Based on porting data, subscribers do not tend to switch to UScellular when leaving T-Mobile in these two rural markets. In Nebraska 10 – Cass and Oklahoma 6 – Seminole, approximately {]}% of T-Mobile's subscribers who ported out, respectively, ported to UScellular from November 2023 to October 2024. *See* 2023-2024 LNP Data. Additionally, in these markets, Charter currently holds {[ ]}% of subscribers in Nebraska 10 – Cass. Including cable providers' shares in the market share calculations for Nebraska 10 – Cass and Oklahoma 6 – Seminole would lower T-Mobile's post-transaction market shares to {[ ]}%, respectively, while AT&T's shares would be {[ ]}%, respectively, and Verizon's would be {[ ]}% in Nebraska 10 – Cass. In addition, EchoStar's shares would be {[ ]}%, respectively, in Nebraska 10 – Cass and Oklahoma 6 – Seminole, and Altice has started to offer service in Oklahoma 6 – Seminole. Based on these numbers, the post-transaction HHI in these three markets would be {[ ]} with changes in the HHI of {[ ]}, respectively.

[74] In Oklahoma 10 – Haskell, Verizon has {[ ]} market share.

[75] In these markets, Charter holds up to {[ ]}% of subscribers. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}% in 16 of the 17 markets. In addition, EchoStar's shares would be {[ ]}%, and Altice and Comcast have started to offer service in some of these markets. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

15. In these 19 rural markets, T-Mobile is attributed with 104 to 358 megahertz of spectrum on a county-by-county basis pre-transaction, including 44 to 66 megahertz of below-1-GHz spectrum. With T-Mobile acquiring 10 to 79.5 megahertz of spectrum, including up to 32 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 156 to 390 megahertz of spectrum, including 54 to 76 megahertz of below-1-GHz spectrum.[76] AT&T is attributed with 196 to 308 megahertz of spectrum on a county-by-county basis, including 6 to 68 megahertz of below-1-GHz spectrum, while Verizon is attributed with 192 to 342 megahertz of spectrum, including 22 to 72 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 101 to 131 megahertz of spectrum, including 16 to 26 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 187 megahertz of spectrum, including up to 67 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with up to 174 megahertz of spectrum on a county-by-county basis post-transaction, including up to 59 megahertz of below-1-GHz spectrum.

16. According to providers' BDC coverage data, regarding service coverage in these 19 rural markets, AT&T has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in these markets, T-Mobile has significant 4G LTE population and land area coverage in 18 of the markets[77] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets,[78] and Verizon has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in 15 of the markets.[79] Additionally, Pine Cellular has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in one of the markets,[80] Nex-Tech Wireless has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in one of the markets,[81] Pioneer Enid Cellular has significant 4G LTE population coverage and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in one of the markets,[82] and MBO Wireless has significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[83]

17. T-Mobile has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in 17 of the markets,[84] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[85] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some

[76] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 142 to 376 megahertz of spectrum post-transaction in these markets, including 40 to 62 megahertz of below-1-GHz spectrum.

[77] These markets are Wichita Fallas, TX, Enid, OK, Kansas 4 – Marshall, Kansas 8 – Ellsworth, Kansas 9 – Morris, Kansas 10 – Franklin, Kansas 14 – Reno, Kansas 15 – Elk, Nebraska 2 – Cherry, Nebraska 3 – Knox, Nebraska 5 – Boone, Nebraska 10 – Cass, Oklahoma 3 – Grant, Oklahoma 4 – Nowata, Oklahoma 6 – Seminole, Oklahoma 7 – Beckham, Oklahoma 8 – Jackson, and Oklahoma 9 – Garvin.

[78] This market is Oklahoma 10 – Haskell.

[79] These markets are Wichita Falls, TX, Kansas 4 – Marshall, Kansas 8 – Ellsworth, Kansas 9 – Morris, Kansas 10 – Franklin, Kansas 14 – Reno, Kansas 15 – Elk, Nebraska 2 – Cherry, Nebraska 3 – Knox, Nebraska 5 – Boone, Nebraska 10 – Cass, Oklahoma 3 – Grant, Oklahoma 4 – Nowata, Oklahoma 7 – Beckham, and Oklahoma 8 – Jackson.

[80] This market is Oklahoma 10 – Haskell.

[81] This market is Kansas 8 – Ellsworth.

[82] This market is Kansas 9 – Morris.

[83] This market is Oklahoma 6 – Seminole.

[84] These markets are Wichita Falls, TX, Enid, OK, Kansas 4 – Marshall, Kansas 8 – Ellsworth, Kansas 9 – Morris, Kansas 10 – Franklin, Kansas 14 – Reno, Kansas 15 – Elk, Nebraska 3 – Knox, Nebraska 5 – Boone, Nebraska 10 – Cass, Oklahoma 3 – Grant, Oklahoma 4 – Nowata, Oklahoma 6 – Seminole, Oklahoma 7 – Beckham, Oklahoma 8 – Jackson, and Oklahoma 9 – Garvin.

[85] This market is Nebraska 2 – Cherry.

extent in one[86] of the markets.[87] AT&T has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in seven of the markets,[88] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in one of the markets,[89] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[90] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[91] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in eight of the markets.[92] Verizon has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in 17[93] of the markets. Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets[94] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in five of the markets.[95]

[86] This market is Oklahoma 10 – Haskell.

[87] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population and land area coverage in Wichita Falls, TX, Enid, OK, Kansas 8 – Ellsworth, Kansas 10 – Franklin, Kansas 14 – Reno, Kansas 15 – Elk, Nebraska 5 – Boone, Nebraska 10 – Cass, Oklahoma 3 – Grant, Oklahoma 4 – Nowata, and Oklahoma 7 – Beckham, significant population coverage in Kansas 4 – Marshall, Kansas 9 – Morris, Oklahoma 6 – Seminole, Oklahoma 8 – Jackson, and Oklahoma 9 – Garvin, close-to-significant population coverage in Nebraska 3 – Knox, and has deployed its network to some extent in Nebraska 2 – Cherry and Oklahoma 10 – Haskell. AT&T has significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Enid, OK and Oklahoma 8 – Jackson, close-to-significant 5G-NR population and land area coverage at speeds of at least 35/3 Mbps in Oklahoma 3 – Grant and Oklahoma 9 – Garvin, close-to-significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Wichita Falls, TX, Nebraska 5 – Boone, and Oklahoma 6 – Seminole, close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Oklahoma 7 – Beckham, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Kansas 4 – Marshall, Kansas 8 – Ellsworth, Kansas 9 – Morris, Kansas 10 – Franklin, Kansas 14 – Reno, Kansas 15 – Elk, Nebraska 3 – Knox, Nebraska 10 – Cass, Oklahoma 4 – Nowata, and Oklahoma 10 – Haskell. Verizon has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Wichita Falls, TX, Enid, OK, Nebraska 3 – Knox, Nebraska 5 – Boone, Nebraska 10 – Cass, Oklahoma 3 – Grant, Oklahoma 4 – Nowata, Oklahoma 7 – Beckham, Oklahoma 8 – Jackson, and Oklahoma 9 – Garvin. Additionally, EchoStar has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Wichita Falls, TX, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Kansas 4 – Marshall, Nebraska 5 – Boone, and Oklahoma 3 – Grant.

[88] These markets are Enid, OK, Oklahoma 3 – Grant, Oklahoma 4 – Nowata, Oklahoma 6 – Seminole, Oklahoma 7 – Beckham, Oklahoma 8 – Jackson, and Oklahoma 9 – Garvin.

[89] This market is Wichita Falls, TX.

[90] This market is Kansas 15 – Elk.

[91] This market is Nebraska 5 – Boone.

[92] These markets are Kansas 4 – Marshall, Kansas 8 – Ellsworth, Kansas 9 – Morris, Kansas 10 – Franklin, Kansas 14 – Reno, Nebraska 3 – Knox, Nebraska 10 – Cass, and Oklahoma 10 – Haskell.

[93] These markets are Wichita Falls, TX, Enid, OK, Kansas 4 – Marshall, Kansas 8 – Ellsworth, Kansas 9 – Morris, Kansas 10 – Franklin, Kansas 14 – Reno, Kansas 15 – Elk, Nebraska 2 – Cherry, Nebraska 3 – Knox, Nebraska 5 – Boone, Nebraska 10 – Cass, Oklahoma 3 – Grant, Oklahoma 4 – Nowata, Oklahoma 7 – Beckham, Oklahoma 8 – Jackson, and Oklahoma 9 – Garvin.

[94] This market is Wichita Falls, TX.

[95] These markets are Kansas 4 – Marshall, Nebraska 5 – Boone, Nebraska 10 – Cass, Oklahoma 3 – Grant, and Oklahoma 8 – Jackson.

18. *Mid-Atlantic*: There are 31 CMAs in the Mid-Atlantic United States[96] in which T-Mobile triggers the HHI screen.[97] Sixteen of these CMAs are non-rural markets with populations ranging from approximately 95,000 to 711,200, and population densities of 107 to 430 people per square mile, while fifteen CMAs are rural markets with populations ranging from approximately 28,800 to 417,300, and population densities of 25 to 94 people per square mile.

19. Considering first 15 of the 16 non-rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.[98] In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}% and Verizon currently holds {[ ]}%. No other service provider currently has a significant market share in these 15 non-rural markets.[99]

20. In these 16 non-rural markets, T-Mobile is attributed with 290.5 to 410 megahertz of spectrum on a county-by-county basis pre-transaction, including 44 to 66 megahertz of below-1-GHz spectrum. With T-Mobile acquiring up to 72 megahertz of spectrum in these markets, including up to 32 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 325 to 410 megahertz of spectrum, including 64 to 76 megahertz of below-1-GHz spectrum.[100] AT&T is attributed with 218 to 283 megahertz of spectrum on a county-by-county basis, including 18 to 55 megahertz of below-1-GHz spectrum, and Verizon is attributed with 202 to 332 megahertz of spectrum, including 22 to 72 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 96 to 121 megahertz of spectrum,

[96] Within the Mid-Atlantic region, there are 10 other CMAs that do not trigger the HHI screen but would trigger the total spectrum screen or enhanced factor review if the T-Mobile-Grain transaction were not approved. We have conducted a competitive analysis of these CMAs and found a low likelihood of competitive harm.

[97] In numerical order, the 16 non-rural CMAs are: CMA 79: Knoxville, TN; CMA 157: Roanoke, VA; CMA 183: Asheville, NC; CMA 203: Lynchburg, VA; CMA 218: Wilmington, NC; CMA 256: Charlottesville, VA; CMA 257: Hagerstown, MD; CMA 258: Jacksonville, NC; CMA 269: Cumberland, MD-WV; CMA 568: North Carolina 4 – Henderson; CMA 571: North Carolina 7 – Rockingham; CMA 572: North Carolina 8 – Northampton; CMA 574: North Carolina 10 – Harnett; CMA 649: Tennessee 7 – Bledsoe; CMA 684: Virginia 4 – Bedford; and CMA 703: West Virginia 3 - Monongalia. In numerical order, the 15 rural CMAs are: CMA 467: Maryland 1 – Garrett; CMA 567: North Carolina 3 – Ashe; CMA 573: North Carolina 9 – Camden; CMA 575: North Carolina 11 – Hoke; CMA 576: North Carolina 12 – Sampson; CMA 577: North Carolina 13 – Greene; CMA 578: North Carolina 14 – Pitt; CMA 645: Tennessee 3 – Macon; CMA 682: Virginia 2 – Tazewell; CMA 683: Virginia 3 – Giles; CMA 685: Virginia 5 – Bath; CMA 687: Virginia 7 – Buckingham; CMA 704: West Virgina 4 – Grant; CMA 705: West Virgina 5 – Tucker; and CMA 707: West Virginia 7 – Raleigh.

[98] In the remaining non-rural market—Cumberland, MD-WV—the post-transaction HHI would be {]}, and the change in HHI would be {[ ]}. In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%. Based on porting data, subscribers do not tend to switch to UScellular when leaving T-Mobile in this non-rural market. In Cumberland, MD-WV, approximately {[ ]}% of T-Mobile's subscribers who ported out ported to UScellular from November 2023 to October 2024. *See* 2023-2024 LNP Data. Including cable providers' shares in the market share calculations for Cumberland, MD-WV would lower T-Mobile's post-transaction market share to {[ ]}%, while AT&T's share would be {[ ]}%. In addition, EchoStar's share would be {[ ]}%, and Comcast has started to offer service in this market. Based on these numbers, the post-transaction HHI in this market would be {[ ]} with a change in the HHI of {[ ]}.

[99] In these markets, Charter holds up to {[ ]}% of subscribers and Comcast holds up to {[ ]}%. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's shares would be {[ ]}%, while Altice has started to offer service in some of these markets. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

[100] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 311 to 406 megahertz of spectrum post-transaction in these markets, including 50 to 62 megahertz of below-1-GHz spectrum.

including 16 to 26 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 90 megahertz of spectrum, including up to 20 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with up to 149 megahertz of spectrum on a county-by-county basis post-transaction, including up to 57 megahertz of below-1-GHz spectrum.

21. According to providers' BDC coverage data, regarding service coverage in these 16 non-rural markets, AT&T and Verizon have significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in these markets, while T-Mobile has significant 4G LTE population coverage at speeds of at least 5/1 Mbps in these markets, significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in 14 of the markets,[101] and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in one of the markets.[102]

22. T-Mobile has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in 10 of the markets,[103] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in three of the markets,[104] and significant 5G-NR population coverage at speeds of at least 7/1 Mbps in three[105] of the markets.[106] AT&T has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in three of the markets,[107]

[101] These markets are Knoxville, TN, Roanoke, VA, Lynchburg, VA, Wilmington, NC, Charlottesville, VA, Hagerstown, MD, Jacksonville, NC, Cumberland, MD-WV, North Carolina 4 – Henderson, North Carolina 7 – Rockingham, North Carolina 8 – Northampton, North Carolina 10 – Harnett, Virginia 4 – Bedford, and West Virginia 3 – Monongalia.

[102] This market is Tennessee 7 – Bledsoe.

[103] These markets are Knoxville, TN, Wilmington, NC, Charlottesville, VA, Hagerstown, MD, Jacksonville, NC, Cumberland, MD-WV, North Carolina 4 – Henderson, North Carolina 8 – Northampton, North Carolina 10 – Harnett, and Virginia 4 – Bedford.

[104] These markets are Roanoke, VA, Tennessee 7 – Bledsoe, and West Virginia 3 – Monongalia.

[105] These markets are Asheville, NC, Lynchburg, VA, and North Carolina 7 – Rockingham.

[106] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population and land area coverage in Hagerstown, MD and North Carolina 10 – Harnett, significant population coverage and close-to-significant land area coverage in Knoxville, TN, Wilmington, NC, and Cumberland, MD-WV, significant population coverage in Roanoke, VA, Asheville, NC, Lynchburg, VA, Charlottesville, VA, Jacksonville, NC, North Carolina 8 – Northampton, and West Virginia 3 – Monongalia, close-to-significant population coverage in Tennessee 7 – Bledsoe, and has deployed its network to some extent in North Carolina 4 – Henderson, North Carolina 7 – Rockingham, and Virginia 4 – Bedford. Further, AT&T has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in West Virginia 3 – Monongalia, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Knoxville, TN, Roanoke, VA, Asheville, NC, Lynchburg, VA, Wilmington, NC, Charlottesville, VA, Hagerstown, MD, Jacksonville, NC, Cumberland, MD-WV, North Carolina 4 – Henderson, North Carolina 7 – Rockingham, North Carolina 8 – Northampton, North Carolina 10 – Harnett, Tennessee 7 – Bledsoe, and Virginia 4 – Bedford. Additionally, Verizon has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Knoxville, TN, Roanoke, VA, Asheville, NC, Lynchburg, VA, Wilmington, NC, Charlottesville, VA, Hagerstown, MD, Jacksonville, NC, Cumberland, MD-WV, North Carolina 4 – Henderson, North Carolina 7 – Rockingham, North Carolina 8 – Northampton, North Carolina 10 – Harnett, Tennessee 7 – Bledsoe, and West Virginia 3 – Monongalia. Finally, EchoStar has significant 5G-NR population and land area coverage at speeds of at least 35/3 Mbps in Knoxville, TN and Hagerstown, MD, significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 35/3 Mbps in Wilmington, NC, significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Roanoke, VA, Asheville, NC, and Jacksonville, NC, close-to-significant 5G-NR population coverage at speeds of at least 35/3 Mbps in North Carolina 10 – Harnett, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Lynchburg, VA, Charlottesville, VA, Cumberland, MD-WV, North Carolina 4 – Henderson, North Carolina 7 – Rockingham, North Carolina 8 – Northampton, Tennessee 7 – Bledsoe, Virginia 4 – Bedford, and West Virginia 3 – Monongalia.

[107] These markets are Hagerstown, MD, Cumberland, MD-WV, and West Virginia 3 – Monongalia.

significant 5G-NR population coverage at speeds of at least 7/1 Mbps in three of the markets,[108] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[109] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in nine of the markets.[110] Verizon has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[111] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[112] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in 14 of the markets.[113] Finally, EchoStar has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in three of the markets,[114] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in one of the markets,[115] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in three of the markets,[116] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[117] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in eight of the markets.[118]

23. In 14 of the 15 rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.[119] In 13 of the 14 rural Mid-Atlantic markets, T-Mobile would hold {[ ]}% post-transaction and AT&T currently holds {[ ]}%,

[108] These markets are Knoxville, TN, Roanoke, VA, and Wilmington, NC.

[109] This market is Jacksonville, NC.

[110] These markets are Asheville, NC, Lynchburg, VA, Charlottesville, VA, North Carolina 4 – Henderson, North Carolina 7 – Rockingham, North Carolina 8 – Northampton, North Carolina 10 – Harnett, Tennessee 7 – Bledsoe, and Virginia 4 – Bedford.

[111] This market is Knoxville, TN.

[112] This market is Wilmington, NC.

[113] These markets are Roanoke, VA, Asheville, NC, Lynchburg, VA, Charlottesville, VA, Hagerstown, MD, Jacksonville, NC, Cumberland, MD-WV, North Carolina 4 – Henderson, North Carolina 7 – Rockingham, North Carolina 8 – Northampton, North Carolina 10 – Harnett, Tennessee 7 – Bledsoe, Virginia 4 – Bedford, and West Virginia 3 – Monongalia.

[114] These markets are Knoxville, TN, Wilmington, NC, and Hagerstown, MD.

[115] This market is North Carolina 10 – Harnett.

[116] These markets are Roanoke, VA, Asheville, NC, and Jacksonville, NC.

[117] This market is Lynchburg, VA.

[118] These markets are Charlottesville, VA, Cumberland, MD-WV, North Carolina 4 – Henderson, North Carolina 7 – Rockingham, North Carolina 8 – Northampton, Tennessee 7 – Bledsoe, Virginia 4 – Bedford, and West Virginia 3 – Monongalia.

[119] In the remaining rural market—West Virginia 5 – Tucker—the post-transaction HHI would be {[ ]}, and the change in HHI would be {[ ]}. In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%. Verizon has some market presence with a market share of {[ ]}%. Based on porting data, subscribers do not tend to switch to UScellular when leaving T-Mobile in this rural market. In West Virginia 5 – Tucker, approximately {[ ]}% of T-Mobile's subscribers who ported out ported to UScellular from November 2023 to October 2024. *See* 2023-2024 LNP Data. Including cable providers' shares in the market share calculations for West Virginia 5 – Tucker would lower T-Mobile's post-transaction market share to {[ ]}%, while AT&T's share would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's share would be {[ ]}%, and Altice has started to offer service in this market. Based on these numbers, the post-transaction HHI in this market would be {[ ]} with a change in the HHI of {[ ]}.

while in 12 of the 14 rural Mid-Atlantic markets, Verizon currently holds {[ ]}%.[120] Additionally, Carolina West Wireless currently has a significant market share of {[ ]}% in North Carolina 3 – Ashe. No other service provider currently has a significant market share in these 14 rural markets.[121]

24. In these 15 rural markets, T-Mobile is attributed with 201 to 370 megahertz of spectrum on a county-by-county basis pre-transaction, including 44 to 76 megahertz of below-1-GHz spectrum. With T-Mobile acquiring 10 to 91.5 megahertz of spectrum, including zero to 22 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 249.5 to 390 megahertz of spectrum, including 56 to 76 megahertz of below-1-GHz spectrum.[122] AT&T is attributed with 216 to 282.5 megahertz of spectrum on a county-by-county basis, including 6 to 55 megahertz of below-1-GHz spectrum, while Verizon is attributed with 212 to 337 megahertz of spectrum, including 22 to 72 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 96 to 121 megahertz of spectrum, including 16 to 26 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 236.5 megahertz of spectrum, including up to 67 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with 12 to 159 megahertz of spectrum on a county-by-county basis post-transaction, including 12 to 59 megahertz of below-1-GHz spectrum.

25. According to providers' BDC coverage data, regarding service coverage in these 15 rural markets, AT&T has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in 14 of the markets[123] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[124] Verizon has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in 12 of the markets,[125] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[126] T-Mobile has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in five of the markets,[127] significant 4G LTE population coverage and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in two of the markets,[128]

[120] We note that CMA 467: Maryland 1 – Garrett is a single-county market; for this reason, we believe that the post-transaction market shares based on June 2024 NRUF data for AT&T, T-Mobile, and Verizon in this market of {[ ]}%, respectively, are unreliable and inaccurate and so we do not report them here.

[121] In these markets, excluding the single-county market Maryland 1 – Garrett, Charter holds up to {[ ]}% of subscribers and Comcast holds up to {[ ]}%. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}% in 12 of the markets. In addition, EchoStar's shares would be {[ ]}%, and Altice has started to offer service in some of these markets. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

[122] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 235.5 to 376 megahertz of spectrum post-transaction in these markets, including 42 to 62 megahertz of below-1-GHz spectrum.

[123] These markets are Maryland 1 – Garrett, North Carolina 3 – Ashe, North Carolina 9 – Camden, North Carolina 11 – Hoke, North Carolina 12 – Sampson, North Carolina 13 – Greene, North Carolina 14 – Pitt, Tennessee 3 – Macon, Virginia 2 – Tazewell, Virginia 3 – Giles, Virginia 5 – Bath, Virginia 7 – Buckingham, West Virginia 4 – Grant, and West Virginia 7 – Raleigh.

[124] This market is West Virginia 5 – Tucker.

[125] These markets are Maryland 1 – Garrett, North Carolina 9 – Camden, North Carolina 11 – Hoke, North Carolina 12 – Sampson, North Carolina 13 – Greene, North Carolina 14 – Pitt, Tennessee 3 – Macon, Virginia 2 – Tazewell, Virginia 3 – Giles, Virginia 5 – Bath, Virginia 7 – Buckingham, and West Virginia 7 – Raleigh.

[126] This market is West Virginia 4 – Grant.

[127] These markets are Maryland 1 – Garrett, North Carolina 11 – Hoke, North Carolina 12 – Sampson, Virginia 3 – Giles, and Virginia 7 – Buckingham.

[128] These markets are West Virginia 4 – Grant and West Virginia 7 – Raleigh.

significant 4G LTE population coverage at speeds of at least 5/1 Mbps in five of the markets,[129] and close-to-significant 4G LTE population coverage at speeds of at least 5/1 Mbps in two of the markets.[130] Additionally, Carolina West Wireless has close-to-significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in one of the markets.[131]

26. T-Mobile has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in three of the markets,[132] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in one of the markets,[133] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in six of the markets,[134] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[135] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in three[136] of the markets.[137] AT&T has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in one of the markets,[138] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[139] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in 12 of the markets.[140] Verizon has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in 14 of the markets.[141] Finally, EchoStar has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some

[129] These markets are North Carolina 9 – Camden, North Carolina 13 – Greene, North Carolina 14 – Pitt, Virginia 2 – Tazewell, and Virginia 5 – Bath.

[130] These markets are Tennessee 3 – Macon and West Virginia 5 – Tucker.

[131] This market is North Carolina 3 – Ashe.

[132] These markets are Maryland 1 – Garrett, North Carolina 11 – Hoke, and Virginia 3 – Giles.

[133] This market is North Carolina 12 – Sampson.

[134] These markets are North Carolina 9 – Camden, North Carolina 13 – Greene, North Carolina 14 – Pitt, Virginia 5 – Bath, West Virginia 4 – Grant, and West Virginia 7 – Raleigh.

[135] These markets are Virginia 2 – Tazewell and Virginia 7 – Buckingham.

[136] These markets are North Carolina 3 – Ashe, Tennessee 3 – Macon, and West Virginia 5 – Tucker.

[137] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population coverage in North Carolina 14 – Pitt, Virginia 3 – Giles, Virginia 5 – Bath, West Virginia 4 – Grant, and West Virginia 7 – Raleigh, close-to-significant population coverage in North Carolina 13 – Greene, and has deployed its network to some extent in Maryland 1 – Garrett, North Carolina 3 – Ashe, North Carolina 9 – Camden, North Carolina 11 – Hoke, North Carolina 12 – Sampson, Tennessee 3 – Macon, Virginia 2 – Tazewell, Virginia 7 – Buckingham, and West Virginia 5 – Tucker. Further, AT&T has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in all 15 markets, while Verizon has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Maryland 1 – Garrett, North Carolina 11 – Hoke, North Carolina 12 – Sampson, North Carolina 13 – Greene, North Carolina 14 – Pitt, Tennessee 3 – Macon, Virginia 2 – Tazewell, Virginia 3 – Giles, Virginia 5 – Bath, Virginia 7 – Buckingham, West Virginia 4 – Grant, West Virginia 5 – Tucker, and West Virginia 7 – Raleigh. Finally, EchoStar has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Maryland 1 – Garrett, North Carolina 11 – Hoke, North Carolina 12 – Sampson, North Carolina 13 – Greene, North Carolina 14 – Pitt, Virginia 3 – Giles, West Virginia 4 – Grant, and West Virginia 7 – Raleigh, and Carolina West Wireless has deployed its 5G-NR network at speeds of at least 35/3 Mbps in North Carolina 3 – Ashe.

[138] This market is Maryland 1 – Garrett.

[139] These markets are West Virginia 4 – Grant and West Virginia 7 – Raleigh.

[140] These markets are North Carolina 3 – Ashe, North Carolina 9 – Camden, North Carolina 11 – Hoke, North Carolina 12 – Sampson, North Carolina 13 – Greene, North Carolina 14 – Pitt, Tennessee 3 – Macon, Virginia 2 – Tazewell, Virginia 3 – Giles, Virginia 5 – Bath, Virginia 7 – Buckingham, and West Virginia 5 – Tucker.

[141] These markets are Maryland 1 – Garrett, North Carolina 9 – Camden, North Carolina 11 – Hoke, North Carolina 12 – Sampson, North Carolina 13 – Greene, North Carolina 14 – Pitt, Tennessee 3 – Macon, Virginia 2 – Tazewell,
(continued….)

extent in eight of the markets,[142] while Carolina West Wireless has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in one of the markets.[143]

27. *Northeast*: There are nine CMAs in the Northeastern United States[144] in which T-Mobile triggers the HHI screen.[145] Four of these CMAs are non-rural markets with populations ranging from approximately 111,100 to 422,900, and population densities of 114 to 479 people per square mile, while five CMAs are rural markets with populations ranging from approximately 87,200 to 241,900, and population densities of 9 to 93 people per square mile.

28. Considering first the four non-rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}. In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%, and Verizon currently holds {[ ]}%. No other service provider currently has a significant market share in these non-rural markets.[146]

29. In these four non-rural markets, T-Mobile is attributed with 201.5 to 380 megahertz of spectrum on a county-by-county basis pre-transaction, including 54 to 76 megahertz of below-1-GHz spectrum. With T-Mobile acquiring 10 to 82 megahertz of spectrum in these markets, including up to 22 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 283.5 to 390 megahertz of spectrum, including 76 megahertz of below-1-GHz spectrum.[147] AT&T is attributed with 218 to 254 megahertz of spectrum on a county-by-county basis, including 18 to 43 megahertz of below-1-GHz spectrum, and Verizon is attributed with 247 to 307 megahertz of spectrum, including 47 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 101 to 140 megahertz of spectrum, including 10 to 20 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 12 megahertz of spectrum, including up to 12 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with 45 to 147 megahertz of spectrum on a county-by-county basis post-transaction, including 22 to 47 megahertz of below-1-GHz spectrum.

30. According to providers' BDC coverage data, regarding service coverage in these four non-rural markets, AT&T, T-Mobile, and Verizon each have significant 4G LTE population and land area

(Continued from previous page)
Virginia 3 – Giles, Virginia 5 – Bath, Virginia 7 – Buckingham, West Virginia 4 – Grant, West Virginia 5 – Tucker, and West Virginia 7 – Raleigh.

[142] These markets are Maryland 1 – Garrett, North Carolina 11 – Hoke, North Carolina 12 – Sampson, North Carolina 13 – Greene, North Carolina 14 – Pitt, Virginia 3 – Giles, West Virginia 4 – Grant, and West Virginia 7 – Raleigh.

[143] This market is North Carolina 3 – Ashe.

[144] Within the Northeast region, there are four other CMAs that do not trigger the HHI screen but would trigger the total spectrum screen or enhanced factor review if the T-Mobile-Grain transaction were not approved. We have conducted a competitive analysis of these CMAs and found a low likelihood of competitive harm.

[145] In numerical order, the four non-rural CMAs are: CMA 133: Manchester-Nashua, NH; CMA 152: Portland, ME; CMA 279: Lewiston-Auburn, ME; and CMA 549: New Hampshire 2 – Carroll. In numerical order, the five rural CMAs are: CMA 224: Bangor, ME; CMA 463: Maine 1 – Oxford; CMA 464: Maine 2 – Somerset; CMA 465: Maine 3 – Kennebec; and CMA 548: New Hampshire 1 – Coos.

[146] In these markets, Charter holds up to {]}% of subscribers and Comcast holds up to {[ ]}%. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's shares would be {[ ]}%. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

[147] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 269.5 to 376 megahertz of spectrum post-transaction in these markets, including 62 megahertz of below-1-GHz spectrum.

coverage at speeds of at least 5/1 Mbps in all four markets. T-Mobile has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in two of the markets,[148] significant 5G-NR population coverage and close-to-significant 5G-NR land area coverage at speeds of at least 7/1 Mbps in one of the markets,[149] and significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one[150] of the markets.[151] AT&T has close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets[152] and has deployed its 5G-NR networks at speeds of at least 7/1 Mbps to some extent in three of the markets.[153] Verizon has deployed its 5G-NR networks at speeds of at least 7/1 Mbps to some extent in all four markets. Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[154] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in two of the markets.[155]

31. In the five rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}. In these five rural Northeastern markets, T-Mobile would hold {[ ]}% post-transaction, while AT&T currently holds {[ ]}%, and Verizon currently holds {[ ]}%. No other service provider currently has a significant market share in these rural markets.[156]

32. In these five rural markets, T-Mobile is attributed with 248.5 to 338 megahertz of spectrum on a county-by-county basis pre-transaction, including 44 to 56 megahertz of below-1-GHz spectrum. With T-Mobile acquiring 30 to 77 megahertz of spectrum, including 20 to 32 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 302.5 to 390 megahertz of spectrum, including 76 megahertz of below-1-GHz spectrum.[157] AT&T is attributed with 186 to 234 megahertz of spectrum on a county-by-county basis, including 6 to 31 megahertz of below-1-GHz spectrum, while Verizon is attributed with 247 to 302 megahertz of spectrum, including 47 to 72 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 101 to 110 megahertz of spectrum, including 10 to 16 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and

[148] These markets are Manchester-Nashua, NH and Lewiston-Auburn, ME.

[149] This market is Portland ME.

[150] This market is New Hampshire 2 – Carroll.

[151] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population coverage and close-to-significant land area coverage in Manchester-Nashua, NH, significant population coverage in Lewiston-Auburn, ME, close-to-significant population coverage in Portland, ME, and has deployed its network to some extent in New Hampshire 2 – Carroll. Further, AT&T has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in all four markets. Additionally, Verizon has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Manchester-Nashua, NH, Portland, ME, and Auburn-Lewiston, ME. Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Manchester-Nashua, NH and Lewiston-Auburn, ME and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Portland, ME.

[152] This market is Portland, ME.

[153] These markets are Manchester-Nashua, NH, Lewiston-Auburn, ME, and New Hampshire 2 – Carroll.

[154] These markets are Manchester-Nashua, NH and Lewiston-Auburn, ME.

[155] These markets are Portland, ME and New Hampshire 2 – Carroll.

[156] In these markets, Charter holds up to {]}% of subscribers and Comcast holds up to {[ ]}%. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's shares would be {[ ]}%. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

[157] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 288.5 to 376 megahertz of spectrum post-transaction in these markets, including 62 megahertz of below-1-GHz spectrum.

110 megahertz of spectrum, including up to 10 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with 137 to 179 megahertz of spectrum on a county-by-county basis post-transaction, including 37 to 59 megahertz of below-1-GHz spectrum.

33. According to providers' BDC coverage data, regarding service coverage in these five rural markets, T-Mobile has significant 4G LTE population coverage and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in one of the markets,[158] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in four of the markets.[159] AT&T has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in one of the markets[160] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in four of the markets,[161] and Verizon has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in four of the markets[162] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in one of the markets.[163]

34. T-Mobile has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[164] and close-to-significant population coverage at speeds of at least 7/1 Mbps in three[165] of the markets.[166] AT&T has close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[167] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in four of the markets.[168] Verizon has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in four of the markets.[169] Finally, EchoStar has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in one of the markets.[170]

35. *West*: There are 12 CMAs in the Western United States[171] in which T-Mobile triggers the HHI screen.[172] One of these CMAs is a non-rural market with a population of approximately 303,600,

[158] This market is New Hampshire 1 – Coos.

[159] These markets are Bangor, ME, Maine 1 – Oxford, Maine 2 – Somerset, and Maine 3 – Kennebec.

[160] This market is New Hampshire – Coos.

[161] These markets are Bangor, ME, Maine 1 – Oxford, Maine 2 – Somerset, and Maine 3 – Kennebec.

[162] These markets are Bangor, ME, Maine 1 – Oxford, Maine 3 – Kennebec, and New Hampshire 1 – Coos.

[163] This market is Maine 2 – Somerset.

[164] These markets are Bangor, ME and New Hampshire 1 – Coos.

[165] These markets are Maine 1 – Oxford, Maine 2 – Somerset, and Maine 3 – Kennebec.

[166] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, AT&T and T-Mobile have deployed their networks to some extent in all five rural markets, while EchoStar has deployed its network to some extent in Bangor, ME.

[167] This market is Bangor, ME.

[168] These markets are Maine 1 – Oxford, Maine 2 – Somerset, Maine 3 – Kennebec, and New Hampshire 1 – Coos.

[169] These markets are Bangor, ME, Maine 2 – Somerset, Maine 3 – Kennebec, and New Hampshire 1 – Coos.

[170] This market is Bangor, ME.

[171] Within the West region, there is one other CMA that does not trigger the HHI screen but would trigger enhanced factor review if the T-Mobile-Grain transaction were not approved. We have conducted a competitive analysis of this CMA and found a low likelihood of competitive harm.

[172] The one non-rural CMA is CMA 214: Richland-Kennewick-Pasco, WA. In numerical order, the 11 rural CMAs are: CMA 191: Yakima, WA; CMA 229: Medford, OR; CMA 336: California 1 – Del Norte; CMA 344: California 9 – Mendocino; CMA 607: Oregon 2 – Hood River; CMA 608: Oregon 3 – Umatilla; CMA 610: Oregon 5 – Coos; CMA 611: Oregon 6 – Crook; CMA 697: Washington 5 – Kittitas; CMA 698: Washington 6 – Pacific; and CMA 699: Washington 7 – Skamania.

and a population density of 102 people per square mile, while 11 CMAs are rural markets with populations ranging from approximately 34,800 to 308,100, and population densities of 7 to 80 people per square mile.

36. Considering first the non-rural CMA Richland-Kennewick-Pasco, WA, the post-transaction HHI in this market would be {[ ]} with a change in the HHI of {[ ]}. In terms of significant market share, T-Mobile would hold {[ ]}% post-transaction, while AT&T holds {[ ]}%, and Verizon holds {[ ]}%. No other service provider currently has a significant market share in this non-rural market.[173]

37. In this rural market, T-Mobile is attributed with 311.5 megahertz of spectrum on a county-by-county basis pre-transaction, including 54 megahertz of below-1-GHz spectrum. With T-Mobile acquiring 52 megahertz of spectrum, including 22 megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 363.5 megahertz of spectrum, including 76 megahertz of below-1-GHz spectrum.[174] AT&T is attributed with 245 megahertz of spectrum on a county-by-county basis, including 55 megahertz of below-1-GHz spectrum, and Verizon is attributed with 252 to 277 megahertz of spectrum, including 22 to 47 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 96 megahertz of spectrum, including 16 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 49.5 megahertz of spectrum, including up to 25 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with 135 megahertz of spectrum on a county-by-county basis post-transaction, including 35 megahertz of below-1-GHz spectrum.

38. According to providers' BDC coverage data, regarding service coverage in this non-rural market, AT&T, T-Mobile, and Verizon each have significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps. AT&T and T-Mobile each have significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps, and Verizon and EchoStar each have significant 5G-NR population coverage at speeds of at least 7/1 Mbps in this market.[175]

39. In the 11 rural CMAs, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}. In these 11 rural Western markets, T-Mobile would hold {[ ]}% post-transaction, while AT&T holds {[ ]}%, and Verizon holds {[ ]}%. No other service provider currently has a significant market share in these rural markets.[176]

40. In these 11 rural markets, T-Mobile is attributed with 239 to 390 megahertz of spectrum on a county-by-county basis pre-transaction, including 54 to 66 megahertz of below-1-GHz spectrum. With T-Mobile acquiring up to 79.5 megahertz of spectrum in these markets, including up to 22

[173] In this market, Charter holds{[ ]}% of subscribers. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market share to {[ ]}%, while AT&T's share would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's share would be {[ ]}%. Based on these numbers, the post-transaction HHI in this market would be {[ ]} with a change in the HHI of {[ ]}.

[174] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 349.5 megahertz of spectrum post-transaction in this market, including 62 megahertz of below-1-GHz spectrum.

[175] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population and land area coverage, Verizon has significant population coverage, AT&T has close-to-significant population coverage, and EchoStar has deployed its network to some extent in this market.

[176] In these markets, Charter holds up to {[ ]}% of subscribers and Comcast holds up to {[ ]}%. Including cable providers' shares in the market share calculations would lower T-Mobile's post-transaction market shares to {[ ]}%, while AT&T's shares would be {[ ]}% and Verizon's would be {[ ]}%. In addition, EchoStar's shares would be {[ ]}%, and Altice has started to offer service in some of these markets. Based on these numbers, the average post-transaction HHI in this cluster would be {[ ]} with an average change in the HHI of {[ ]}.

megahertz of below-1-GHz spectrum, T-Mobile would be attributed with 281 to 390 megahertz of spectrum, including 56 to 76 megahertz of below-1-GHz spectrum.[177] AT&T is attributed with 228 to 295 megahertz of spectrum on a county-by-county basis, including 18 to 55 megahertz of below-1-GHz spectrum, while Verizon is attributed with 215 to 302 megahertz of spectrum, including 22 to 72 megahertz of below-1-GHz spectrum. Additionally, EchoStar is attributed with 95 to 121 megahertz of spectrum, including 10 to 26 megahertz of below-1-GHz spectrum, and multiple other licensees are attributed with between 5 and 100 megahertz of spectrum, including up to 35 megahertz of below-1-GHz spectrum. Finally, UScellular would be attributed with up to 177 megahertz of spectrum on a county-by-county basis post-transaction, including up to 57 megahertz of below-1-GHz spectrum.

41. According to providers' BDC coverage data, regarding service coverage in these 11 rural markets, T-Mobile has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in one of the markets,[178] significant 4G LTE population coverage and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in two of the markets,[179] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in eight of the markets.[180] Further, AT&T has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in five of the markets,[181] significant 4G LTE population coverage and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in two of the markets,[182] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in four of the markets.[183] Additionally, Verizon has significant 4G LTE population and land area coverage at speeds of at least 5/1 Mbps in five of the markets,[184] significant 4G LTE population coverage and close-to-significant 4G LTE land area coverage at speeds of at least 5/1 Mbps in two of the markets,[185] and significant 4G LTE population coverage at speeds of at least 5/1 Mbps in four of the markets.[186]

42. T-Mobile has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in one of the markets,[187] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in nine of the markets,[188] and close-to-significant 5G-NR population coverage at speeds of at least 7/1

[177] If the T-Mobile-Grain transaction were to be approved, T-Mobile would be attributed with 267 to 376 megahertz of spectrum post-transaction in these markets, including 42 to 62 megahertz of below-1-GHz spectrum.

[178] This market is Washington 5 – Kittitas.

[179] These markets are Yakima, WA and Oregon 2 – Hood River.

[180] These markets are Medford, OR, California 1 – Del Norte, California 9 – Mendocino, Oregon 3 – Umatilla, Oregon 5 – Coos, Oregon 6 – Crook, Washington 6 – Pacific, and Washington 7 – Skamania.

[181] These markets are Yakima, WA, Medford, OR, Oregon 2 – Hood River, Oregon 6 – Crook, and Washington 5 – Kittitas.

[182] These markets are Oregon 3 – Umatilla and Washington 7 – Skamania.

[183] These markets are California 1 – Del Norte, California 9 – Mendocino, Oregon 5 – Coos, and Washington 6 – Pacific.

[184] These markets are Yakima, WA, Oregon 2 – Hood River, Oregon 5 – Coos, Oregon 6 – Crook, and Washington 5 – Kittitas.

[185] These markets are Oregon 3 – Umatilla and Washington 6 – Pacific.

[186] These markets are Medford, OR, California 1 – Del Norte, California 9 – Mendocino, and Washington 7 – Skamania.

[187] This market is Washington 5 – Kittitas.

[188] These markets are Yakima, WA, Medford, OR, California 1 – Del Norte, California 9 – Mendocino, Oregon 2 – Hood River, Oregon 3 – Umatilla, Oregon 5 – Coos, Oregon 6 – Crook, and Washington 6 – Pacific.

Mbps in one[189] of the markets.[190] AT&T has significant 5G-NR population and land area coverage at speeds of at least 7/1 Mbps in one of the markets,[191] significant 5G-NR population coverage at speeds of at least 7/1 Mbps in five of the markets,[192] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in five of the markets.[193] Verizon has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[194] close-to-significant 5G-NR population coverage at speeds of at least 7/1 Mbps in one of the markets,[195] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in eight of the markets.[196] Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 7/1 Mbps in two of the markets,[197] and has deployed its 5G-NR network at speeds of at least 7/1 Mbps to some extent in three of the markets.[198]

[189] This market is Washington 7 – Skamania.

[190] In terms of 5G-NR coverage at speeds of at least 35/3 Mbps, T-Mobile has significant population and land area coverage in Washington 5 – Kittitas, significant population coverage in Yakima, WA, Medford, OR, California 1 – Del Norte, California 9 – Mendocino, Oregon 2 – Hood River, Oregon 3 – Umatilla, Oregon 5 – Coos, Oregon 6 – Crook, and Washington 6 – Pacific, and has deployed its network to some extent in Washington 7 – Skamania. Further, AT&T has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Medford, OR, close-to-significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Yakima, WA, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in California 1 – Del Norte, California 9 – Mendocino, Oregon 2 – Hood River, Oregon 3 – Umatilla, Oregon 5 – Coos, Oregon 6 – Crook, Washington 5 – Kittitas, Washington 6 – Pacific, and Washington 7 – Skamania. Additionally, Verizon has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Yakima, WA, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Medford, OR, California 1 – Del Norte, California 9 – Mendocino, Oregon 2 – Hood River, Oregon 3 – Umatilla, Oregon 5 – Coos, Oregon 6 – Crook, Washington 5 – Kittitas, and Washington 6 – Pacific. Finally, EchoStar has significant 5G-NR population coverage at speeds of at least 35/3 Mbps in Yakima, WA and Medford, OR, and has deployed its 5G-NR network at speeds of at least 35/3 Mbps to some extent in Oregon 5 – Coos, Oregon 6 – Crook, and Washington 6 – Pacific.

[191] This market is Washington 5 – Kittitas.

[192] These markets are Yakima, WA, Medford, OR, California 9 – Mendocino, Oregon 2 – Hood River, and Washington 6 – Pacific.

[193] These markets are California 1 – Del Norte, Oregon 3 – Umatilla, Oregon 5 – Coos, Oregon 6 – Crook, and Washington 7 – Skamania.

[194] These markets are Yakima, WA and Oregon 6 – Crook.

[195] This market is Medford, OR.

[196] These markets are California 1 – Del Norte, California 9 – Mendocino, Oregon 2 – Hood River, Oregon 3 – Umatilla, Oregon 5 – Coos, Washington 5 – Kittitas, Washington 6 – Pacific, and Washington 7 – Skamania.

[197] These markets are Yakima, WA and Medford, OR.

[198] These markets are Oregon 5 – Coos, Oregon 6 – Crook, and Washington 6 – Pacific.

APPENDIX E

Technical Appendix

1. This Appendix contains a summary of the Commission's engineering analysis of the technical information that was submitted by the Applicants to support their claimed efficiencies in connection with the proposed transaction between T-Mobile and UScellular. The proposed transaction would combine certain terrestrial access networks and spectrum holdings of T-Mobile and UScellular. This Appendix first defines and explains the terminology used. Then, it provides Capacity, Spectrum, and Loading Analysis, Coverage Analysis, and Fixed Wireless Access Analysis performed by the engineering staff. As explained below, we find that the proposed transaction is likely to generate benefits for both UScellular and T-Mobile customers, including by increasing 5G network coverage and capacity for mobile and FWA services, throughout the footprint.

I. TERMINOLOGY

2. *Spectrum* is the set of radio wave frequencies used by an operator to provide communications services to its subscribers.[1] It is measured in Hertz (Hz) which represents the number of wave cycles that will pass a point in one second.[2] Since radio waves travel at the speed of light, the wave length is easily calculated from the wave's frequency. When referring to radio spectrum used for mobile broadband services, frequency is typically measured in kilohertz (1000 Hertz), megahertz (MHz) (1 million Hertz), or gigahertz (GHz) (1 billion Hertz). Note that these units can refer to either the frequency of a radio wave or the bandwidth between two frequencies. For example, there is five megahertz of bandwidth between the radio frequency 1930 MHz (1.93 GHz) and 1935 MHz (1.935 GHz).

3. The portion of spectrum used in the cell consists of one or more *radio channels. Radio Frequency carrier* (or RF carrier) refers both to the radio equipment for a radio channel and the signals broadcast over the air on that radio channel.[3] For example, both LTE and 5G can operate with 5+5 megahertz RF carriers, where 5 megahertz is used for uplink transmissions from subscriber devices to the network and another 5 megahertz is used for downlink transmissions from the network to subscriber devices. One RF carrier can support many devices concurrently.

4. *Network equipment* includes cell sites that make up the radio network.[4] Cell sites typically include a support structure (i.e., a tower, building, or other structure that provides a desired

[1] Newton's Telecom Dictionary 1187 (31st ed. 2018) (Spectrum is defined as "[a] continuous range of frequencies, usually wide in extent within which waves have some specific common characteristics.").

[2] Weisman, C.J. (2002). *The essential guide to RF and wireless*. Pearson Education, at 9 (Weisman (2002)) ("The number of times a signal goes through a complete up and down cycle (from point A to point E) in one second is the signal's *frequency* (measured in Hertz and abbreviated Hz).").

[3] Weisman (2002) at 9-10 ("Frequency is what separates one [Radio Frequency or RF] signal from another and it is what distinguishes one wireless application from another."); *Id.* at 11-12 ("Only analog signals (sine waves) are used to carry information 'on their backs' as they travel through the air. These analog 'carrier' signal s can carry either analog or digital 'information' signals. The process of combining information signals on top of carrier signals is called modulation. . . . When an information signal is combined with a carrier signal the result is known as wireless communications, and the analog signal doing the carrying is called RF or the *carrier*. . . ."); Calhoun, G., *Digital cellular radio*. Artech House, at 206-07 (1988) ("Most radio transmission utilizes a continuous wave of a fixed frequency, called the *carrier* . . . The modulated carrier—i.e., the carrier with the information . . . actually occupies a narrow region of the spectrum . . . the width of this region—the *occupied bandwidth*—is also measured in KHz or MHz. This is what is commonly referred to as a radio *channel*.").

[4] Tabbane, S. (2000). Handbook of Mobile Radio Networks. Artech House, at 206-07 (Tabbane (2000)) ("The cellular architecture was originally designed as a means of providing a region of substantial geographic size . . . with a communications network using a limited frequency allocation and servicing an increasing traffic demand . . . . The mechanism is based on the pathloss property of radio waves, which means that a frequency used on one site can be

(continued….)

height above the ground), antennas, cables, radios, processors, etc. One site contains one or more sectors,[5] with most sites having three sectors.[6] A sector corresponds to a geographic cell of radio coverage that uses a portion of the spectrum to communicate with a number of subscriber devices, such as smartphone devices, within that geographic area.[7]

5. *Macrocell* refers to a traditional large-scale cell site with traditional antennas or remote radio heads mounted on a tower, building rooftop, or similar large structure, which are then connected to an equipment cabinet or shelter at the base of the tower or within the building or structure.[8]

6. *Spectral efficiency* refers to the amount of traffic a given amount of spectrum in a cell can support.[9] Newer technologies generally increase spectral efficiency compared to older technologies, for example, 5G has a greater spectral efficiency than LTE and therefore provides more capacity per RF carrier of equal size.

7. *Offered Speed* is the average downlink speed of each sector in the network, measured in megabits per second (Mbps). It is calculated as the product of spectrum deployed (downlink megahertz) and spectral efficiency (bits per second/hertz), summed across all bands deployed in each sector.[10]

8. *Offered Capacity* or *Offered Traffic* is the downlink capacity of the entire network, measured in exabytes per month (EB/month). Offered capacity is calculated by converting the offered speed for each sector to a monthly value, and then summing across all sectors in the network.[11]

9. *Carried Traffic* is the amount of traffic usage or traffic demand of the network.

10. *Loading* refers to the ratio of the carried traffic to offered traffic.

11. *Busy Hour* refers to the busiest hour of the day with the highest amount of traffic on the network or the sector.

12. *Coverage* (area) refers to the geographic footprint within which user access to a wireless network is predicted to be available with high confidence and with an estimated minimum downlink user speed.

(Continued from previous page)
reused on another site provided that the two sites are sufficiently far from each other. Each site covers an area called a *cell*, the size of which usually depends on user density.").

[5] *Sectorization* is defined in the Commission's rules as: "The use of an antenna system at any broadband station, booster station and/or response station hub that is capable of simultaneously transmitting multiple signals over the same frequencies to different portions of the service area and/or simultaneously receiving multiple signals over the same frequencies from different portions of the service area." 47 CFR § 27.4; *see also* Tabbane (2000) at 220 (graphical examples of sites having between one to three sectors).

[6] Tabbane (2000) at 295.

[7] *Id.* Each sector can be considered a new cell as it uses a different set of channels and a directional antenna.

[8] Macrocells are traditionally defined having a radius between 1 and 30 km. Tabbane (2000) at 297.

[9] Spectral efficiency is a measure of modulation efficiency and can be defined as the number of "bits per second per Hertz" or the number of bits that are transmitted in a given period of time, usually one second, over a radio channel with a defined bandwidth. George Calhoun, Digital Cellular Radio 304-05, 394 (1988).

[10] *See* Public Interest Statement, Kapoor Decl. ¶ 9 & n.2.

[11] *See id.* ¶ 9 & n.3.

13. *Rural Area*, according to the Census Bureau, is defined as an area encompassing all population, housing, and territory not included in an urban area.[12]

14. *In-Home Broadband* or *fixed wireless access (FWA) service* refers to residential broadband service.[13]

15. *Eligible Household* refers to a household located within T-Mobile's coverage area with sufficient signal quality as well as capacity suitable to support the FWA service.[14]

16. *Supported Household* is determined based on a calculation that recognizes that the FWA use by one subscriber, as well as ordinary mobile usage growth, will impact the continued availability of "excess" capacity and used assumptions about characterizing such use to determine how many FWA subscribers could be supported in a specific area.[15]

17. *H3 resolution-9 hexagons (hex-9s)* refers to the smallest hexagonal geography shown on the FCC National Broadband Map for an area with fixed or mobile wireless coverage.[16]

18. *Broadband Serviceable Locations (BSLs)* are business or residential locations at which mass-market fixed broadband Internet access service exists or can be installed. BSLs can include structures that are (or contain) housing units or group quarters.[17]

II. CAPACITY, SPECTRUM, AND LOADING ANALYSIS

19. In response to WTB and OEA's Information and Data Requests, the Applicants provided network capacity models providing their methodology used to support their claims related to overall offered downlink speeds, downlink capacities, rural downlink speeds, and rural downlink capacities for UScellular's standalone network, T-Mobile's standalone network, and the combined network.[18] The Applicants also provided information indicating that the combined network would include {[ ]} UScellular keep-sites (in addition to the acquired UScellular spectrum).[19]

20. In these models, the offered downlink speeds and capacities are calculated at all sites relevant to each model based on an average spectral efficiency and the amount of available spectrum for

[12] The Census Bureau states, "Rural encompasses all population, housing, and territory not included within an urban area." United States Census Bureau, Urban and Rural, https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html (last visited July 10, 2025).

[13] *See* Public Interest Statement at 1-2.

[14] *See*, *e.g.*, T-Mobile May 20 Response.

[15] *See*, *e.g.*, *id.* at 2 ("Thus, while an area might start with having 25 Eligible Households, that excess capacity might allow only 5 Supported Households so, after the fifth subscriber commits, the eligibility for the region would be reduced to zero.").

[16] *See* FCC, *FCC National Broadband Map*, https://broadbandmap.fcc.gov/home (last visited July 10, 2025) (shown as "Hex Level: 9" on a coverage map). Hex-9 average edge length is approximately 0.2 km with an average area of approximately 0.1 square km. *See* Tables of Cell Statistics Across Resolutions, https://h3geo.org/docs/core-library/restable/ (last visited July 10, 2025).

[17] FCC Broadband Data Collection Help Center, *About the Fabric: What a Broadband Serviceable Location (BSL) Is and Is Not* (Apr. 15, 2024), https://help.bdc.fcc.gov/hc/en-us/articles/16842264428059-About-the-Fabric-What-a-Broadband-Serviceable-Location-BSL-Is-and-Is-Not (last visited July 10, 2025). Each BSL record includes an address (if available), unit count, and land-use category. *Id.*

[18] *See* FCC-TMUS_000026345 (UScellular's standalone network); FCC-TMUS_000026350_2 (T-Mobile standalone network and the combined network).

[19] *See* T-Mobile May 2 Response at 3-4; *see also* FCC-TMUS_000026345; FCC-TMUS_000026348; FCC-TMUS_000026349.

each sector in the 600 MHz, 700 MHz, 850 MHz, AWS1, AWS3, PCS, EBS/BRS, and C-Band. The sector downlink speeds are calculated by the deployed downlink bandwidths multiplied by average spectral efficiencies. The Applicants' average spectral efficiency values for LTE and 5G technologies are shown in Table 1, below.[20] These values are the same for 5G technology, and generally lower for LTE technology, than the corresponding values used previously in the T-Mobile and Sprint transaction, summarized in Table 2, below. The Applicants state that values supplied in this matter reflect T-Mobile's "actual network build and performance"[21] and explain that low-band LTE networks mainly serve users in worse than normal signal strength conditions (because 5G and mid-bands are preferred for use over LTE in the mid-band coverage areas) and the amount of low band LTE spectrum is insignificant compared to the overall spectrum amount.[22]

	Spectral Efficiency (bps/Hz)	
Band	**LTE**	**5G**
600 MHz	{[ ]}	{[ ]}
700 MHz	{[ ]}	{[ ]}
850 MHz	{[ ]}	{[ ]}
AWS1 (1700 MHz)	{[ ]}	{[ ]}
AWS3 (1700 MHz)	{[ ]}	{[ ]}
PCS (1900 MHz)	{[ ]}	{[ ]}
EBS (2.5 GHz)	{[ ]}	{[ ]}
C-Band/DoD	{[ ]}	{[ ]}

Table 1: Average Spectral Efficiency Values Provided by the Applicants in the T-Mobile-UScellular Transaction.[23]

[20] *See* FCC-TMUS_000026345 (providing spectral efficiency values for LTE and 5G in the standalone UScellular network); *see also* FCC-TMUS_000026350_2 (providing spectral efficiency values for LTE and 5G in the standalone T-Mobile network and the combined network). T-Mobile also submitted measured downlink LTE-related spectral efficiency values from T-Mobile's current network that match the assumed values in the T-Mobile Capacity Model and the UScellular Capacity model. *See* T-Mobile May 2 Response at 2-3 & n.4; FCC-TMUS_000047304 (summarizing average LTE-specific downlink spectral efficiency by band and providing spectral efficiency snapshots for each T-Mobile site). T-Mobile explains that the low-band spectrum serves as a base layer of coverage and tends to serve subscribers at the fringes of cell sites where signal strengths and data rates are lower resulting in lower spectral efficiency. We credit T-Mobile's assertion that "[e]ven if the spectral efficiency were held fixed at the levels used for the Sprint transaction, the net effect on the results would be marginal." T-Mobile May 2 Response at 3 & n.5.

[21] T-Mobile May 2 Response at 2.

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

[23] This table is based on information provided by the Applicants. *See* FCC-TMUS_000026345 (providing spectral efficiency values for LTE and 5G); *see also* FCC-TMUS_000026350_2 (providing spectral efficiency values for LTE and 5G in the standalone T-Mobile network and the combined network).

Average Spectral Efficiency (bps/Cell)				Percentage Increase
Spectrum	**Antennas**	**LTE**	**5G**	
Low band	4x2 MIMO	2.1	2.5	19%
Mid band	4x4 MIMO	2.5	3.8	52%
mmWave	mMIMO	N/A	7	N/A

Table 2: Average Spectral Efficiency Values Provided by the Applicants in the T-Mobile-Sprint Transaction.[24]

21. The Applicants' network capacity models also calculate the total monthly downlink traffic tonnage by multiplying the calculated sector downlink speeds and the equivalent number of busy seconds per day for thirty days, then summing up the total traffic tonnage for all sectors. The models assume that network busy hour carries {[ ]}% of total daily traffic (the equivalent of {[ )]} of traffic per day).[25]

22. The capacity model for UScellular's network yields an overall average downlink speed of {[ ]} Mbps with the offered downlink capacity of {[ ]} exabytes[26] per month, which is consistent with the Applicants' claims.[27] The model for the standalone T-Mobile and combined network yields overall average downlink speeds of {[ ]} Mbps and {[ ]} Mbps, respectively, with offered downlink capacities of {[ ]} exabytes and {[ ]} exabytes per month, respectively. For rural areas, the network capacity model yields an overall average downlink speed of {[ ]} Mbps and {[ ]} Mbps with the offered downlink capacities of {[ ]} exabytes and {[ ]} exabytes per month for standalone T-Mobile and the combined networks, respectively.[28] We find that the modeled standalone T-Mobile and the combined offered network speeds and capacities are similar to, and consistent with, the Applicants' claimed speeds and capacities. We note that the modeled average speed is the sector average speed, meaning the average speed in a sector with a single active user. The average user speeds in a real-world deployment could be lower than the modeled average sector speed depending on the number of simultaneous active users or load on each sector. At the same time, instantaneous user speeds could

[24] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10774, para. 43, App. F, § V.A.1, Fig. A6 (citing Applications of T-Mobile USA, Inc., and Sprint Corporation for Consent To Transfer Control of Licenses and Authorizations, ULS File No. 0008224209 (filed June 18, 2018, amended July 5, 2018), Exh. 1—Description of the Transaction, Public Interest Statement, and Related Demonstrations at 25-26, Table 3) (providing a summary of spectral efficiency values supplied by the Applicants of the T-Mobile and Sprint transaction)).

[25] *See* FCC-TMUS_000026345 (UScellular's standalone network); FCC-TMUS_000026350_2 (T-Mobile standalone network and the combined network).

[26] 1 exabyte is 1 billion gigabytes.

[27] *See* FCC-TMUS_000026345; Public Interest Statement at 19-22, Fig. 1, Fig. 2 (Applicants claiming an offered downlink capacity of {[ ]} exabytes per month and offered average downlink speed of {[ ]} Mbps for the standalone UScellular network).

[28] These numbers are generally consistent with values claimed by the Applicants. *See* Public Interest Statement at 19-22, Fig. 1, Fig. 2 (the Applicants claiming overall average downlink speeds of {[ ]} Mbps, with offered downlink capacities of {[ ]} exabytes per month, for the standalone T-Mobile and combined networks, respectively). While there is a difference between the speeds and capacities determined by staff from the provided models and those claimed by the Applicants in the Public Interest Statement, staff notes that the provided models incorporate Applicants' updated network planning, which includes {]} more UScellular keep-sites for the combined company than identified in the Applicants' Public Interest Statement. T-Mobile May 2 Response at 3. Staff finds that this difference in numbers determined from the models and Applicants' claimed numbers to be consistent with incorporating the additional keep-sites.

exceed the average user speed due to, for example, the bursty nature of Internet traffic and the typical broadband user behavior.[29]

23. Next, we analyzed the Applicants' overall network spectrum utilization, from 2022 to 2024, based on their response to the engineering data request,[30] which is the ratio of deployed spectrum to the available spectrum at the sector level. Spectrum utilization is a measure of the intensity of spectrum deployment. 100% spectrum utilization means that all available spectrum is deployed on all sites in the network, whereas 50% spectrum utilization would mean, for example, that only half the amount of available spectrum is deployed on all sites or all available spectrum is deployed in only half of the sites. Table 3 is based on the information supplied by Applicants and lists the overall average spectrum utilizations for the combined LTE and 5G networks of both companies from 2022 to 2024.

	2022		2023		2024	
Band	**T-Mobile**	**UScellular**	**T-Mobile**	**UScellular**	**T-Mobile**	**UScellular**
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
800 MHz[31]	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
2.5 GHz	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
3.45 GHz	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
C-Band	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%

Table 3: 2022-2024 LTE & 5G Overall Average Spectrum Utilization[32]

24. The spectrum data suggests that T-Mobile is more intensely deploying its available spectrum resources than UScellular. By 2024, T-Mobile seems to be nearly maximizing its spectrum utilization in all available and deployed bands except the 2.5 GHz band (in which it has high utilization, but not as much as other bands),[33] whereas UScellular seems to be underutilizing its spectrum resources in

[29] *See* FCC, Measuring Broadband America, A Report on Consumer Wireline Broadband Performance in the U.S., at 4 (2011), https://docs.fcc.gov/public/attachments/DOC-308828A1.pdf (last visited July 10, 2025) (explaining, "Broadband Internet access service is 'bursty' in nature. On a short time scale, broadband speeds or information rates may vary widely").

[30] *See* T-Mobile Data Request Response, Attachment A; UScellular Data Request Response, Attachment A.

[31] T-Mobile's 800 MHz spectrum was subject to a divestiture requirement. *See* Public Interest Statement at 37 (citing *United States of America et al., v. Deutsche Telekom AG, T-Mobile US, Inc., Softbank Group Corp., Sprint Corporation, and DISH Network Corporation, Amended Final Judgment*, Case No. 1:19-cv-02232-TJK, at 12-14 (D.D.C. Oct. 23, 2023) (requiring T-Mobile to conduct an auction to divest its 800 MHz spectrum licenses by October 1, 2024)).

[32] Specifically, staff determined these values based on spectrum deployment and site information provided by the Applicants. *See* T-Mobile Data Request Response, Attachment A; UScellular Data Request Response, Attachment A.

[33] T-Mobile has C-Band and 3.45 GHz available only in a limited number of sites. *See* T-Mobile Data Request Response, Attachment A (Site Data tab); *see also* T-Mobile May 2 Response at 12-13 (stating that "while 850 MHz spectrum is listed in the historic deployed carriers data, that category is absent from either the site data or modeled deployed carriers data because T-Mobile closed a transaction to sell its only 850 MHz license in December of 2024"). T-Mobile also states that it generally has "{[

]}." *See* T-Mobile May 2 Response at 13.

all bands except in the PCS band. We find that, based on the Applicants' available and deployed spectrum data, T-Mobile is more intensely deploying its spectrum resources than UScellular.

25. We also analyzed the Applicants' network average downlink sector loading, which is the ratio of downlink average carried traffic to downlink average offered capacity at the sector level, for the busy hour from 2022 to 2024 based on information the Applicants provided in their response to the engineering data request.[34] Typical network design targets average sector loading of 50%,[35] and higher loadings can result in more traffic congestion and reduced average user speeds. In this analysis, we independently calculated the sector offered capacity using the spectral efficiencies in Table 2 to analyze a typical LTE deployment scenario.[36]

26. Figure 1 shows the standalone T-Mobile cumulative distribution function (CDF) of the average sector loadings for the combined LTE and 5G traffic for all sectors.

{[

]}

Figure 1: T-Mobile LTE & 5G Sector Loading CDF

27. From Figure 1, we find that approximately {[ ]}% of sectors have an average sector loading of less than 50% for 2022, 2023, and 2024, respectively; whereas, approximately {[ ]}% of sectors have an average sector loading of less than 70% for 2022, 2023, and 2024, respectively. This shows the trend of significant increases in T-Mobile's overall carried traffic, relative to its offered capacity, in 2024, compared to 2022 and 2023. Also, we find that approximately

[34] *See* T-Mobile Data Request Response, Attachment A; UScellular Data Request Response, Attachment A.

[35] *BDC Second Report and Order*, 35 FCC Rcd at 7477, para. 39.

[36] Since the average spectral efficiency values for the LTE low-band from Table 2 are larger than those that T-Mobile currently reports for its network, in Table 1, this analysis yields an upper estimate on sector offered capacity and thus a lower (i.e., conservative) estimate on traffic loading. If the spectral efficiency values in Table 1 were used instead, the analysis would yield very similar results.

{[ ]}% of T-Mobile average traffic loads occur at the busiest 5% of all sectors or 95th percentile for 2022, 2023, and 2024, respectively.[37] Overall in 2024, approximately {[ ]}% of T-Mobile's sectors have a loading of at least 50% and 70%, respectively.[38]

28. Figure 2 shows the standalone UScellular cumulative distribution function (CDF) of the average sector loading for the combined LTE and 5G traffic for all sectors.

{[

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Figure 2: UScellular LTE & 5G Sector Loading CDF

29. From Figure 2, we find that approximately {[ ]}% of UScellular's sectors have average sector loading of less than 50% for 2022, 2023, and 2024, respectively; whereas, approximately {[ ]}% of sectors have average sector loading of less than 70% for 2022, 2023, and 2024, respectively. This shows the trend of similar amount of overall carried traffic, relative to its offered capacity, for UScellular in 2023 and 2024, compared to 2022. Also, we find that approximately {[ ]}% of UScellular average traffic loads occur at the busiest 5% of all

[37] That is, as shown in Figure 1, the 95% level of the Cumulative Percentile of All Sectors (y-axis) corresponds to Overall Sector Loading values (x-axis) of less than {[ ]}% for 2022, 2023 and 2024, respectively.

[38] That is, as shown in Figure 1, the Cumulative Percentile of All Sectors (y-axis) for 2024 is approximately {[ ]}% at Overall Sector Loading values (x-axis) of less than 50% and 70%, respectively. *See infra* Tbl. 4.

sectors or 95th percentile for 2022, 2023, and 2024, respectively.[39] Overall in 2024, approximately {[ ]}% of UScellular sectors have a loading of at least 50% and 70%, respectively.[40]

30. Table 4 summarizes these observations of sector loading in the standalone T-Mobile and UScellular networks based on the information provided by the Applicants.[41]

	at less than 50% Sector Loading			at less than 70% Sector Loading		
	2022	2023	2024	2022	2023	2024
T-Mobile	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
UScellular	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
	at 50% Sector Loading or more			at 70% Sector Loading or more		
	2022	2023	2024	2022	2023	2024
T-Mobile	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%
UScellular	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%	{[ ]}%

Table 4: Percentage of Sectors Loaded

31. Overall, we observe a large increase in the percentage of T-Mobile sectors loaded at more than the 50% or 70% sector loading thresholds from 2023 to 2024; whereas, the percentage of UScellular sectors loaded at more than the 50% or 70% sector loading thresholds stays nearly the same from 2023 to 2024. Additionally, in 2024, approximately {[ ]}% of T-Mobile sectors versus {[ ]}% of UScellular sectors have loadings of at least 70%, which indicates that the T-Mobile network is slightly more heavily loaded than the UScellular network at the 70% loading threshold.

32. Table 5 is based on information provided by the Applicants[42] and shows the standalone T-Mobile and UScellular average sector loading by band and by environment for both LTE and 5G networks.

[39] That is, as shown in Figure 2, the 95% level of the Cumulative Percentile of All Sectors (y-axis) corresponds to Overall Sector Loading values (x-axis) of less than {[ ]}% for 2022, 2023 and 2024, respectively.

[40] That is, as shown in Figure 2, the Cumulative Percentile of All Sectors (y-axis) for 2024 is approximately {[ ]}% at Overall Sector Loading values (x-axis) of less than 50% and 70%, respectively. *See infra* Tbl. 4.

[41] T-Mobile Data Request Response, Attachment A; UScellular Data Request Response, Attachment A.

[42] *See* T-Mobile Data Request Response, Attachment A; UScellular Data Request Response, Attachment A.

Average LTE Sector Loading			
T-Mobile Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
2.5 GHz	{[ ]}%	{[ ]}%	{[ ]}%

Average 5G Sector Loading			
T-Mobile Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
2.5 GHz	{[ ]}%	{[ ]}%	{[ ]}%

Average LTE Sector Loading			
UScellular Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
800 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
C-Band	{[ ]}%	{[ ]}%	{[ ]}%
3.45 GHz	{[ ]}%	{[ ]}%	{[ ]}%
EBS	{[ ]}%	{[ ]}%	{[ ]}%

Average 5G Sector Loading			
UScellular Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
800 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
C-Band	{[ ]}%	{[ ]}%	{[ ]}%
3.45 GHz	{[ ]}%	{[ ]}%	{[ ]}%
EBS	{[ ]}%	{[ ]}%	{[ ]}%

Average LTE Sector Loading			
T-Mobile Non-Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
2.5 GHz	{[ ]}%	{[ ]}%	{[ ]}%

Average 5G Sector Loading			
T-Mobile Non-Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
2.5 GHz	{[ ]}%	{[ ]}%	{[ ]}%

Average LTE Sector Loading			
UScellular Non-Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
800 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
C-Band	{[ ]}%	{[ ]}%	{[ ]}%
3.45 GHz	{[ ]}%	{[ ]}%	{[ ]}%
EBS	{[ ]}%	{[ ]}%	{[ ]}%

Average 5G Sector Loading			
UScellular Non-Rural	2022	2023	2024
600 MHz	{[ ]}%	{[ ]}%	{[ ]}%
700 MHz	{[ ]}%	{[ ]}%	{[ ]}%
800 MHz	{[ ]}%	{[ ]}%	{[ ]}%
PCS	{[ ]}%	{[ ]}%	{[ ]}%
AWS	{[ ]}%	{[ ]}%	{[ ]}%
C-Band	{[ ]}%	{[ ]}%	{[ ]}%
3.45 GHz	{[ ]}%	{[ ]}%	{[ ]}%
EBS	{[ ]}%	{[ ]}%	{[ ]}%

Table 5: LTE and 5G Average Sector Loading by Band and by Environment

33. As evident from the table above, the UScellular network is similarly loaded for the low bands, on average, as compared to T-Mobile for both network types. While T-Mobile's network is more loaded than UScellular's for certain bands using 5G technology, we note that congestion typically occurs when sectors are highly loaded (not at average loading) at the most loaded sectors. We expect congestion to be lower in the combined T-Mobile network than in the standalone T-Mobile network described in Table 5 due to T-Mobile's acquisition of spectrum and network assets. Thus, post-transaction, we expect T-Mobile to have more capacity available and a less congested network.

34. With regard to congestion, T-Mobile claims that, in the UScellular footprint, the transaction will reduce network congestion resulting in {[ ]}% fewer sectors that will experience congestion compared to standalone UScellular and standalone T-Mobile, respectively.[43] T-Mobile defines congestion as actual user speed threshold of 8 Mbps during the busy hour[44] whereas UScellular considers a site congested when {[

]}.[45] This difference in the minimum user speed congestion thresholds alone suggests that UScellular customers could get a performance boost post-transaction when they experience congestion.

35. The Applicants' capacity models indicate that the offered capacity of the combined network is {[ ]} exabytes relative to {[ ]} exabytes for standalone T-Mobile and {[ ]} exabytes for UScellular,[46] or approximately {[ ]} percent increase in offered capacity relative to the sum of standalone T-Mobile and UScellular offered capacities. This substantial overall capacity increase is the result of additional acquired spectrum deployed on all T-Mobile sites in addition to the UScellular keep-sites.[47] We find that the Applicants' average capacity model methodology based on the amount of spectrum deployed at each sector is sound and the additional increase in offered capacity would substantially alleviate network loading and congestion compared to the standalone companies as discussed previously.

III. COVERAGE ANALYSIS

36. We analyzed the Applicants' LTE and 5G coverage using the H3 resolution-9 hexes (hex-9s) based on the BDC LTE and 5G December 2024 availability data.[48] We limit our analysis to states where UScellular offers meaningful coverage (number of hex-9s) and populations (pops). Table 6 lists the number of covered hex-9s and pops for UScellular and T-Mobile networks. The total UScellular and T-Mobile hexes and pops[49] include all areas and pops that either company claims coverage for in these states. Table 7 lists the number of covered hex-9s where only UScellular has coverage and T-Mobile does not, separately for LTE and 5G coverage. For 5G, there are approximately one million hex-9s and approximately 1.5 million pops that are served by UScellular but not by T-Mobile. For LTE, there

[43] Public Interest Statement, Kapoor Decl. ¶ 16.

[44] *Id.*

[45] UScellular May 21 Response at 2.

[46] *See* FCC-TMUS_000026345 (UScellular's standalone network); FCC-TMUS_000026350_2 (T-Mobile's standalone network).

[47] Public Interest Statement, Kapoor Decl. ¶ 12.

[48] FCC, *FCC National Broadband Map, Data Download*, https://broadbandmap.fcc.gov/data-download/data-by-provider (last visited June 4, 2025). In the Tables presented in this Appendix, "LTE 5/1" refers to an LTE download speed of 5 Mbps and upload speed of 1 Mbps and "5G 7/1" refers to a 5G download speed of 7 Mbps and upload speed of 1 Mbps.

[49] Denoted "Total USC & TMO Hexes" and "Total USC & TMO Pops," respectively, in the headings of Table 6.

are approximately 900,000 hex-9s and approximately one million pops that are served by UScellular but not by T-Mobile. Based on our analysis, the majority of the {[ ]} UScellular sites (keep-sites)[50] that T-Mobile intends to lease to expand its current coverage footprint are located in areas where standalone T-Mobile has only partial coverage.[51]

37. Table 8 and Table 9 compare T-Mobile and UScellular (combined) LTE and 5G coverage versus Verizon and AT&T coverage for 2024, respectively. These tables show that Verizon and AT&T have superior LTE 5/1 Mbps coverage compared to T-Mobile and UScellular (combined) in most states.[52] However, T-Mobile and UScellular (combined) 5G 7/1 Mbps coverage is superior to Verizon and AT&T in all these states. Overall, Verizon and AT&T currently offer superior LTE 5/1 Mbps coverage in these states compared to both T-Mobile and UScellular (combined). Verizon and AT&T cover approximately 2.9 million and 2.6 million more hex-9s and approximately 1.8 million and 1.6 million more pops, respectively, than T-Mobile and UScellular (combined).

38. We performed a geographical analysis of the coverage areas to be provided by the keep-sites to further verify the Applicants' coverage claims, based on the assumption that each keep-site coverage[53] radius is 1, 2, and 3 miles for urban, suburban and rural, respectively. Figure 3 shows a sample map of current keep-sites coverage analysis. It appears that many of the keep-sites are complementary to current T-Mobile's network for both coverage and capacity. These additional keep-sites would expand and enhance coverage and capacity[54] to the standalone T-Mobile network in these areas. Figure 4 shows the cumulative distribution function (CDF) of these keep-sites for UScellular coverage only (where standalone T-Mobile currently has no coverage). From the CDF in Figure 4, approximately {[ ]}%[55] and {[ ]}% of the keep-sites would contribute at least {[ ]}% additional cell coverage area where standalone T-Mobile currently has no coverage, respectively. These keep-sites would mainly help to expand standalone T-Mobile coverage.

[50] *See* T-Mobile May 2 Response at 3-4; *see also* FCC-TMUS_000026345; FCC-TMUS_000026348; FCC-TMUS_000026349; *see also supra* VII.A.

[51] *See infra* Appx. E, para. 38.

[52] T-Mobile and UScellular (combined) have superior LTE 5/1 Mbps coverage to Verizon in Iowa and Oklahoma and to AT&T in Iowa and Maine. *Infra* Appx. E, Tbls. 6, 8, 9.

[53] This analysis was performed based on December 2024 BDC LTE data.

[54] The keep-sites with a large percentage of overlapping coverage would augment standalone T-Mobile network capacity.

[55] In other words, {[ ]}% of the keep-sites contribute less than {[ ]}% of the keep-site cell coverage area and so would help with the capacity augmentation.

LTE 5/1 Coverage	Total USC Hexes	Total USC Pops	Total TMO Hexes	Total TMO Pops	Total USC & TMO Hexes	Total USC & TMO Pops
CA	145,185	328,209	1,797,438	39,028,156	1,824,406	39,038,007
IL	324,951	1,460,258	1,075,028	12,480,934	1,119,832	12,553,581
IA	1,088,913	3,040,267	1,171,543	3,043,838	1,281,336	3,154,825
KS	433,386	673,044	1,495,022	2,849,623	1,519,121	2,866,031
ME	200,545	974,843	201,698	1,105,381	273,487	1,201,488
MD	15,001	183,294	205,407	6,056,317	206,594	6,058,794
MO	376,003	1,468,000	1,014,265	5,816,745	1,100,522	5,882,950
NE	631,866	1,716,120	1,295,221	1,902,946	1,350,893	1,932,601
NH	43,475	593,384	123,374	1,260,154	127,558	1,275,414
NC	367,841	2,699,002	826,161	9,658,940	924,752	9,875,116
OK	533,894	3,182,767	1,207,616	3,844,774	1,258,559	3,877,174
OR	423,458	979,094	830,653	4,125,649	916,012	4,139,597
TN	112,273	1,235,265	581,040	6,306,921	605,144	6,374,051
VA	120,786	962,113	589,978	8,079,636	618,112	8,121,674
WA	227,480	890,417	916,693	7,499,939	947,105	7,515,298
WV	91,550	642,189	241,586	1,466,981	258,895	1,488,408
WI	484,962	4,789,272	713,781	5,396,871	834,520	5,627,383
Total USC States	**5,621,569**	**25,817,538**	**14,286,504**	**119,923,805**	**15,166,848**	**120,982,392**
5G 7/1 Coverage	**Total USC Hexes**	**Total USC Pops**	**Total TMO Hexes**	**Total TMO Pops**	**Total USC & TMO Hexes**	**Total USC & TMO Pops**
CA	108,873	288,355	1,636,748	38,659,968	1,664,557	38,675,440
IL	290,041	1,324,413	930,734	12,298,479	1,004,539	12,407,123
IA	931,835	2,878,555	1,030,737	2,940,926	1,207,617	3,109,889
KS	226,590	395,112	1,262,005	2,784,712	1,297,970	2,799,632
ME	164,491	787,302	175,583	1,032,469	245,137	1,141,031
MD	16,591	176,687	188,817	5,985,126	191,455	5,990,659
MO	339,033	935,810	835,039	5,620,164	963,103	5,730,284
NE	350,729	1,419,143	955,102	1,810,539	1,014,952	1,848,550
NH	14,819	104,484	95,438	1,147,321	99,111	1,158,730
NC	360,009	2,529,377	730,102	9,368,488	853,707	9,652,679
OK	337,659	1,345,532	1,007,196	3,730,905	1,085,537	3,784,987
OR	265,550	906,454	619,613	4,040,451	665,531	4,065,473
TN	75,192	1,023,447	493,589	6,088,885	512,365	6,155,766
VA	65,119	707,426	507,826	7,882,539	524,566	7,910,358
WA	214,802	858,451	746,558	7,331,471	791,313	7,359,490
WV	72,394	568,133	188,366	1,369,570	208,548	1,401,619
WI	451,407	4,639,384	544,279	5,144,518	715,986	5,503,924
Total USC States	**4,285,134**	**20,888,065**	**11,947,732**	**117,236,531**	**13,045,994**	**118,695,634**

Table 6: UScellular (USC) vs. T-Mobile (TMO) December 2024 BDC Coverage Data for LTE and 5G

	LTE 5/1 Coverage		5G 7/1 Coverage	
	USC Only (Hexes)	USC Only (Pops)	USC Only (Hexes)	USC Only (Pops)
CA	26,968	9,851	27,809	15,472
IL	44,804	72,647	73,805	108,644
IA	109,793	110,987	176,880	168,963
KS	24,099	16,408	35,965	14,920
ME	71,789	96,107	69,554	108,562
MD	1,187	2,477	2,638	5,533
MO	86,257	66,205	128,064	110,120
NE	55,672	29,655	59,850	38,011
NH	4,184	15,260	3,673	11,409
NC	98,591	216,176	123,605	284,191
OK	50,943	32,400	78,341	54,082
OR	85,359	13,948	45,918	25,022
TN	24,104	67,130	18,776	66,881
VA	28,134	42,038	16,740	27,819
WA	30,412	15,359	44,755	28,019
WV	17,309	21,427	20,182	32,049
WI	120,739	230,512	171,707	359,406
Total USC States	**880,344**	**1,058,587**	**1,098,262**	**1,459,103**

Table 7: UScellular (USC) Only December 2024 BDC Coverage Data for LTE and 5G

LTE 5/1 Coverage	VZW Only - no TMO or USC (Hexes)	VZW Only - no TMO or USC (Pops)	TMO or USC Only - no VZW (Hexes)	TMO or USC Only (no VZW) (Pops)	Total VZW Hexes	Total VZW Pops
CA	552,789	419,752	126,852	29,992	2,250,343	39,427,767
IL	257,985	249,987	7,439	5,572	1,370,378	12,797,996
IA	74,359	27,654	78,104	60,716	1,277,591	3,121,763
KS	303,448	66,957	46,654	3,765	1,775,915	2,929,223
ME	125,767	123,387	26,775	22,168	372,479	1,302,707
MD	33,746	83,408	7,321	14,634	233,019	6,127,568
MO	404,945	221,182	84,748	56,157	1,420,719	6,047,975
NE	268,825	23,505	88,973	3,550	1,530,745	1,952,556
NH	49,129	73,963	5,092	12,274	171,595	1,337,103
NC	311,535	460,513	43,256	150,330	1,193,031	10,185,299
OK	99,544	44,998	515,555	520,529	842,548	3,401,643
OR	609,682	68,277	73,506	17,147	1,452,188	4,190,727
TN	270,997	400,005	25,953	33,059	850,188	6,740,997
VA	310,958	424,312	23,041	24,326	906,029	8,521,660
WA	253,381	127,276	94,655	30,204	1,105,831	7,612,370
WV	111,054	116,936	59,657	105,153	310,292	1,500,191
WI	277,935	205,950	104,983	253,192	1,007,472	5,580,141
Total USC States	**4,316,079**	**3,138,062**	**1,412,564**	**1,342,768**	**18,070,363**	**122,777,686**

5G 7/1 Coverage	VZW Only - no TMO or USC (Hexes)	VZW Only - no TMO or USC (Pops)	TMO or USC Only - no VZW (Hexes)	TMO or USC Only (no VZW) (Pops)	Total VZW Hexes	Total VZW Pops
CA	60,805	339,657	899,184	2,842,233	826,178	36,172,864
IL	59,350	103,117	532,919	1,362,023	530,970	11,148,217
IA	12,722	12,940	892,131	1,121,425	328,208	2,001,404
KS	41,116	26,809	1,039,472	797,554	299,614	2,028,887
ME	1,873	7,156	235,734	959,097	11,276	189,090
MD	4,668	23,763	123,079	1,732,129	73,044	4,282,293
MO	22,415	35,368	791,617	2,657,230	193,901	3,108,422
NE	47,105	21,795	801,897	350,029	260,160	1,520,316
NH	3,427	14,109	86,945	794,291	15,593	378,548
NC	56,870	196,083	537,907	2,534,578	372,670	7,314,184
OK	27,680	38,609	837,916	1,081,300	275,301	2,742,296
OR	13,975	24,450	521,577	796,180	157,929	3,293,743
TN	21,707	70,989	347,231	1,985,618	186,841	4,241,137
VA	16,704	62,032	410,106	2,934,980	131,164	5,037,410
WA	9,202	38,672	643,639	1,847,274	156,876	5,550,888
WV	4,172	14,743	182,991	876,391	29,729	539,971
WI	30,314	45,133	527,644	2,125,308	218,656	3,423,749
Total USC States	**434,105**	**1,075,425**	**9,411,989**	**26,797,640**	**4,068,110**	**92,973,419**

Table 8: Verizon (VZW) and combined T-Mobile (TMO) and UScellular (USC) December 2024 BDC Coverage Data for LTE and 5G

LTE 5/1 Coverage	ATT Only - no TMO or USC (Hexes)	ATT Only - no TMO or USC (Pops)	TMO or USC Only - no ATT (Hexes)	TMO or USC Only (no ATT) (Pops)	Total ATT Hexes	Total ATT Pops
CA	464,854	329,046	194,050	156,160	2,095,210	39,210,893
IL	242,998	237,742	13,326	23,455	1,349,504	12,767,868
IA	77,705	26,343	87,194	83,850	1,271,847	3,097,318
KS	266,924	62,113	87,349	14,079	1,698,696	2,914,065
ME	69,788	90,800	75,161	94,889	268,114	1,197,399
MD	33,641	80,227	6,861	21,846	233,374	6,117,175
MO	385,711	218,380	54,638	36,946	1,431,595	6,064,384
NE	314,834	24,941	71,137	4,078	1,594,590	1,953,464
NH	45,717	79,913	4,577	9,413	168,698	1,345,914
NC	249,037	413,165	63,910	104,899	1,109,879	10,183,382
OK	178,687	60,987	125,239	46,710	1,312,007	3,891,451
OR	546,679	61,162	97,538	26,789	1,365,153	4,173,970
TN	267,108	377,097	27,906	50,595	844,346	6,700,553
VA	182,192	297,932	77,203	117,043	723,101	8,302,563
WA	221,424	103,138	102,616	73,101	1,065,913	7,545,335
WV	84,041	92,942	44,742	70,156	298,194	1,511,194
WI	249,107	193,877	124,670	199,562	958,957	5,621,698
Total USC States	**3,880,447**	**2,749,805**	**1,258,117**	**1,133,571**	**17,789,178**	**122,598,626**
5G 7/1 Coverage	**ATT Only - no TMO or USC (Hexes)**	**ATT Only - no TMO or USC (Pops)**	**TMO or USC Only - no ATT (Hexes)**	**TMO or USC Only (no ATT) (Pops)**	**Total ATT Hexes**	**Total ATT Pops**
CA	244,753	520,479	495,182	746,434	1,414,128	38,449,485
IL	192,015	263,010	207,447	474,570	989,107	12,195,563
IA	13,558	11,230	925,740	1,221,848	295,435	1,899,271
KS	99,244	51,829	751,789	507,659	645,425	2,343,802
ME	29,153	53,589	130,890	340,002	143,400	854,618
MD	26,406	94,794	27,278	215,923	190,583	5,869,530
MO	176,944	183,135	361,006	488,042	779,041	5,425,377
NE	30,331	17,129	845,489	519,509	199,794	1,346,170
NH	5,732	37,127	75,294	523,506	29,549	672,351
NC	47,774	153,604	512,647	2,356,025	388,834	7,450,258
OK	160,997	106,501	353,455	186,555	893,079	3,704,933
OR	124,457	59,526	418,144	590,477	371,844	3,534,522
TN	103,811	205,688	230,807	1,112,590	385,369	5,248,864
VA	58,792	175,204	270,601	1,028,574	312,757	7,056,988
WA	128,601	133,076	286,753	593,233	633,161	6,899,333
WV	50,480	83,231	72,933	172,925	186,095	1,311,925
WI	84,906	101,328	371,398	996,684	429,494	4,608,568
Total USC States	**1,577,954**	**2,250,480**	**6,336,853**	**12,074,556**	**8,287,095**	**108,871,558**

Table 9: AT&T (ATT) and combined T-Mobile (TMO) and UScellular (USC) December 2024 BDC Coverage Data for LTE and 5G

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Figure 3: UScellular Keep-Sites with LTE Coverages

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Figure 4: Keep-Sites CDF of UScellular Only Coverage

IV. FIXED WIRELESS ACCESS ANALYSIS

39. The Applicants claim that, post-transaction, T-Mobile would offer its FWA service to approximately {[ ]} additional households in the UScellular footprint, and have the capacity to support an additional {[ ]} households in that footprint, compared to standalone T-Mobile's FWA offerings.[56] In order to assess this increase in the number of households eligible for T-Mobile's FWA service, we analyzed the Applicants' BDC-submitted December 2024 LTE coverage to calculate an estimate of the number of Broadband Serviceable Locations (BSLs) and units (as a proxy for number of households) in their coverage areas. See Table 10 below.

Scenario	Total Number of BSLs	Total Number of Units
Combination of USCC and TMO LTE coverages within USCC spectrum license area, but excluding TMO FWA and USCC FWA available BSLs	2,569,256	3,259,373
Combination of USCC and TMO LTE coverages within USCC spectrum license area, but excluding TMO FWA available BSLs	5,306,628	6,875,741

Table 10: Count of BSLs and Units potentially available to T-Mobile for FWA post-transaction

40. Since this analysis does not account for 4G or 5G sector-level capacity available for FWA, the numbers above are based only on coverage availability and are not an exact calculation of the number of households classified as Eligible Households by T-Mobile; it simply presents a calculation of an estimate of the universe of BSLs or Units that exist in the UScellular licensed areas where T-Mobile could potentially offer FWA service. As seen from the table above, the number of eligible households that T-Mobile claims is less than the upper limit of Units in both scenarios, namely 3,259,373 and 6,875,741.

41. In reviewing T-Mobile's submission,[57] we determined that of the {[ ]} pre-transaction sectors T-Mobile operates in the UScellular markets, {[ ]} have sufficient excess capacity to offer fixed wireless service.[58] Pre-transaction, these sectors offer service to approximately {[ ]} households with the capacity to serve approximately {[ ]} households with fixed wireless service.[59] Post-transaction, {[ ]} of T-Mobile's current {[ ]} sectors would have the capacity to offer fixed wireless service, with approximately {[ ]} households eligible for service and the capacity to serve approximately {[ ]} households.[60] This increase of approximately {[ ]} eligible households and approximately {[ ]} households potentially served is due exclusively to the network capacity increases created by increased spectrum deployment as a result of the transaction on T-Mobile's current network.[61]

[56] Public Interest Statement at iii, 28-29; Public Interest Statement, Kapoor Decl. ¶ 19.

[57] *See* T-Mobile May 20 Response at 1-3, Exhibit G, "TMO and Combined Network_HSI Eligible and Supported Homes.xlsx."

[58] *See id.*

[59] *See id.*

[60] *See id.*

[61] *See id.* (enumerating T-Mobile pre-transaction sites within the UScellular footprint).

42. Further, T-Mobile's submission indicates that {[ ]} keep-sites would have excess capacity to serve FWA users out of {[ ]} keep-sites currently operated by UScellular, based on T-Mobile adding its own spectrum to that currently deployed by UScellular.[62] Across these sites, T-Mobile would offer service to an additional approximately {[ ]} households currently outside its own network, and have the capacity to serve an additional approximately {[ ]} households.[63] When combined with the approximately {[ ]} newly eligible households and approximately {[ ]} newly supported households in T-Mobile's current footprint, we calculate the same approximately {[ ]} newly eligible households and approximately {[ ]} newly supported households as claimed by the Applicants.[64] After reviewing the submitted sector data for the claimed FWA eligible and supported households, we find credible evidence to support this claim.

43. T-Mobile additionally claims that of the approximately {[ ]} additional eligible households and capacity to serve {[ ]} additional households, that approximately {[ ]} additionally eligible households would be rural, and that the excess capacity could serve approximately {[ ]} rural households.[65] In reviewing T-Mobile's submission, we calculate that, as a result of the proposed transaction, T-Mobile would be able to offer service to an additional approximate {[ ]} rural households, with capacity to serve an additional approximate {[ ]} rural households.[66] After reviewing the submitted sector data for the claimed rural FWA eligible and supported households, we find credible evidence to support this claim.[67]

[62] *See id.*; T-Mobile May 2 Response at 3-4; FCC-TMUS_000026345; FCC-TMUS_000026348; FCC-TMUS_000026349.

[63] *See* T-Mobile May 20 Response at 1-3, Exhibit G, "TMO and Combined Network_HSI Eligible and Supported Homes.xlsx."

[64] *See id.*

[65] *See* Public Interest Statement at 29; T-Mobile Feb. 27 Response at 8; Public Interest Statement, Kapoor Decl. ¶ 23.

[66] *See* T-Mobile Data Request Response, Attachment A; T-Mobile May 20 Response at 1-3, Exhibit G, "TMO and Combined Network_HSI Eligible and Supported Homes.xlsx."

[67] While there is a difference between the additional {[ ]} rural households claimed by T-Mobile and the {[ ]} rural households we calculated, we find T-Mobile's estimate conservative and the claims are supported for the reasons described herein.

PUBLIC NOTICE

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

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DA 25-607
Released: July 11, 2025

PUBLIC SAFTY AND HOMELAND SECURITY BUREAU SEEKS INFORMATION ON EFFECTS OF MAY 2025 CELLCOM OUTAGE ON CONSUMERS, PUBLIC SAFETY ENTITIES, AND GOVERNMENT ENTITIES

PS Docket No. 25-218

Comment Date: August 25, 2025

On May 14, 2025, Nsight Telservices and New-Cell, Inc. *dba* Cellcom (collectively, Cellcom) suffered a substantial multi-day outage that prevented customers from making calls, receiving calls, and sending text messages over Cellcom's network.[1] According to media reports, the outage also affected 911 calling for Cellcom customers.[2] Cellcom explained in a public statement that this outage was caused by "a cyber incident."[3] Cellcom has stated that texting and Cellcom-to-Cellcom voice service was restored on May 19, and that it restored remaining services for most customers by May 27.[4]

To permit a thorough and accurate investigation and analysis of this outage, the Bureau has opened a docket and invites interested parties to provide all relevant information concerning the causes, effects, and implications of this outage.

We seek comment from the public on the outage's impact on individual and enterprise consumers. Were consumers of Cellcom's network able to successfully make or receive all calls, some calls, or no calls at all? Were consumers of other communications service providers able to successfully complete calls to consumers of Cellcom's network? Were consumers' text messages successfully sent or received? Did consumers on Cellcom's network experience a disruption of data services? Were consumers able to use alternative measures, such as FaceTime, iMessage, WhatsApp, Signal, or others to connect during the outage,[5] and were those methods of communication successful and effective? We ask

[1] *See* Wausau Pilot & Review, *Cellcom Voice, SMS Services Remain Down for Many Customers* (May 17, 2025), https://wausaupilotandreview.com/2025/05/17/cellcom-voice-sms-services-remain-down-for-many-customers/ ("Cellcom voice and SMS messaging services remained down Friday for many customers.").

[2] *See, e.g.*, Scott Hurley & Tony Langfellow*, Fire Chief, Owner of Burning Camper Unable to Reach 911; Cellcom Says System Was Intact*, (May 29, 2025 12:48 pm), https://fox11online.com/news/local/clay-banks-burning-camper-fire-cellcom-outage-9-1-1-calls-door-county-dispatch-center-cyber-incident.

[3] Brighid Riordan, *A Letter From Our CEO* (May 20, 2025), https://www.cellcom.com/newsroom/letter.

[4] *See* Ariel Perez, *Outage Update: Cellcom Says Services 'Performing Well'; Ex-FBI Agent Explains Lack of Shared Information* (May 27, 2025, 3:59 pm), https://www.greenbaypressgazette.com/story/news/crime/2025/05/27/outage-update-cellcom-says-services-performing-well/83876301007/.

[5] Mallory Allen, *Cellcom Expecting 'Longer Recovery' for Outage that has Left Users Unable to Call or Text* (May 29th, 2025, 1:03 pm), https://fox11online.com/news/local/outage-leaves-cellcom-users-unable-to-make-calls-or-send-texts-as-company-addresses-issue ("Officials recommend customers enable applications and services that leverage their data network, such as iMessaging, RCS messaging or 3rd party applications such as Whats[A]pp and FaceTime, to stay connected.").

that commenters be specific about the time period that their responses address.

The Bureau also seeks information about Cellcom's handling of the outage and the outage's impact. How did consumers learn about the outage? Was Cellcom's communication about the outage appropriate, timely, and effective? What effect did the outage have on businesses and providers of critical services, such as hospitals? What effect did the outage have on consumers' ability to contact emergency services, ability to contact family members, and personal activities?

We also seek comment on the effect of these outages on public safety agencies, first responders, and state and local governments. Are there estimates of how many calls, including 911 calls, failed or were otherwise affected by the outage? What was the effect of the outage on public safety activities and government services? Was there a disruption of data services relied on by public safety entities and state and local governments?

We further seek comment on the outage as it relates to Public Safety Answering Points (PSAPs). Did PSAPs receive calls originated on Cellcom's network during this outage? If so, were those calls accompanied by Automatic Number Identification (ANI) and Automatic Location Identification (ALI) information? For those PSAPs that are capable of receiving text messages sent to 911, did the outage disrupt the receipt of those text messages or the sending of texts in reply? Did Cellcom provide timely, actionable notification about the outage? If not, how did PSAPs learn of the outage? If timely, actionable information about this outage was not received, what effect did this have on the availability of 911 call-handling resources to the public? What measures, if any, did PSAPs take to maintain the public's continuity of access to emergency services? How effective were these measures?

Interested parties may submit comments by following the filing instructions below. Commenters may also send a description of their experience to CellcomOutage2025@fcc.gov.

Procedural Matters

Ex Parte Rules. In the interest of facilitating the Commission's ability to conduct a thorough investigation, this proceeding shall be treated as exempt in accordance with the Commission's *ex parte* rules.[6] Accordingly, *ex parte* presentations to or from Commission decision-making personnel are permissible and need not be disclosed.

Filing Requirements. Interested parties may file comments in response to this Public Notice on or before August 25, 2025.[7]

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs.
- *Paper Filers:* Parties filing 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.

[6] *See* 47 CFR § 1.1200(a) ("Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable ex parte rules by order, letter, or public notice.").

[7] *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121-01 (1998).

- 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.

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 & Governmental Affairs Bureau at 202-418-0530.

Additional Information. For further information regarding this proceeding, contact James Graves, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, at (202) 418-1302 or james.graves@fcc.gov.

– 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 Number: 25-611
Report No. SCL-00562 **Friday July 11, 2025**

Section 1.767(a) Submarine Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Submarine Cable Landing Licenses (47 C.F.R. § 1.767(a))

Actions Taken Under Submarine Cable Landing License Act

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 (Submarine 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, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this public notice.

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, 47 CFR § 1.767(b), and consistent with procedures established with the Department of State. 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 submarine cable landing licensee's Submarine 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. Submarine 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.

CORRECTION:

SCL-T/C-20241114-00044 PPC 1 Limited
Date filed: 2024-11-14 Date of Action: 2025-07-08

On July 10, 2025, the Office of International Affairs released a Public Notice granting the application. Actions Taken Under Submarine Cable Landing License Act, Report No. SCL-00560, Public Notice (OIA July 10, 2025). The grant is corrected to read as follows:

PPC 1 Limited filed an application for consent to transfer control of PPC 1 Limited from TPG Telecom Limited (TPG Telecom) to Vocus Group Limited (Vocus). PPC 1 Limited, a Bermuda company, is a joint licensee on the cable landing license for the PPC-1 cable system (PPC-1 Cable) (SCL-LIC- 20080213-00001, SCL-MOD- 20090910-00027, SCL-MOD-20180803-00030), along with its wholly owned subsidiary, PPC I (US) Inc., a Delaware corporation. PPC 1 Limited is an indirect wholly owned subsidiary of TPG Telecom, a publicly traded Australia company. The Applicants filed a supplement on January 15, 2025. The Application was placed on Public Notice on February 21, 2025. SCL-T/C- 20241114-00044, Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00522NS, Public Notice (OIA Feb. 21, 2025). No comments were filed in response to the Public Notice.

Pursuant to Commission practice, the Application was 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. 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);47 CFR § 1.40001(a)(1). On February 26, 2025, the Chair of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) filed a letter requesting that the Commission defer action on the application while the Committee reviewed it for any national security and law enforcement concerns that may be raised by foreign participation in the United States telecommunications services sector. SCL-T/C- 20241114-00044, Non-Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00527NS, Public Notice (OIA Mar. 7, 2025). On June 27, 2025, the National Telecommunications and Information Administration (NTIA), on behalf of the Committee, filed a Petition to Adopt Conditions to Authorization and License (Petition). The Committee states that it has no objection to the Commission approving the application, provided that the Commission conditions its approval on the assurances of Vocus Group Limited to abide by the commitments and undertakings set forth in the June 23, 2025 National Security Agreement between Vocus, on the one hand, and the Committee, represented by U.S. Department of Justice, the U.S. Department of Homeland Security and the U.S. Department of Defense, on the other hand (June 23, 2025 NSA).

Following the completion of the Committee review of the Application, the Office of International Affairs (OIA) coordinated the Application 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). See SCL-T/C-20241114-00044, Non-Streamlined Submarine Cable

Landing License Applications Accepted For Filing, Report No. SCL-00559NS, Public Notice (OIA July 3, 2025).

The PPC-1 Cable is a non-common carrier fiber-optic cable system connecting Sydney, Australia and Piti, Guam. PPC 1 Limited owns and operates the wet link portions of the PPC-1 Cable in international waters. PPC 1 US owns the portion of the PPC-1 system between the cable landing station at Piti, Guam, and the U.S. territorial sea extending from Guam. The Australian-territory assets of the PPC-1 Cable, including the Sydney, Australia cable landing station, are owned by PIPE International (Australia) Pty Limited (PIPE International), PPC 1 Limited's direct parent. PIPE International is a direct wholly owned subsidiary of PIPE Networks Pty Limited (PIPE Networks), which is a wholly owned subsidiary of TPG Corporation Limited, which in turn is a direct wholly owned subsidiary of TPG Telecom, all Australia entities.

On October 13, 2024, Vocus entered into a Purchase and Sale Agreement with TPG Telecom to acquire all of the issued and outstanding shares of PIPE Networks from TPG Corporation. Upon consummation of the transaction, Vocus will directly own 100% of the equity and voting interests of PIPE Networks and indirectly own and control PPC 1 Limited.

Vocus is a direct wholly owned subsidiary of Voyage Australia Pty Limited, which is a direct wholly owned subsidiary of Voyage Australia Operations Pty Limited, which in turn is a direct wholly owned subsidiary of Voyage Australia Holdings Pty Limited (Voyage Holdings), all Australia entities.

Voyage Holdings will be owned directly by three institutional investor groups: (1) Aware Super, an Australian pension investment fund (40% equity and voting interests) whose direct parent, Aware Super Pty Limited, an Australian company, serves as Trustee and exercises the voting interests of Aware Super; (2) Stichting Pensioenfonds ABP (Stichting ABP), a Netherlands pension investment fund (10% equity and voting interests); and (3) Voyage MAIF3 Consortium Trust (Voyage Trust), an Australian company whose ultimate parent is Macquarie Group Limited (Macquarie Group), an Australian publicly traded investment banking company (50% equity and voting interests). Voyage Trust will have the right to appoint 5 directors of Voyage Holdings, Aware Super will have the right to appoint 4 directors, and Stichting ABP will have the right to appoint 1 director.

Post-consummation, Stichting ABP will hold direct 10% equity and voting interests in Voyage Holdings and indirect equity and voting interests through funds for a total interest in Voyage Holdings of 17.2% equity and 25.2% voting. Specifically, Stichting ABP holds a direct 99.54% equity interest and 100% voting interest in the APG Infrastructure Pool 2020-2021 (APG Infrastructure Pool), a Netherlands pension investment company, which holds 7.2% equity and 15.2% voting interests in Voyage Holding. The assets of Stichting ABP and its subsidiaries, including APG Infrastructure Pool, are managed by APG Asset Management N.V. (APG Asset Management), a Netherlands pension investment fund ultimately controlled by Stichting APB. APG Asset Management is a pension investment fund that is a contractual arrangement among (i) APG Asset Management which acts as the manager of the APG Infrastructure Pool, (ii) Stichting Depository APG Infrastructure Pool, and (iii) the participants that invest funds in the APG Infrastructure Pool. APG Groep N.V., a Netherlands company, holds 100% equity and voting interests in APG Asset Management.

The 10% or greater direct or indirect interest holders of Voyage Trust and its trustee, Voyage MAIF3

Consortium Pty Limited (Voyage Consortium), upon closing of the proposed transaction are: (1) APG Infrastructure Pool (11.3% indirect equity and voting interests through Voyage Trust); (2) MAIF3 N2 SCSp (MAIF3), a Luxembourg company (13.8% indirect equity and voting interests through Voyage Trust); and (3) MAIF3 Investments Australia 2 Pte. Limited (MAIF3 Investments), a Singapore company (44.1% indirect equity and voting interests through Voyage Trust). According to the Applicants, approximately 30.8% of Voyage Trust and Voyage Consortium will be held by third-party co-investors that individually have less than 10% equity and/or voting interests.

Post-consummation, MAIF3 will be 100% directly owned by the National Pension Service of the Republic of Korea (South Korea) and 100% of the direct voting interests in MAIF3 will be held by MAIF3 Luxembourg GP S.a.a.l., a Luxembourg company. The assets of MAIF3 and the Singapore Fund (described below) are managed by Macquarie Infrastructure Management (Asia) Pty Limited (Singapore Manager), an Australian company which in turn is an indirect wholly owned subsidiary of the Macquarie Group.

Post-consummation, the interest holders of 10% or greater equity and/or voting interests in MAIF3 Investments will be: (1) Macquarie Asia-Pacific Infrastructure Investments 3 Pte. Limited (MAIF3 Infrastructure Fund), a Singapore company (100% direct equity and voting interests in MAIF3 Investments); (2) Macquarie Asia-Pacific Infrastructure Fund 3 SCSp (Luxembourg Fund), a Luxembourg company (19% direct equity and voting interests in MAIF3 Infrastructure Fund); (3) MAIF3 Luxembourg GP S.a.r.l, a Luxembourg company (0.1% direct equity and 100% direct voting interests in Luxembourg Fund); (4) Macquarie Asset Management Europe Holdings Pty Limited (Macquarie Management Europe), an Australian company (100% direct equity and voting interests in MAIF3 Luxembourg GP S.a.r.l); (5) Macquarie Asia-Pacific Infrastructure Fund 3 L.P. (Singapore Fund), a Singapore company (80.95% direct equity and voting interests in MAIF3 Infrastructure Fund); (6) Macquarie Asia-Pacific Infrastructure Management 3 Pte Limited (Singapore GP), a Singapore company (0% equity interest and 100% voting interest in Singapore Fund); (7) Macquarie Infrastructure and Real Assets Holdings Pty Limited (MIRA) (100% direct equity and voting interests in Singapore GP); (8) Macquarie Asset Management Holdings Pty Ltd., an Australian company (100% direct equity and voting interests in MIRA); and (9) Macquarie Group Limited, an Australian company (100% direct equity and voting interests in Macquarie Asset Management Holdings Pty Ltd.).

The Applicants state that no other individual or entity will hold a 10% or greater direct or indirect interest in Vocus, Voyage Holdings, or PPC 1 Limited post-transaction.

Vocus shall abide by the routine conditions set out in section 1.767 (g) of the Commission's rules. 47 CFR § 1.767(g).

We grant the Petition to Adopt Conditions to Authorizations and Licenses filed by NTIA on behalf of the Committee. Accordingly, we condition grant of the application on Vocus Group Limited abiding by the commitments and undertakings set forth in the June 23, 2025 NSA. The Petition and the June 23, 2025 NSA may be viewed on the FCC's website through the International Communications Filing System by searching for SCL- T/C-20241114-00044 and accessing the "Pleadings and Comments" 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 authorization and thus grounds for declaring the authorization terminated without further action on the part of the Commission. Failure to meet a condition of the authorization may also result in monetary sanctions or other enforcement action by the Commission.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

SCL-T/C-20241220-00049 PPC 1 (US), Inc.
Date filed: 2024-12-20
Transfer of Control
Grant of Authority Date of Action: 2025-07-08

On July 10, 2025, the Office of International Affairs released a Public Notice granting the application. Actions Taken Under Submarine Cable Landing License Act, Report No. SCL-00560, Public Notice (OIA July 10, 2025). The grant is corrected to read as follows:

PPC 1 (US) Inc. (PPC 1 US) filed an application for consent to transfer control of PPC 1 US from TPG Telecom Limited (TPG Telecom) to Vocus Group Limited (Vocus). PPC 1 US, a Delaware corporation, is a joint licensee on the cable landing license for the PPC-1 cable system (PPC-1 Cable) (SCL-LIC- 20080213-00001, SCL-MOD- 20090910-00027, SCL-MOD-20180803-00030), along with its direct parent PPC 1 Limited, a Bermuda company. PPC 1 Limited is an indirect wholly owned subsidiary of TPG Telecom, a publicly traded Australia company. The Applicants filed a supplement on January 15, 2025. The Application was placed on Public Notice on February 21, 2025. SCL-T/C-20241220-00049, Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL- 00522NS, Public Notice (OIA Feb. 21, 2025). No comments were filed in response to the Public Notice.

Pursuant to Commission practice, the Application was 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. 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); 47 CFR § 1.40001(a)(1). On February 26, 2025, the Chair of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) filed a letter requesting that the Commission defer action on the application while the Committee reviewed it for any national security and law enforcement concerns that may be raised by foreign participation in the United States telecommunications services sector. SCL-T/C- 20241220-00049, Non-Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00527NS, Public Notice (OIA Mar. 7, 2025). On June 27, 2025, the National Telecommunications and Information Administration (NTIA), on behalf of the Committee, filed a Petition to Adopt Conditions to Authorization and License (Petition). The Committee states that it has no objection to the Commission approving the application, provided that the Commission conditions its approval on the assurances of Vocus Group Limited to abide by the commitments and undertakings set forth in the June 23, 2025 National Security Agreement between Vocus, on the one hand, and the Committee, represented by U.S. Department of

Justice, the U.S. Department of Homeland Security and the U.S. Department of Defense, on the other hand (June 23, 2025 NSA).

Following the completion of the Committee review of the Application, the Office of International Affairs (OIA) coordinated the Application 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). See SCL-T/C-20241220-00049, Non-Streamlined Submarine Cable Landing License Applications Accepted For Filing, Report No. SCL-00559NS, Public Notice (OIA July 3, 2025).

The PPC-1 Cable is a non-common carrier fiber-optic cable system connecting Sydney, Australia and Piti, Guam. PPC 1 Limited owns and operates the wet link portions of the PPC-1 Cable in international waters. PPC 1 US owns the portion of the PPC-1 system between the cable landing station at Piti, Guam, and the U.S. territorial sea extending from Guam. The Australian-territory assets of the PPC-1 Cable, including the Sydney, Australia cable landing station, are owned by PIPE International (Australia) Pty Limited (PIPE International), PPC 1 Limited's direct parent. PIPE International is a direct wholly owned subsidiary of PIPE Networks Pty Limited (PIPE Networks), which is a wholly owned subsidiary of TPG Corporation Limited, which in turn is a direct wholly owned subsidiary of TPG Telecom, all Australia entities.

On October 13, 2024, Vocus entered into a Purchase and Sale Agreement with TPG Telecom to acquire all of the issued and outstanding shares of PIPE Networks from TPG Corporation. Upon consummation of the transaction, Vocus will directly own 100% of the equity and voting interests of PIPE Networks and indirectly own and control PPC 1 Limited.

Vocus is a direct wholly owned subsidiary of Voyage Australia Pty Limited, which is a direct wholly owned subsidiary of Voyage Australia Operations Pty Limited, which in turn is a direct wholly owned subsidiary of Voyage Australia Holdings Pty Limited (Voyage Holdings), all Australia entities.

Voyage Holdings will be owned directly by three institutional investor groups: (1) Aware Super, an Australian pension investment fund (40% equity and voting interests) whose direct parent, Aware Super Pty Limited, an Australian company, serves as Trustee and exercises the voting interests of Aware Super; (2) Stichting Pensioenfonds ABP (Stichting ABP), a Netherlands pension investment fund (10% equity and voting interests); and (3) Voyage MAIF3 Consortium Trust (Voyage Trust), an Australian company whose ultimate parent is Macquarie Group Limited (Macquarie Group), an Australian publicly traded investment banking company (50% equity and voting interests). Voyage Trust will have the right to appoint 5 directors of Voyage Holdings, Aware Super will have the right to appoint 4 directors, and Stichting ABP will have the right to appoint 1 director.

Post-consummation, Stichting ABP will hold a direct 10% equity and voting interests in Voyage Holdings and indirect equity and voting interests through funds for a total interest in Voyage Holdings

of 17.2% equity and 25.2% voting. Specifically, Stichting ABP holds a direct 99.54% equity interest and 100% voting interest in the APG Infrastructure Pool 2020-2021 (APG Infrastructure Pool), a Netherlands pension investment company, which holds 7.2% equity and 15.2% voting interests in Voyage Holding. The assets of Stichting ABP and its subsidiaries, including APG Infrastructure Pool, are managed by APG Asset Management N.V. (APG Asset Management), a Netherlands pension investment fund ultimately controlled by Stichting APB. APG Asset Management is a pension investment fund that is a contractual arrangement among (i) APG Asset Management which acts as the manager of the APG Infrastructure Pool, (ii) Stichting Depository APG Infrastructure Pool, and (iii) the participants that invest funds in the APG Infrastructure Pool. APG Groep N.V., a Netherlands company, holds 100% equity and voting interests in APG Asset Management.

The 10% or greater direct or indirect interest holders of Voyage Trust and its trustee, Voyage MAIF3 Consortium Pty Limited (Voyage Consortium), upon closing of the proposed transaction are: (1) APG Infrastructure Pool (11.3% indirect equity and voting interests through Voyage Trust); (2) MAIF3 N2 SCSp (MAIF3), a Luxembourg company (13.8% indirect equity and voting interests through Voyage Trust); and (3) MAIF3 Investments Australia 2 Pte. Limited (MAIF3 Investments), a Singapore company (44.1% indirect equity and voting interests through Voyage Trust). According to the Applicants, approximately 30.8% of Voyage Trust and Voyage Consortium will be held by third-party co-investors that individually have less than 10% equity and/or voting interests.

Post-consummation, MAIF3 will be 100% directly owned by the National Pension Service of the Republic of Korea (South Korea) and 100% of the direct voting interests in MAIF3 will be held by MAIF3 Luxembourg GP S.a.a.l., a Luxembourg company. The assets of MAIF3 and the Singapore Fund (described below) are managed by Macquarie Infrastructure Management (Asia) Pty Limited (Singapore Manager), an Australian company which in turn is an indirect wholly owned subsidiary of the Macquarie Group.

Post-consummation, the interest holders of 10% or greater equity and/or voting interests in MAIF3 Investments will be: (1) Macquarie Asia-Pacific Infrastructure Investments 3 Pte. Limited (MAIF3 Infrastructure Fund), a Singapore company (100% direct equity and voting interests in MAIF3 Investments); (2) Macquarie Asia-Pacific Infrastructure Fund 3 SCSp (Luxembourg Fund), a Luxembourg company (19% direct equity and voting interests in MAIF3 Infrastructure Fund); (3) MAIF3 Luxembourg GP S.a.r.l, a Luxembourg company (0.1% direct equity and 100% direct voting interests in Luxembourg Fund); (4) Macquarie Asset Management Europe Holdings Pty Limited (Macquarie Management Europe), an Australian company (100% direct equity and voting interests in MAIF3 Luxembourg GP S.a.r.l); (5) Macquarie Asia-Pacific Infrastructure Fund 3 L.P. (Singapore Fund), a Singapore company (80.95% direct equity and voting interests in MAIF3 Infrastructure Fund); (6) Macquarie Asia-Pacific Infrastructure Management 3 Pte Limited (Singapore GP), a Singapore company (0% equity interest and 100% voting interests in Singapore Fund); (7) Macquarie Infrastructure and Real Assets Holdings Pty Limited (MIRA) (100% direct equity and voting interests in Singapore GP); (8) Macquarie Asset Management Holdings Pty Ltd., an Australian company (100% direct equity and voting interests in MIRA); and (9) Macquarie Group Limited, an Australian company (100% direct equity and voting interests in Macquarie Asset Management Holdings Pty Ltd.).

The Applicants state that no other individual or entity will hold a 10% or greater direct or indirect interest in Vocus, Voyage Holdings, or PPC 1 US post-transaction.

Vocus shall abide by the routine conditions set out in section 1.767 (g) of the Commission's rules. 47 CFR § 1.767 (g).

We grant the Petition to Adopt Conditions to Authorizations and Licenses filed by NTIA on behalf of the Committee. Accordingly, we condition grant of the application on Vocus Group Limited abiding by the commitments and undertakings set forth in the June 23, 2025 NSA. The Petition and the June 23, 2025 NSA may be viewed on the FCC's website through the International Communications Filing System by searching for SCL- T/C-20241220-00049 and accessing the "Pleadings and Comments" 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 authorization and thus grounds for declaring the authorization terminated without further action on the part of the Commission. Failure to meet a condition of the authorization may also result in monetary sanctions or other enforcement action by the Commission.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

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 Number: 25-612
Report No. SAT-01933 **Friday July 11, 2025**

Satellite Licensing Division and Satellite Programs and Policy Division Information

RE: Actions Taken

The Commission, by its International 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-PPL-20250326-00079 S3226 Eutelsat do Brasil Ltda
Date filed: 2025-03-26
Petition for Declaratory Ruling to be Added to the Permitted List
Grant of Authority Date of Action: 2025-07-10

Nature of Service: Fixed-Satellite Service

On July 10, 2025, the Satellite Programs and Policy Division granted, with conditions, the request of Eutelsat do Brasil Ltda to access the U.S. market using the Eutelsat 65 West A space station.

SAT-MOD-20240723-00157 S2912 Planet Labs PBC
Date filed: 2024-07-23
Modification
Granted in Part/ Deferred in Part Date of Action: 2025-07-10

Nature of Service: Earth Exploration-Satellite Service

On July 10, 2025, the Satellite Programs and Policy Division granted in part, with conditions, modification of the license of Planet Labs PBC for the Pelican-3 and 4 satellites.

SAT-AMD-20250528-00130 S2179 EchoStar Satellite Services L.L.C.
Date filed: 2025-05-28
Amendment
Grant of Authority Date of Action: 2025-07-10

Nature of Service: Fixed-Satellite Service

See ICFS File No. SAT-MOD-20240806-00170

SAT-AMD-20240823-00192 S2179 EchoStar Satellite Services L.L.C.
Date filed: 2024-08-23
Amendment
Grant of Authority Date of Action: 2025-07-10

Nature of Service: Fixed-Satellite Service

See ICFS File No. SAT-MOD-20240806-00170

SAT-MOD-20240806-00170 S2179 EchoStar Satellite Services L.L.C.
Date filed: 2024-08-06
Modification
Grant of Authority Date of Action: 2025-07-09

Nature of Service: Fixed-Satellite Service

On July 9, 2025, the Satellite Programs and Policy Division granted, with conditions, the modification request of EchoStar Satellite Services, LLC, to extend the license term for the EchoStar 9 space station to September 30, 2025.

SAT-MOD-20240723-00158 S2738 DISH Operating L.L.C.
Date filed: 2024-07-23
Modification
Grant of Authority Date of Action: 2025-07-08

Nature of Service: Fixed-Satellite Service

On July 8, 2025, the Satellite Programs and Policy Division granted, with conditions, the modification request of DISH Operating LLC, to extend the license term for the EchoStar 11 space station to December 15, 2026.

SAT-MOD-20250326-00080 S2415 SES Americom, Inc.
Date filed: 2025-03-26
Modification
Grant of Authority Date of Action: 2025-07-10

Nature of Service: Fixed-Satellite Service

On July 10, 2025, the Satellite Programs and Policy Division Policy granted, with conditions, the modification request of SES Americom, Inc., to extend the license term for the NSS-10 space station to December 31, 2029.

SAT-MOD-20250312-00069 S2797 DIRECTV Enterprises, LLC
Date filed: 2025-03-12
Modification
Grant of Authority Date of Action: 2025-07-10

Nature of Service:
- Direct-to-Home in the Fixed-Satellite Service
- Fixed-Satellite Service

On July 10, 2025, the Satellite Programs and Policy Division Policy granted, with conditions, the modification request of DIRECTV Enterprises, LLC, to extend the license term for the D12 space station to April 26, 2030.

INFORMATIVE:

SAT-LOA-20250212-00043 S3221 Starfish Space Inc.
Date filed: 2025-02-12
Launch and Operating Authority

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 June 18, 2025. 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.

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

In the Matter of	)	
	)	
Delete, Delete, Delete	)	GN Docket No. 25-133
	)	
Safeguarding and Securing the Open Internet	)	WC Docket No. 23-320
	)	
Restoring Internet Freedom	)	WC Docket No. 17-108
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-48
	)	
Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

ORDER

Adopted: July 11, 2025 **Released: July 11, 2025**

By the Chief, Wireline Competition Bureau:

1. By this Order, we conform Parts 8, 20, and 51 of the Commission's rules to court decisions nullifying certain provisions within those Parts. In the *Delete, Delete, Delete* proceeding, the Commission made clear its goal to "review its rules to identify and eliminate those that are unnecessary in light of current circumstances."[1] The Wireline Competition Bureau takes this action in furtherance of that goal, finding that these rules "no longer have any operative effect," and therefore should not remain in the Code of Federal Regulations.[2] Specifically, this action will remove from our regulations approximately 5 pages, 2,991 words, and 41 rules or requirements.

2. We first conform Parts 8 and 20 of the Commission's rules to the decision of the Sixth Circuit Court of Appeals (Sixth Circuit) in *Ohio Telecom Ass'n v. FCC* (*Ohio Telecom*),[3] which set aside the *Second Title II Order*,[4] by restoring the text of those rules to how they would have read absent the changes adopted in the *Second Title II Order*. The Commission adopted the *Second Title II Order* on April 25, 2024, reclassifying broadband Internet access service (BIAS) as a telecommunications service under Title II of the Communications Act of 1934 (the Act) and instituting conduct rules on BIAS providers. The Commission published a summary of the *Second Title II Order* in the Federal Register on July 22, 2024.[5] In accordance with normal procedure, the Code of Federal Regulations was revised to

[1] *Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, DA 25-219, at 1 (rel. Mar. 12, 2025).

[2] *Id.* at 5.

[3] *Ohio Telecom Ass'n v. FCC* (*In re MCP No. 185*), 124 F.4th 993 (6th Cir. 2025) (*Ohio Telecom*), *pet. for rehearing denied*.

[4] *Safeguarding and Securing the Open Internet*, WC Docket 23-320, Declaratory Ruling, Order, Report and Order, and Order on Reconsideration, 39 FCC Rcd 4975 (2024) (*Second Title II Order*), *pets. for review granted and order set aside*, *Ohio Telecom Ass'n v. FCC*, 124 F.4th at 999.

[5] Federal Communications Commission, Safeguarding and Securing the Open Internet; Restoring Internet Freedom, 89 Fed. Reg. 45404 (May 22, 2024).

reflect the rules adopted in the *Second Title II Order*. On August 1, 2024, the Sixth Circuit issued an order staying the effective date of the *Second Title II Order* pending judicial review. On January 2, 2025, the Sixth Circuit issued its decision in *Ohio Telecom* setting aside the *Second Title II Order*, holding that, under the Act, broadband providers offer only an information service under the Act and that the Commission is not permitted to classify mobile broadband as a commercial mobile service.[6] As a result of the Sixth Circuit's stay order and final decision, the rules adopted in the *Second Title II Order* never went into effect, and the text that currently appears in the Code of Federal Regulations does not accurately reflect the rules actually in effect. Accordingly, we restore Part 8 and Part 20 of the Commission's rules to reflect how they would read absent the changes adopted in the *Second Title II Order*, accounting for amendments to Part 8 adopted in other Commission actions.[7]

3. We next remove requirements from Part 51 of our rules that were vacated by the Eighth Circuit Court of Appeals (Eighth Circuit) in *Iowa Utilities Board II* roughly 25 years ago but never removed from the Code of Federal Regulations.[8] *Iowa Utilities Board II* was an intermediate step in the litigation concerning the Commission's rules adopted in the 1996 *Local Competition Order*.[9] Although the Commission and other parties were successful in appealing portions of *Iowa Utilities Board II* to the Supreme Court, no party, including the Commission, appealed the Eighth Circuit's rulings vacating sections 51.303 or 51.405(a), (c), (d) of the Commission's rules or the Eighth Circuit's reasoning for vacating sections 51.513 and 51.611 unique to such sections.[10] Section 51.405(b), the sole subsection of section 51.405 not vacated by *Iowa Utilities Board II*, merely repeats the substance of the first sentence of section 251(f)(2) of the Act and is not cross-referenced elsewhere in the Commission's rules, and

[6] *See Ohio Telecom*, 124 F.4th at 998. The Sixth Circuit issued its mandate on March 20, 2025, after denying a petition for rehearing en banc by the Intervenors. *See Ohio Telecom*, slip op. (Mar. 11, 2025). The Intervenors have sought and received an extension until August 8, 2025, to file any petition for writ of certiorari with the Supreme Court. *See Free Press, et al. v. Ohio Telecom Association, et al.*, Application to Extend Time to File a Petition for a Writ of Certiorari from June 9, 2025 to August 8, 2025, Case No. 24A___ (May 22, 2025).

[7] *See Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 13686 (2022); *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Order, 38 FCC Rcd 6193 (2023); *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Order on Reconsideration, 38 FCC Rcd 8238 (2023); *Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Report and Order and Further Notice of Proposed Rulemaking, 39 FCC Rcd 2497 (2024) (*IoT Labeling Order*). When the Commission adopted the *IoT Labeling Order*, it split Part 8 of the Commission's rules into Subpart A, which contained the existing transparency requirements, and Subpart B, which contained the new cybersecurity labeling requirements. See *IoT Labeling Order*, 39 FCC Rcd at 2583, Appendix A. Because the Sixth Circuit's decision setting aside the *Second Title II Order* does not affect the rules contained in Subpart B, Appendix A only reflects changes to the relevant portions of Subpart A. We also rename the headings for Part 8 and Subpart A to conform to the restored rule language and find that good cause exists to forgo notice and comment to rename these headings given that the heading changes simply reflect the correct rule content and do not result in substantive changes. With respect to Part 20, although the *Second Title II Order* did not amend the authority for that part, we make a non-substantive correction to the authority, changing section 302 to section 302a and find that good cause exists to forgo notice and comment to make this change since it is a non-substantive change that simply corrects the authority citation.

[8] *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000) (*Iowa Utilities Board II*), *reversed in part on other grounds*, *Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002) (*Verizon v. FCC*).

[9] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996), *aff'd in part and vacated in part*, *Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068 (8th Cir. 1997); *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997); *aff'd in part and remanded*, *AT&T v. Iowa Utils. Bd.*, 525 U.S. 326 (1999).

[10] 47 CFR §§ 51.303, 51.405(a), (c), (d), 51.513, 51.611. The Eighth Circuit based its holding vacating sections 51.513 and 51.611 on two independent grounds, the first of which, judicial estoppel, was unique to such sections (as opposed to other sections that the Eighth Circuit considered) and never appealed. *See Iowa Utilities Board II*, 219 F.3d at 757-58.

therefore serves no purpose.[11] Accordingly, we delete sections 51.303, 51.405, 51.513, and 51.611, finding that doing so has no effect on the scope and nature of the currently enforceable Commission requirements and simply effectuates the Eighth Circuit's action in *Iowa Utilities Board II*.

4. Pursuant to 5 U.S.C. § 553(b)(B), because we are simply conforming the text of the Commission's rules in the Code of Federal Regulations to reflect the rules that are actually in effect as a result of the *Ohio Telecom* and *Iowa Utilities Board II* decisions, not taking any independent action or exercising any discretion, we find that notice and public procedure are unnecessary for this action.[12] For the same reason, pursuant to 5 U.S.C. § 553(d), this action will be effective immediately upon publication in the *Federal Register*.[13]

5. The changes to Parts 8, 20, and 51 of the Commission's rules to conform to these court decisions are reflected in Appendix A.

6. IT IS ORDERED that Parts 8, 20, and 51 of the Commission's rules, 47 CFR Parts 8, 20, and 51, are amended as set forth in Appendix A, effective upon publication in the Federal Register.

7. The Bureau has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is non-major under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Joseph S. Calascione
Chief
Wireline Competition Bureau

[11] *Compare* 47 CFR § 51.405(b); 47 U.S.C. § 251(f)(2).

[12] 5 U.S.C. § 553(b)(B); *see, e.g.*, *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118, 134-35 (D.C. Cir. 2015).

[13] We find "good cause" under 5 U.S.C. § 553(d) to make the rules effective immediately upon publication in the Federal Register. *See* 5 U.S.C. § 553(d)(3) (stating that publication of a "substantive" rule shall be made not less than 30 days before its effective date, "except . . . as otherwise provided by the agency for good cause found and published with the rule"). In determining whether good cause exists, an agency should "balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling." *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996) (internal quotation marks omitted). Because the rule changes adopted in the *Second Title II Order* have never been in effect and because the rules vacated in *Iowa Utilities Board II* have been nullified for 25 years, we find that there will be no burden on the public from making these changes effective upon Federal Register publication, while doing so will have the benefit of ensuring that inoperative rules do not linger in the Code of Federal Regulations unnecessarily.

APPENDIX A

Rules

The Federal Communications Commission amends 47 CFR parts 8, 20, and 51 as follows:

Part 8 – INTERNET TRANSPARENCY FOR CONSUMERS

1. The authority citation for part 8 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201(b), 257, 302a, 303(r), 312, 333, 503 and 1753.

2. Revise the heading for part 8 to read as set forth above.

3. Revise the heading for subpart A to read as follows:

Subpart A – Broadband Transparency

4. Remove § 8.1.

5. Redesignate § 8.2 as § 8.1.

6. Amend § 8.1 by revising paragraph (a) introductory text, revising paragraph (b), and adding paragraph (c) to read as follows:

§ 8.1 Transparency.

(a) Any person providing broadband internet access service shall publicly disclose accurate information regarding the network management practices, performance characteristics, and commercial terms of its broadband internet access services sufficient to enable consumers to make informed choices regarding the purchase and use of such services and entrepreneurs and other small businesses to develop, market, and maintain internet offerings. Such disclosure shall be made via a publicly available, easily accessible website or through transmittal to the Commission.

* * * * *

(b) Broadband internet access service is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part. For purposes of paragraphs (a)(1) through (6) of this section, "mass-market" services exclude service offerings customized for the customer through individually negotiated agreements even when the services are supported by federal universal service support.

(c) A network management practice is reasonable if it is appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.

7. Remove §§ 8.3 and 8.6.

PART 20 – COMMERCIAL MOBILE SERVICES

8. The authority citation for part 20 is revised to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 155, 157, 160, 201, 214, 222, 251(e), 301, 302a, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, and 615c, unless otherwise noted.

9. Amend § 20.3 by revising paragraph (2) of the definition of *commercial mobile radio service*, revising paragraph (1) of the definition of *interconnected service*, and revising the definition of *public switched network* as follows:

§ 20.3 Definitions.

* * * * *

Commercial mobile radio service. * * *

* * * * *

(2) The functional equivalent of such a mobile service described in paragraph (1) of this definition.

* * * * *

Interconnected service. A service:

(1) That is interconnected with the public switched network, or interconnected with the public switched network through an interconnected service provider, that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network; or

(2) * * *

* * * * *

Public switched network. Any common carrier switched network, whether by wire or radio, including local exchange carriers, interexchange carriers, and mobile service providers, that uses the North American Numbering Plan in connection with the provision of switched services.

* * * * *

PART 51 – INTERCONNECTION

10. Remove and reserve §§ 51.303, 51.405, 51.513, and 51.611.

§ 51.303 [Removed and Reserved]

§ 51.405 [Removed and Reserved]

§ 51.513 [Removed and Reserved]

§ 51.611 [Removed and Reserved]

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

In the Matter of	)	
	)	
Applications of SES S.A.	)	SB Docket No. 24-267
	)	
and	)	ICFS File Nos. SAT-T/C-20240530-00116,
	)	SAT-T/C-20240530-00117, SAT-MPL-
Intelsat S.A.	)	20240809-00176, SAT-MPL-20240809-
	)	00177, SAT-MPL-20240809-00179, SES-
For Consent to Transfer Control of	)	T/C-20240530-01222, SES-T/C-20240603-
Licenses and Authorizations	)	01221
	)	
	)	ULS File No. 0011092560
	)	
	)	ELS File Nos. 0027-EX-TU-2024; 0028-EX-
	)	TU-2024

MEMORANDUM OPINION AND ORDER

Adopted: July 11, 2025 **Released: July 11, 2025**

By the Chiefs, Space Bureau, Wireless Telecommunications Bureau, and Office of Engineering & Technology:

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I. INTRODUCTION

1. In this Memorandum Opinion and Order, the Space Bureau (SB), Wireless Telecommunications Bureau (WTB), and Office of Engineering Technology (OET) approve the applications filed by SES S.A. (SES) and Intelsat S.A. (Intelsat, and together with SES, the Applicants), pursuant to section 310(d) of the Communications Act of 1934, as amended (the Act),[1] for consent to transfer control of licenses held by Intelsat Holdings S.à.r.l. and its subsidiaries to SES.[2]

2. Based on our review of the record before us, we do not find any material public interest harms arising from the proposed transfers of control. Further, we find that the proposed transaction is likely to generate certain public interest benefits, including lower costs due to synergies and elimination of double marginalization, improved network quality, increased investment, national security benefits, and the creation of a more vigorous satellite competitor. Accordingly, we find that the transaction will serve the public interest, convenience, and necessity.

II. BACKGROUND

A. Description of the Applicants

3. SES, a Luxembourg public limited company, offers satellite capacity, products, and services to a wide range of media, government, mobility, and enterprise customers around the world.[3] At the time of filing, SES operated a fleet of 43 geostationary orbit (GSO) satellites and 26 high-throughput, low-latency satellites in medium Earth orbit (MEO), primarily in the C-, Ku- and Ka-bands.[4] SES also operates satellite operations centers, network operations centers, and a ground network that supports the provision of satellite connectivity around the world, including U.S. earth station gateways in Virginia,

[1] 47 U.S.C. § 310(d); *see also* 47 CFR §§ 1.948, 5.29, 25.119.

[2] Description of Transaction and Public Interest Statement, ICFS File No. SAT-T/C-20240530-00117 (filed May 30, 2024) (Narrative). A list of the applications is set forth in the Appendix. The Applicants provided an updated post-transaction ownership structure in which Intelsat S.A. no longer appears as a listed entity. Letter from Jennifer Hindin and Michele C. Farquhar, Counsels to Intelsat Holdings S.à.r.l. and SES S.A., to Marlene H. Dortch, Secretary, FCC, SB Docket No. 24-267 (filed Jun. 6, 2025). The companies currently holding FCC licenses – Intelsat License LLC, Horizons-3 License LLC, Horizons-4 Satellite LLC, and Intelsat Inflight Licenses LLC – remain in the post-transaction structure. *Id.* at Attachment A. The Applicants also removed the Horizons-1 market access grant (Call Sign S2475) from the transfer application. *Id.* at 1.

[3] Narrative at 2. SES's services include content distribution and contribution services to cable, broadcast, and media companies; satellite connectivity to aircraft and maritime vessels; 4G and 5G network expansion and resiliency for mobile operators; direct "one-hop" connectivity to cloud computing data centers from anywhere in the world; and secure communications for the U.S., NATO and allied governments. *Id*.

[4] *Id.* at 2. At the time of application, SES planned to launch 11 additional satellites over 24 months, including seven additional next-generation O3b mPOWER MEO satellites, two high-throughput GSO satellites, and one spacecraft in LEO for quantum key distribution. *Id*.

Maryland, Pennsylvania, Texas, Arizona, California, and Washington.[5] SES earned $2.2 billion in revenues during the fiscal year ending 2024.[6]

4. Intelsat, a Luxembourg public limited company, is the parent of Intelsat Holdings S.à.r.l., which, through its wholly owned subsidiaries, holds Commission market access authorizations, space station and earth station licenses, and experimental licenses.[7] At the time of filing, Intelsat operated a fleet of 57 GSO satellites, operating in the C-band, Ku-band, and Ka-band, which provide diversified communications services to media companies, telecommunications operators, commercial aviation, and Internet service providers, as well as to the U.S. Government.[8] Intelsat also uses its satellites as relay stations in space for the transmission of voice, video, and data communications,[9] and it operates a U.S. ground network that supports satellite connectivity.[10] Intelsat earned $2.0 billion in revenues during the fiscal year ending 2024.[11]

B. Description of the Transaction

5. On May 1, 2024, SES and Intelsat entered into a share purchase agreement pursuant to which SES would acquire 100% of the outstanding shares and assets of Intelsat for $3.1 billion plus certain contingent value rights.[12] The transaction will be financed from existing cash and equivalents and the issuance of new debt.[13]

6. The Applicants assert that the proposed transaction will produce significant public interest benefits.[14] They contend that, because their individual networks are complementary, the combined company will be able to offer customers a better, more expansive suite of solutions supported by a world-class satellite fleet.[15] In particular, the Applicants argue that combining their assets will: (1) result in an optimized multi-orbit network;[16] (2) free up financial resources to support investments in innovative products and services, advanced technologies, and new satellite capacity;[17] (3) improve the combined company's capabilities, service reliability, and customer offerings;[18] and (4) benefit national

[5] Narrative at 2.

[6] SES, Annual Report 2024 at 11 (2025), https://www.ses.com/sites/default/files/2025-03/SES_AnnualReport24_4MAR25_final.pdf. Dollars amounts converted from euros based on the average year exchange rate of $1.0863/€ used by SES. *Id.* at 180.

[7] Narrative, Exhibit 1. Intelsat also holds an Industrial/Business Pool private wireless license. *Id*.

[8] *Id.* at 3.

[9] *Id.* at 3.

[10] *Id.* at 3.

[11] Intelsat S.A. and Subsidiaries, Annual Report ended December 31, 2024 at 6, 9 (2025), https://investors.intelsat.com/static-files/32a28ff9-4aab-4007-a714-59cc45b550ae.

[12] Narrative at 3; Press Release, Intelsat, SES to Acquire Intelsat in Compelling Transaction Focused on the Future (Apr. 30, 2024), https://www.intelsat.com/newsroom/ses-to-acquire-intelsat/.

[13] Press Release, Intelsat, SES to Acquire Intelsat in Compelling Transaction Focused on the Future (Apr. 30, 2024), https://www.intelsat.com/newsroom/ses-to-acquire-intelsat/.

[14] Narrative at 12.

[15] *Id.* at 12.

[16] *Id.* at 12.

[17] *Id.* at 13.

[18] *Id.* at 14-15.

security.[19] The Applicants further maintain that the proposed transaction will improve the company's competitiveness vis-à-vis new non-geostationary orbit (NGSO) constellations and other global and regional GSO satellite operators,[20] as well as terrestrial providers.[21]

C. Transaction Review Process

7. SES and Intelsat filed their applications on May 20, 2024.[22] A public notice was released on August 29, 2024, which accepted the applications for filing and sought comment.[23] Three comments, two replies, and two consolidated responses were filed in response to the public notice.[24] Information Requests and certain additional request for documents and information were issued,[25] to which the Applicants responded.[26]

8. On October 3, 2024, the United States Department of Justice (DOJ), on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), requested that the Commission defer action on the applications until the Committee has concluded its review as to whether the applications pose a risk to the national security or law

[19] Narrative at 16-18.

[20] *Id.* at 6-10.

[21] *Id.* at 11.

[22] *See infra* Attach. A. *See also Applications Public Notice*, Attachment.

[23] *See Applications Public Notice*. The applications for transfer of control were submitted via the International Communications Filing System (ICFS) under file numbers SAT-T/C-20240530-00116, SAT-T/C-20240530-00117, SAT-MPL-20240809-00176, SAT-MPL-20240809-00177, SAT-MPL-20240809-00178, SAT-MPL-20240809-00179, SES-T/C-20240530-01222, and SES-T/C-20240603-01221. *See also* Universal Licensing System file number 0011092560; OET Experimental Licensing System file numbers 0027-EX-TU-2024 and 0028-EX-TU-2024. In addition, we note that Intelsat has a pending application for a conventional experimental license (0264-EX-CN-2025) that is beyond the scope of this proceeding. Upon consummating the Transfer of Control, SES will need to update the applicant information associated with this pending application.

[24] Comments of the International Telecommunications Satellite Organization (rec. Sept. 30, 2024) (ITSO Comments); Comments of Eutelsat S.A. and WorldVu Satellites Limited (rec. Sept. 30, 2024) (Eutelsat Comments); Comments of NCTA – The Internet & Television Association (rec. Sept. 30, 2024) (NCTA Comments); Consolidated Response of SES S.A. and Intelsat S.A. (rec. Oct. 15, 2024) (Consolidated Response); Response to Comments of the National Association of Broadcasters (rec. Oct. 15, 2024) (NAB Reply); Reply Comments of Eutelsat S.A. and WorldVu Satellites Limited (rec. Oct. 25, 2024) (Eutelsat Reply); Consolidated Reply Comments of SES S.A. and Intelsat S.A. (rec. Oct. 25, 2024) (Consolidated Reply to NAB).

[25] *SES S.A. General Information Request*, SB Docket No. 24-267 (SB Jan. 13, 2025) (SES RFI); *Intelsat Holdings S.à.r.l. General Information Request*, SB Docket No. 24-267 (SB Jan. 13, 2025) (Intelsat RFI).

[26] *See, e.g.*, Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC (filed Oct. 2, 2024), Exh. C (LEO White Paper); Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC (Nov. 20, 2024), Exh. A (Mobility and Fixed Data White Paper); Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC (filed Jan. 8, 2025), Exh. A (Media White Paper); SES Feb. 3, 2025 Confidential RFI Response; Intelsat Feb. 3, 2025 Confidential RFI Response; Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC (filed Apr. 4, 2024), Exh. A (Government White Paper); Letter from Jennifer Hindin, Counsel to Intelsat, S.A., to Marlene H. Dortch, Secretary, FCC (filed Apr. 7, 2025) (Intelsat Feb. 3 RFI Response); Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC, (filed Apr. 30, 2025), Exh. A (SES Apr. 30, 2025 Submitted Documents), Exh. B (SES Feb. 3, 2025 RFI Response).

enforcement interests of the United States and offered its recommendation.[27] On July 7, 2025, the National Telecommunications and Information Administration (NTIA) filed a Petition to Adopt Conditions to Authorizations and Licenses on behalf of the Committee (Committee Petition),[28] advising the Commission that it has no objection to approving the applications, provided that the Commission conditions its approval on the assurance of SES S.A. to abide by the commitments and undertakings set forth in National Security Agreement between SES S.A. and its Affiliates, the Committee, the U.S. Department of Homeland Security, DOJ, and the U.S. Department of Defense, on the other hand, dated July 2, 2025.[29]

III. STANDARD OF REVIEW AND PUBLIC INTEREST FRAMEWORK

9. Pursuant to section 310(d) of the Act,[30] we must determine whether the proposed transfer of control to SES of licenses and authorizations held and controlled by wholly-owned subsidiaries of Intelsat will serve the public interest, convenience, and necessity. In making this determination, we first assess whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission's rules.[31]

10. If the proposed transaction does not violate a statute or rule, we then consider whether the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[32] Our competitive analysis, which forms an important part of the public interest evaluation, is informed by, but not limited to, traditional antitrust principles.[33] The

[27] Letter from Christine M. Quinn, Attorney Advisor, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, SB Docket No. 24-267 et al. (filed Oct. 3, 2024).

[28] National Telecommunications and Information Administration, Petition to Adopt Conditions to Authorizations and Licenses, SB Docket No. 24-267 SAT-T/C-20240530-00116, SAT-T/C-20240530-00117, SAT-MPL-20240809-00176, SAT-MPL-20240809-00177, SAT-MPL20240809-00178, SAT-MPL-20240809-00179, SES-T/C-20240530-01222, and SES-T/C-20240603-01221(Committee Petition). NTIA filed the Committee Petition in the ICFS files on July 3, 2025 and in SB Docket No. 24-267 on July 7, 2025.

[29] National Security Agreement by and between SES S.A. and its Affiliates, on the one hand, and the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, the U.S. Department of Homeland Security, the U.S. Department of Justice, and the U.S. Department of Defense, on the other hand (dated July 2, 2025). Filed in SB Docket No. 24-267, SAT-T/C-20240530-00116, SAT-T/C-20240530-00117, SAT-MPL-20240809-00176, SAT-MPL-20240809-00177, SAT-MPL20240809-00178, SAT-MPL-20240809-00179, SES-T/C-20240530-01222, and SES-T/C-20240603-01221(July 7, 2025) (July 2, 2025 NSA).

[30] 47 U.S.C. § 310(d). Section 310(d) of the Act requires that we consider applications for transfer of Title III licenses under the same standard as if the proposed transferee were applying for licenses directly under section 308 of the Act, 47 U.S.C. § 308. *See, e.g.*, *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585, para. 8 (2017) (*CenturyLink-Level 3 Order*) *Applications of GCI Communication Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub, Inc., and Unicom, Inc. for Consent to Assign Licenses to the Alaska Wireless Network, LLC*, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd 10433, 10442, para. 23 & n.71 (2013) (*Alaska Wireless-GCI Order*).

[31] 47 U.S.C. § 310(d). *See also CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 8; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[32] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para 9; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[33] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9*Alaska Wireless-GCI Order*, 28 FCC Rcd at 10443, para. 25; *see also Northeast Utils. Serv. Co. v. FERC*, 993 F.2d 937, 947 (1st Cir. 1993) (public interest

(continued….)

United States Department of Justice has independent authority to examine the competitive impacts of proposed mergers and transactions involving transfers of Commission licenses, but the Commission's competitive analysis under the public interest standard is somewhat broader, and often takes a more extensive view of potential and future competition and its impact on the relevant markets.[34] Notably, the Commission has determined it may impose and enforce transaction-related conditions to ensure that the public interest is served by the transaction.[35]

11. If we determine that a transaction raises no public interest harms or that any such harms have been ameliorated by the Commission-imposed conditions or voluntary commitments, we next consider a transaction's public interest benefits. Applicants bear the burden of proving those benefits by a preponderance of the evidence.[36] As part of our public interest authority, we may impose conditions to ensure for the public the transaction-related benefits claimed by the Applicants.[37]

12. Finally, if we are able to find that transaction-related conditions are able to ameliorate any public interest harms and the transaction is in the public interest, we may approve the transaction as

standard does not require agencies "to analyze proposed mergers under the same standards that the Department of Justice . . . must apply").

[34] *See, e.g.*, *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor to Sirius Satellite Radio Inc., Transferee*, MB Docket No. 07-57, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, 12365-66, para. 32 (2008) (*XM-Sirius Order*); *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5674, para. 21 (2007) (*AT&T-BellSouth Order*); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations, File Nos. 0001656065, et al.; Applications of Subsidiaries of T-Mobile USA, Inc. and Subsidiaries of Cingular Wireless Corporation for Consent to Assignment and Long-Term De Facto Lease of Licenses, File Nos. 0001771442, 0001757186, and 0001757204; Applications of Triton PCS License Company, LLC, AT&T Wireless PCS, LLC, and Lafayette Communications Company, LLC for Consent to Assignment of Licenses, File Nos. 0001808915, 0001810164, 0001810683, and 50013CWAA04*, WT Docket Nos. 04-70, 04-254, and 04-323, Memorandum Opinion & Order, 19 FCC Rcd 21522, 21545, para. 42 (2004) (*Cingular-AT&T Wireless Order*),

[35] *See, e.g.*, *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9141, para. 22 (2015) (*AT&T-DIRECTV Order*); *Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4249, para. 25 (2011) (*Comcast-NBC Universal Order*); *Application of EchoStar Communications Corp., (A Nevada Corp.), General Motors Corp., and Hughes Electronics Corp (Delaware Corps.) (Transferors) and EchoStar Communications Corp. (A Delaware Corp.) (Transferee)*, Hearing Designation Order, 17 FCC Rcd 20559, 20575, para. 27 (2002) (*EchoStar-DIRECTV HDO*); *see also Application of WorldCom, Inc. and MCI Commc'ns Corp. for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 18025, 18032, para. 10 (1998) (*WorldCom-MCI Order*) (stating that the Commission may attach conditions to the transfers); *Applications of T-Mobile US, Inc., and Sprint Corp., for Consent to Transfer Control of Licenses and Authorizations, Applications of American H Block Wireless L.L.C., DBSD Corp., Gamma Acquisition L.L.C., and Manifest Wireless L.L.C. for Extension of Time*, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10596, para. 42 (2019) (*T-Mobile-Sprint Order*).

[36] 47 U.S.C. § 309(e). *See also CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10; *Verizon-Straight Path Order*, 33 FCC Rcd at 190-91, para. 7; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[37] *See, e.g.*, *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10443, para. 26; *Applications of AT&T Inc. and Centennial Communications Corp. for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements*, Memorandum Opinion and Order, 24 FCC Rcd 13915, 13929, para. 30 (2009).

so conditioned or agreed.[38] In contrast, if we are unable to find that a proposed transaction, even with such conditions serves the public interest or if the record presents a substantial and material question of fact, then we must designate the application for hearing.[39]

IV. QUALIFICATIONS OF THE APPLICANTS AND COMPLIANCE WITH COMMUNICATIONS ACT AND FCC RULES AND POLICIES

13. Section 310(d) of the Act requires that we make a determination as to whether the Applicants have the requisite qualifications to hold Commission licenses.[40] Among the factors that the Commission considers in its public interest review is whether the applicant for a license has the requisite "citizenship, character, financial, technical, and other qualifications."[41] Therefore, as a threshold matter, the Commission must determine whether the Applicants have the requisite qualifications to hold and transfer licenses under section 310(d) of the Act and the Commission's rules.[42]

14. SES will control the combined company, and no parties have raised issues with respect to the basic qualifications of the Applicants. Accordingly, pursuant to Commission precedent,[43] we find that there is no reason to reevaluate the requisite citizenship, character, financial, technical, or other basic qualifications of SES or Intelsat under the Act or our rules, regulations, and policies.[44] We also find that the Transaction will not violate any statutory provision or Commission rule.

V. POTENTIAL PUBLIC INTEREST HARMS

15. For the reasons discussed below, we find that the proposed transaction is unlikely to result in any competitive harms. We find that the satellite industry is a dynamic one, that is being transformed both by the rapid entry and expansion of NGSO constellations—which are increasing satellite capacity dramatically—and by the increasing ubiquity of fiber networks that provide reliable and high-capacity competitive alternatives to satellite services. In our forward-looking approach, we consider these technological and market changes when conducting our analysis.[45]

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[38] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 11; *Verizon-Straight Path Order*, 33 FCC Rcd at 191, para. 8.

[39] 47 U.S.C. § 309(e). *See also CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11; *Verizon-Straight Path Order*, 33 FCC Rcd at 191, para. 8; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10444, para. 27. Section 309(e)'s requirement applies only to those applications to which Title III of the Act applies. *See ITT World Communications, Inc. v. FCC*, 595 F.2d 897, 901 (2d Cir. 1979); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11 & n.37.

[40] 47 U.S.C. § 310(d).

[41] *See* 47 U.S.C. §§ 308, 310(d); *Applications of Viasat, Inc. and Connect Topco Limited For Consent To Transfer Control of Authorizations*, Memorandum Opinion and Order and Declaratory Ruling 38 FCC Rcd 4776, at 4783, para. 13 (*Viasat-Inmarsat Order*); *T-Mobile-Sprint Order,* 34 FCC Rcd at 10596-97, para. 43; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 24.

[42] 47 U.S.C. § 310(d); 47 C.F.R. § 25.119. *See also Viasat-Inmarsat Order,* 38 FCC Rcd at 4783, para. 13; *T-Mobile-Sprint Order,* 34 FCC Rcd at 10597-98, paras. 43; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 24.

[43] The Commission generally does not reevaluate the qualifications of transferors unless issues related to basic qualifications have been sufficiently raised in petitions to warrant designation for hearing. *See Viasat-Inmarsat Order,* 38 FCC Rcd at 4783, para. 13; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10597, para. 45; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 25.

[44] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10597, para. 44; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 25.

[45] *See, e.g.*, *XM-Sirius Order*, 23 FCC Rcd at 12364-65, para. 31.

A. Competitive Effects of the Proposed Transaction

16. Horizontal transactions involve the merger of actual or potential competitors.[46] Vertical transactions involve the merger of a supplier of an input with a buyer or potential buyer of the input.[47] Both types of transactions raise potential competitive concerns when the newly combined entity would have the incentive and the ability, either unilaterally or in coordination with other service providers, to raise prices, lower quality, or otherwise harm competition.[48]

17. In this transaction, both Applicants sell satellite services in what are generally referred to as the media, government, aviation, maritime, and fixed data service segments.[49] In addition, the Applicants also supply capacity to each other and to other service providers in certain segments, so this transaction has both horizontal and vertical aspects.[50] Because the Applicants treat these segments separately for purposes of business strategy, we perform separate analyses of potential harms within each of these segments, but note that commenters raised competitive concerns only with respect to the media services segment.[51]

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[46] *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*, 36 FCC Rcd 16994, at 17006-07, para. 34 (*Verizon-Tracfone Order*); *Comcast-NBC Universal Order*, 26 FCC Rcd at 4250, para. 27; *General Motors Corp. and Hughes Electronics Corp., Transferors, and the News Corporation, Transferee,* MB Docket No. 03-124, Memorandum Opinion and Order, 19 FCC Rcd 510, at 544, para. 69 (2004) (*NewsCorp.-Hughes Order).*

[47] *See e.g.*, *NewsCorp.-Hughes Order,* 19 FCC Rcd at 544, para. 70 (2004); *Comcast-NBC Universal Order*, 26 FCC Rcd at 4250, para. 27; *Verizon-TracFone Order*, 36 FCC Rcd at 17017-18, para. 56.

[48] *See, e.g.*, *NewsCorp.-Hughes Order,* 19 FCC Rcd at 547, para. 78; *Viasat-Inmarsat Order*, 38 FCC Rcd at 4785, para. 19; *Verizon-TracFone Order*, 36 FCC Rcd at 17006, 17017-18, paras. 34, 56; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10611, para. 79. Unilateral effects arise when the merged firm finds it profitable to alter its behavior following the merger by increasing its price or otherwise harming competition. U.S. Dept. of Justice and Federal Trade Commission, Merger Guidelines (Dec. 18, 2023), § 2.2 at 6-7, https://www.justice.gov/atr/2023-merger-guidelines (2023 DOJ/FTC Merger Guidelines); U.S. Dept. of Justice and Federal Trade Commission, Horizontal Merger Guidelines (Aug. 19, 2010), § 6 at 20, https://www.justice.gov/atr/horizontal-merger-guidelines-08192010 (2010 DOJ/FTC Horizontal Merger Guidelines). Coordinated effects arise when firms take actions that are profitable for each of them only as a result of the accommodating reactions of others. A merger may diminish competition and harm consumers by enabling or encouraging post-merger coordinated interaction among firms. *2010 DOJ/FTC Horizontal Merger Guidelines* at § 7; *see also Sprint-Shentel-NTELOS Order*, 31 FCC Rcd at 3638-39, para. 17 & n.51; *AT&T-Leap Order*, 29 FCC Rcd at 2756-57, para. 49.

[49] *See* SES RFI at 5-7 ("Media" refers to the ground infrastructure, satellite capacity and other services provided to broadcasters and video programmers to enable them to distribute their content to multiple end-points in the United States; "government" refers to communications services provided to the U.S. Government for military, public safety, and other applications; "aviation" refers to communications services provided to air transportation service providers who serve either business customers or commercial aviation passengers; "maritime" refers to communications services provided to maritime customers; "fixed data" refers to communications services provided to fixed locations.).

[50] *See* Government White Paper at 15; Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC, (filed Apr. 30, 2025), Exh. A Appendix: Elimination of Double Marginalization Calculation at 2 (Elimination of Double Marginalization Appendix).

[51] We do not consider potential harms in consumer broadband Internet access services because neither Applicant offers such services to U.S. consumers. In addition, we note that, while we consider the potential effects of the proposed transaction on these service segments, we do not find that they are necessarily relevant product markets in an antitrust sense.

1. Media Services

a. Background.

18. In the United States, multichannel video programming distributors (MVPDs), broadcasters, and content providers sometimes use satellite services to transmit programming content to multiple end-points across wide geographic areas. Within media services, the Applicants supply services in three different situations, which are distinguished by the users of the service and the satellite bands over which the service is generally provided. In the direct-to-home (DTH) segment, the Applicants predominantly use the Ku-band to provide satellite capacity to satellite-based MVPDs to broadcast their programming content directly to consumers.[52] In the distribution segment, content providers such as television and cable networks contract with the Applicants to distribute their content nationally to terrestrial video programming distribution networks, such as over-the-air (OTA) broadcasters and cable systems.[53] Satellite media distribution services are generally provided over C-band spectrum, but programmers also use the Ku-band. In the contribution segment, content providers use satellite capacity to uplink raw content from a content production location (e.g., a sports stadium) back to a studio where the content may then be edited and distributed.[54] Unlike distribution services, contribution services are generally point-to-point services for which customers can use nearly any available transmission technology to connect the relatively limited number of endpoints.[55] Both contribution and distribution services may be purchased on a full-time or occasional use basis, depending on the customer's needs.[56]

b. Record

19. The Applicants claim that the transaction will not harm media services competition and indeed will even increase competition.[57] In particular, the Applicants argue that media customers have several alternative distribution options, including terrestrial fiber networks, which have become increasingly competitive with their satellite-based services;[58] and argue that changing video consumption patterns among consumers have reduced demand for traditional linear television service, and therefore, the Applicants' programming distribution services as well. The Applicants assert that their revenues from media services have declined due to increased competition and reduced demand for their services.[59]

20. *Alternative Distribution Options.* The Applicants state that their media distribution customers can use not only other satellite providers,[60] but also ubiquitous terrestrial fiber networks.[61]

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[52] SES Feb. 3, 2025 RFI Response, Exh. A at 7.

[53] *Id.* at 1-2, 6.

[54] *Id.* at 2, 6; Media White Paper, Appx. at 26.

[55] SES Feb. 3, 2025 RFI Response, Exh. A at 28; *see also* Media White Paper, Appx. 1.

[56] SES Feb. 3, 2025 RFI Response, Exh. A at 6.

[57] Media White Paper at 1.

[58] Narrative at 11, 19; Consolidated Response at 5; Media White Paper at 3, 20; SES Feb. 3, 2025 RFI Response, Exh. A at 1, 14-15, 24.

[59] Consolidated Response at 10-12; *see also* Media White Paper at 1-2.

[60] Narrative at 19; Consolidated Response at 7.

[61] Narrative at 11-12, 19-20; Consolidated Response at 5, 8; Consolidated Reply at 2-3; SES Feb. 3, 2025 RFI Response, Exh. A at 14-15, 22-27. {

}. SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 13; Media White Paper at 14. 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.

While they acknowledge that satellite transmission is an important delivery mechanism for media companies, they argue that this role has been declining and will continue to decline as programmers increasingly rely on IP-based transmission services via terrestrial fiber networks.[62] The Applicants claim that cable headends and broadcast stations are now widely connected to reliable high-capacity fiber that is capable of distributing programming at very competitive prices, and that terrestrial alternatives are increasingly competitive.[63] The Applicants also claim that areas without terrestrial substitutes for satellite distribution are rapidly disappearing due to increased broadband buildout and federal subsidies.[64]

21. To support these claims, the Applicants use the Broadband Data Collection (BDC)[65] data and find that more than 98% of the U.S. population resides in a Census block group with five or more broadband options offering download speeds of 40 Mbps or greater.[66] They further argue that, in the small number of locations that lack fiber access, they would be unable to raise prices for their satellite capacity because they negotiate a single price over the wide coverage area of their spot beams,[67] and that customers are citing the wide availability and viability of fiber distribution in negotiations to secure better pricing and contract terms.[68] The Applicants also maintain that the increase in fiber network access has led to a proliferation of companies specializing in media contribution and distribution services, and that these terrestrial managed service providers are winning customers.[69] They then identify a number of content providers that have already switched from distributing some of their programming from satellite to fiber-based distribution, and they assert that these customer migrations will accelerate as even more cable head-ends are connected to fiber.[70]

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[62] Narrative at 11-12, 19-20.

[63] Media White Paper at 11-12; SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 15, 21.

[64] Consolidated Response at 9; Media White Paper at 16; SES Feb. 3, 2025 RFI Response, Exh. A at 22.

[65] FCC, Broadband Data Collection (Dec. 19, 2024), https://www.fcc.gov/BroadbandData.

[66] Media White Paper at 4-5, Fig. 1; SES Feb. 3, 2025 RFI Response, Exh. A at 17. The Applicants also find that: (1) 80% of Americans live within 25 kilometers of a fiber backbone; (2) {[ ]}; and (3) {[ ]}. *See* Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC, Exh. A, "2025.02.19 - DOJ Media Presentation" at 24-27 (filed Apr. 30, 2025) (DOJ Media Presentation); SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 16-17.

[67] Consolidated Reply at 5; Media White Paper at 13; SES Feb. 3, 2025 RFI Response, Exh. A at 5. The Applicants argue that due to large beam sizes, they must offer a single combined price for the entire area of the beam and not on the characteristics of any smaller areas within the beam. Consolidated Reply at 5. *See also* Media White Paper at 3 (noting that nature of satellite distribution is that signal is transmitted to all receivers within the beam's coverage); Consolidated Reply at 9 (noting that negotiations do not depend on whether alternatives exist at particular locations).

[68] Consolidated Response at 9; Consolidated Reply at 4-5. For example, {[}. Media White Paper at 14; SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 5; SES-2R-0005559, at SES-2R-0005560 (SES, FW: {[ ]} Satellite Agreement, May 2, 2024).

[69] Media White Paper at 13 (Encompass Digital Media and LTN Global advertise their terrestrial and IP-based distribution services as a competitive alternative to satellite distribution), Media White Paper at 14 (noting that {[}).

[70] *See, e.g.*, Media White Paper at 2, 4, 13, 19-20. *Id.* at 17 (noting that SES {[ ]}). SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 15 (noting that {[

(continued….)

22. Commenters disagree. Eutelsat claims that the combined entity would control almost all satellite media distribution in the United States.[71] It asks the Commission to examine the potential competitive impacts of the merger on C-band services and to adopt any necessary conditions to mitigate such impacts.[72] NCTA claims that Intelsat and SES together "hold the lion's share of the C-band in the United States" and further asserts that "there is no viable alternative transmission mechanism for video distribution that offers reliability, ubiquity, or affordability equivalent to that of the C-band."[73] It contends that alternative satellite bands have lower quality and insufficient capacity to deliver video programming.[74] It also argues that C-band satellite service is still the dominant mode of distribution for programming today, and that the largest cable operators receive, on average, more than 80% of their cable programming signals via the C-band.[75] NCTA and NAB further note that terrestrial distribution options are not available at some rural facilities and that they may be very costly where they are available.[76] Even in the cases where fiber delivery is cost effective, NAB contends that terrestrial delivery does not have the same reliability as satellite distribution.[77] For these reasons, NCTA and NAB ask the Commission to ensure that the Applicants maintain the same quality of C-band service to cable providers and consumers post-transaction.[78]

23. *Changing Consumption Patterns.* The Applicants state that consumer media consumption patterns have changed drastically and that, as a result, consumers are switching away from traditional linear video consumption via broadcast television, cable and DTH satellite, all of which rely upon the Applicants' satellite distribution services, to IP-based consumption via over-the-top (OTT) platforms, which generally do not rely on satellites for distribution.[79] They further note that such OTT

]}). *Id.* at 9 (noting that SES also {[ ]}, among others). Media White Paper at 19 (noting that Intelsat's satellite Media business "{ }"). DOJ Media Presentation at 13 (noting that {[ ]}). SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 26 (citing that {[ ]}). Media White Paper at 20 (noting that {[ ]}). *Id.* at 10; SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 15 (noting that {[ ]}). Media White Paper at 19 (noting that Intelsat's satellite Media business "{[}").

[71] Eutelsat Comments at 5. *See also* NAB Reply at 3.

[72] Eutelsat Comments at 5 (noting that Intelsat and SES hold 49.8% and 46.4%, respectively, of satellite content distribution market in the United States). *See also* Eutelsat Reply at 1.

[73] NCTA Comments at 1,7.

[74] *Id.* at 8.

[75] *Id.* at 3.

[76] NAB Reply at 2; NCTA Comments at 7 (noting that fiber deployment is resource-intensive and particularly difficult in remote areas due to sparse population and rugged terrain).

[77] NAB Reply at 2.

[78] NCTA Comments at 1; NAB Reply at 1.

[79] Narrative at 22; SES Feb. 3, 2025 RFI Response, Exh. A at 1, 8, 10-11, 15-20, 29-31; Media White Paper at 4-11. These OTT services include both non-linear distributors, such as Netflix, as well as virtual MVPDs (vMVPDs), such as YoutubeTV, that provide linear streaming services. *See also id.* at 1, 7 (the number of households in the United

(continued….)

platforms give content providers a direct distribution channel to reach their video customers, and therefore, that the proposed transaction will not result in any competitive harms.[80] As a result of these changes, they claim that OTT services have had a direct impact on their distribution revenues.[81] Commenters counter that the availability of OTT services and terrestrial fiber has not reduced the importance of C-band service in media distribution, and contend that OTT services may be complements to C-band distribution in some cases.[82]

24. *Declining Media Revenues.* The Applicants argue that the decline in their media service revenue is evidence of the effects of consumer "cord-cutting" and of the intensifying competition in media service distribution that they face; they further claim that they expect these trends to continue.[83] They point to declines in their media segment revenues and to the lower demand for C-band capacity in North America. The Applicants' analysis of their media services segment shows that their U.S. media revenues declined at compound annual growth rates (CAGRs) of {[

]}.[84]

c. Discussion

25. Publicly available data suggest that the Applicants distribute over 95% of all video programming that distributed over C-band satellite service to the U.S.[85] However, this calculation excludes the distribution of programming via satellite using other bands and terrestrial media distribution options, which we find are important substitutes for programmers today and are likely to grow in importance over the next several years as programmers increasingly adopt such services. As discussed below, we find that post-transaction, any attempt by the Applicants to raise media distribution prices or otherwise act anticompetitively would be defeated by customers switching either to alternative C-band providers, to Ku-band satellite providers, or to various terrestrial alternatives.

26. *Alternative C-Band Satellite Providers*. Both Telesat and Eutelsat have contiguous United States (CONUS) C-band coverage and substantial C-band satellite capacity available to serve

States with a traditional MVPD subscription is down approximately 30 million from 2019 to 2024 and is expected to fall another 13 million by 2028); SES Feb. 3, 2025 RFI Response, Exh. A at 18 ("[T]he Parties' Media customers are investing heavily in OTT and Internet-based streaming services to deliver their content to audiences directly."); Media White Paper at 10 (noting that {[
]}); *id.* at 16 ("{[
']}.")

[80] Narrative at 20-21; *see also* Media White Paper at 1, 15.

[81] Consolidated Response at 11-12.

[82] *See* NCTA Comments at 7-8; Eutelsat Comments at 5.

[83] Consolidated Response at 10-12; *see also* SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 8 ("Over the last eight years, SES's Media business is down {[ ]} in its video distribution business in the United States and Europe . . .it has {[ ]} Media customers.").

[84] SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 11-12; *see also* Media White Paper at 2.

[85] Eutelsat Comments at 5; Eutelsat Reply at 3. Of the 1,021 video channels distributed to the United Stated via C-band, SES and Intelsat distribute 982 of these channels, which implies a 96% post-transaction share for the combined firm (46.4% and 49.8%, respectively). Eutelsat Comments at 5; Eutelsat Reply at 3.

media service customers.[86] The Applicants' documents demonstrate that they view these operators as competitors in the media distribution and contribution segments.[87] And the Applicants' analysis of data from Novaspace confirm that all C-band operators currently have {[ ]} in North America and that C-band {[ ]}.[88]

27. *Other Bands.* While C-band is currently the primary satellite band used for media distribution, Ku-band is a potential substitute capable of providing nationwide media distribution, one that has long been used by the NBC broadcasting network to distribute programming to its affiliates.[89] Furthermore, the Applicants serve several other programmers that use Ku-band capacity for audio and video distribution.[90] This evidence suggests that Ku-band is a potential substitute satellite band that programmers could switch to for their media distribution services.

28. *Terrestrial Fiber.* The Applicants' documents provide extensive evidence that terrestrial fiber technology is a strong substitute for their media contribution services and that it is also quickly emerging as a significant substitute for media distribution services.[91] There are now a large number of providers that offer terrestrial IP media distribution solutions using new transmission technologies that provide reliable quality of service.[92] As a result, many of the Applicants' media customers have switched from satellite to the terrestrial-IP media services offered by these competitors.[93]

29. The Applicants contend that fiber is also now available nearly nationwide for programmers seeking to distribute content.[94] Based on BDC data, the Applicants contend that almost all cable subscribers are connected to headends in DMAs where their cable operator offers wired gigabit broadband.[95]

30. FCC staff performed an independent analysis of fiber availability and came to a similar conclusion that fiber is a widely available alternative delivery technology for media services. This

[86] Telesat, North America Video Services, https://www.telesat.com/broadcast/ (last visited May 6, 2025); Eutelsat, FEEDING DTT, CABLE & IP HEAD-ENDS, https://www.eutelsat.com/en/satellite-communication-services/broadcasting-solutions/dtt-cable-ip-ott-multiscreen-fta-satellite-distribution.html?#dtt--cable---ip (last visited May 6, 2025).

[87] SES-FCC-00000001, at SES-FCC-00000004 (SES, Competitor Strategy Updates H2 2023, No date available). ISAT-2R-002817894, at ISAT-2R-002817901 (Intelsat, Regional Market Update Corporate Strategy, June 2024).

[88] DOJ Media Presentation at 20.

[89] *See* Space Daily, *NBC Signs Long-Term Service Agreement with SES Americom* (Apr. 6, 2004) https://www.spacedaily.com/news/satellite-biz-04zz.html.

[90] ISAT-FCC-000000092 (Intelsat, Table D_USMedia 01_21 to 06_24, Feb. 3, 2025) (e.g., {]}); SES Feb. 3, 2025 Confidential RFI Response, Attach. Response to Request 12.xlsx, (Table D – Revenues) (SES Revenues Data) (e.g., {]}).

[91] ISAT-2R-002816890, at ISAT-2R-002816901 (Intelsat, Commercial and Technology Report, June 18, 2024).

[92] Media White Paper at 13; Comments of Zixi Inc. at 2-4, GN Docket 25-59 (filed Mar. 6, 2025) (Zixi Comments).

[93] *See supra* note 70.

[94] *See supra* note 61.

[95] *See supra* note 66.

analysis used the BDC data in conjunction with registered C-band earth station location data to calculate the percentage of C-band earth stations that are likely located within a certain distance of terrestrial fiber.[96] Specifically, we calculated the distance from each earth station to the nearest broadband fabric location where any provider reports having cable or fiber service with gigabit broadband download speeds.[97] We find that nearly 65% of C-band earth stations are located within 200 meters of a fabric location where gigabit broadband is available, and nearly 94% of earth stations are located within 1 mile of such a location.[98] We conclude that the vast majority of C-band earth stations are located in sufficiently close proximity to fiber such that they could feasibly switch to terrestrial fiber should SES attempt to raise the prices for C-band media services post-transaction, and therefore, post-transaction, SES should have no incentive or ability to raise media service prices.

31. As we do not have revenue or customer data available from terrestrial fiber distributors of media content, it is difficult to determine the current shares of fiber versus satellite in the media distribution segment. The best evidence available in the record is a study commissioned by Intelsat, which found that the current terrestrial-IP market share for North American video distribution is significant, approximately {[ ]}% in 2023, and is expected to grow substantially over the next few years, with an estimated share of {[ ]}% by 2028.[99] This analysis suggests that terrestrial fiber will likely become the dominant technology in the media segment in the near future,[100] and it provides strong support both to the Applicants' claim that post-transaction SES will be "{[ ]}"[101] and to our ultimate conclusion that the proposed transaction will not lead to any anticompetitive harms in the media segment.

32. *Declining Media Revenues.* Applicants' argue that their revenues from media services have declined due to increased competition from terrestrial distribution and the decline in traditional linear television due to consumer adoption of OTT video platforms.[102] FCC staff extended the Applicants' underlying analysis along several dimensions and reached a similar conclusion that their media revenues have been steadily declining due to customers substituting to alternative media delivery platforms.

[96] FCC, Broadband Data Collection (Dec. 19, 2024), https://www.fcc.gov/BroadbandData (BDC data); Letter from Sanga Chandel, RSM US LLP, to Marlene H. Dortch, Secretary, FCC, Dockets WTB 18-122, GN 23-97, Attach. (filed May 24, 2023) (C-band earth station data from the C-band transition).

[97] BDC locations data with respect to coverage are part of the Broadband Serviceable Location Fabric. *See* FCC, *What is the location Fabric?* (Mar. 3, 2023), https://help.bdc.fcc.gov/hc/en-us/articles/5375384069659-What-is-the-Location-Fabric. Locations in this analysis include broadband serviceable locations (BSLs) and non-BSLs. A BSL is a business or residential location in the United States at which mass-market fixed broadband Internet access is, or can be, installed. *See* FCC, *About the Fabric: What a Broadband Serviceable Locations (BSL) Is and Is Not* (Apr. 15, 2025), https://help.bdc.fcc.gov/hc/en-us/articles/16842264428059-About-the-Fabric-What-a-Broadband-Serviceable-Location-BSL-Is-and-Is-Not.

[98] Nearly 99% of C-band earth stations are within 5 miles of a fabric location with gigabit broadband speeds.

[99] ISAT-2R-001871651, at ISAT-2R-001871689 (Intelsat, Intelsat Media Commercial Strategy – Phase 2 IP Delivery & Vendor Profiles, Dec. 2023).

[100] *Id.*

[101] DOJ Media Presentation at 33.

[102] Media White Paper at 1-2, 16-19.

33. Based on Intelsat's media customer revenue data,[103] we find that media revenues have declined {[ ]}.[104] For full-time media distribution, we find Intelsat's revenue data support the Applicants' argument and are consistent with the Applicants' losing customers to terrestrial fiber media distribution options. Specifically, {[ ]}.[105] We further find that the observed decline in the Applicants' media distribution revenues likely understates the true competitive constraint that fiber has on the Applicants' pricing because of the use of long-term contracts in this industry. To receive discounted pricing, most media customers sign multi-year distribution contracts, sometimes lasting {[ ]} or more years.[106] Thus, only a relatively small fraction of the Applicants' media services customers are at risk of being lost to terrestrial fiber or other competitors each year. Indeed, {]} suggest that competition for media services is stronger than the revenue data facially indicate.

34. *Excess C-band Capacity.* As economists and the courts have recognized, when firms face competition, substantial excess capacity in an industry provides favorable conditions for aggressive pricing.[107] A review of the current record indicates that the Applicants have substantial excess North American C-band capacity. Novaspace data show that the 2025 supply of C-band capacity is {[ ]}.[108] Public statements by the Applicants confirm that they have excess North American C-band capacity. For

[103] Intelsat Revenues Data; Media White Paper Backup. We focus on Intelsat for our revenue analysis because the SES data did not permit us to address all of the potential issues we identified with the Applicant's original analysis. The SES data could not be delineated as cleanly into the different service categories (e.g., contribution, distribution etc.) and it did not clearly categorize managed versus non-managed service revenues. *See* SES Revenues Data; Media White Paper Backup.

[104] ISAT-FCC-000000092 (Intelsat, Table D_USMedia 01_21 to 06_24, Feb. 3, 2025); *see also* Media White Paper Backup. Our analysis found that the contribution, DTH, and occasional use media subsegments accounted for {[ ]}. Specifically, {[ ]}, and { }. Consistent with the Applicants' claims, we conclude from these trends in revenues within each of these subsegments that the proposed transaction is unlikely to pose competitive concerns for contribution, occasional use and DTH media services. *Id.*

[105] ISAT-2R-002816136, at ISAT-2R-002816143 (Commercial Business Unit Performance (Media, Networks, Mobility), May 24-25, 2022). {]}. *Id.*

[106] SES Media Revenues Data; SES Feb. 3, 2025 RFI Response, Attach. Response to Request 12.xlsx (Table D – Capacities) (SES Media Capacity Data); ISAT-FCC-000000092 (Intelsat, Table D_USMedia 01_21 to 06_24, Feb. 3, 2025) (Intelsat Media Capacity Data).

[107] *See* Seth Sacher and Jeremy Sandford, *The Role of Capacity in Antitrust Analysis*, 12 J. Comp. L & Econ. 661–700 (2016) (". . . as excess capacity increases, competition becomes more intense, resulting in greater output, a lower price and lower profits."). *See also* Jonathan Baker, *Mavericks, Mergers, and Exclusion: Proving Coordinated Competitive Effects under the Antitrust Laws*, 77 N. Y. Univ. L. Rev. 135, n.166, (2002) (citing FTC v. Cardinal Health, Inc., 12 F. Supp. 2d 34, 63-64 (D.D.C. 1998)).

[108] DOJ Media Presentation at 20. In terms of spectrum utilization, these figures imply that, on average, North America C-band operators are {[ ]}.

example, SES has said that it would be possible to reallocate an additional 100 megahertz or more of C-band spectrum.[109] Furthermore, there are significant number of C-band users that have not transitioned to higher compression HEVC technology,[110] which has been shown to reduce the required bit rate for the same video quality by 50% or more.[111] Finally, as noted above, a study commissioned by Intelsat projects that terrestrial-IP will account for {[ ]}% of the North American media distribution segment by 2028, which indicates that, in the near future, there will likely be even greater excess C-Band capacity, which would tend to increase the incentive of all C-band licensees to further lower prices.

35. Overall, we conclude that the proposed transaction is unlikely to cause competitive harm in the media segment due to the competition that the Applicants will continue to face from both Eutelsat and Telesat, the other two satellite operators with CONUS coverage and from the numerous terrestrial media distribution options that have recently entered and are quickly gaining share as existing satellite capacity contracts expire.[112]

2. Aviation Services

36. The Applicants provide in-flight data and voice communications services (in-flight connectivity services or IFC services) to commercial aviation and business aviation customers on multiple bands and orbits.[113] Intelsat provides IFC services directly to about 20 airlines, and earned approximately $384.4 million in in-flight service revenues in 2024.[114] SES primarily supplies capacity to other IFC service providers, such as Gogo (Intelsat), Panasonic, Thales, and Anuvu,[115] and earned approximately $165 million in in-flight service revenues in 2024.[116] For purposes of evaluating this transaction, we

[109] *See* SES S.A., FY 2024 Earnings Call Transcripts, February 26, 2025 ("FCC made their intentions and objectives very clear. They would like to get more than 100 megahertz. Is it possible technically? Yes, it's possible.").

[110] *See* DOJ Media Presentation at 21.

[111] Rajitha Weerakkody, Marta Mrak, Vittorio Baroncini, Jens-Rainer Ohm, Thiow Keng Tan, Gary J. Sullivan, *Verification testing of HEVC compression performance for UHD video*, (2014), https://ieeexplore.ieee.org/document/7032288 (last visited June 12, 2025).

[112] Since we find the merger raises no competitive concerns with respect to media distribution using the C-band, we do not address proposals to divest satellites to resolve such concerns. *See e.g.*, Letter from Nicholas Degani, Partner, Willemstad Holdings, to Marlene Dortch, Secretary, FCC, GN Docket No. 25-59 et al., at 1 (filed June 20, 2025).

[113] Examples of IFC services include Internet access, streaming content, voice communications, and cockpit communication and safety-of-flight services. *See e.g.*, Intelsat, *Commercial Aviation*, https://www.intelsat.com/commercial-aviation/ (last visited May 2, 2025); Mobility and Fixed Data White Paper at 13 (Intelsat has a distribution agreement with OneWeb to distribute Oneweb's service over a multi-orbit IFC solution); SES Feb. 3, 2025 Confidential RFI Response at 47 (noting that {

]}).

[114] Intelsat S.A. and Subsidiaries, Annual Report ended December 31, 2024 at 58, https://investors.intelsat.com/static-files/32a28ff9-4aab-4007-a714-59cc45b550ae.

[115] SES Annual Report 2024 at 26, https://www.ses.com/sites/default/files/2025-03/SES_AnnualReport24_4MAR25_final.pdf; Mobility and Fixed Data White Paper at 13.

[116] *See* SES Annual Report 2024 at 13, 26, https://www.ses.com/sites/default/files/2025-03/SES_AnnualReport24_4MAR25_final.pdf (noting that SES's mobility business comprises approximately 28% of its network revenues, of which approximately 50% is from inflight connectivity). Dollars amounts converted from euros based on the average year exchange rate of $1.0863/€ used by SES. *Id*. at 180.

consider all flights that originate, terminate, or otherwise stop in the United States.[117] Furthermore, we consider all providers of IFC services in our analysis, including satellite operators and resellers.[118]

37. *Commercial Aviation.* The Applicants claim that they are not direct competitors in commercial aviation, as Intelsat sells IFC services directly to aviation customers while SES does not.[119] The Applicants assert that the relevant level of analysis in commercial aviation should be direct sales of IFC services to aircraft and estimate Intelsat's 2023 markets share of this category to be {[ ]}%.[120] Other estimates of Intelsat's market share range between {[ ]}% and {[ ]}%.[121] In contrast, at the time the Applicants filed the Mobility and Fixed Data White Paper, SES did not directly provide IFC services.[122] SES does offer managed aviation services as part of Airbus's HBCplus program,[123] but HBCplus did not have any customers as of September 2024.[124]

38. We find that the proposed transaction is unlikely to result in any horizontal competitive harms in the commercial aviation segment. SES and Intelsat do not currently compete directly in commercial aviation, and HBCplus remains a nascent offering in which other satellite operators besides

[117] *See* SES RFI at 5; Intelsat RFI at 5. Due to data limitations, we frequently rely on data for North American IFC connected flights by aircraft.

[118] Satellite operators operate their own satellites and may also provide other satellite services, while resellers purchase all their satellite capacity to provide services. *Communications Marketplace Report*, GN Docket No. 24-136, 2024 Communications Marketplace Report, FCC 24-126, at 128-9, para. 178 (2024) (*2024 Communications Marketplace Report*).

[119] Narrative at 22.

[120] Mobility and Fixed Data White Paper at 16. The Applicants' reported share is global, comprising aircraft that may never enter the United States. The share also does not account for Starlink's recent contract to serve the entire United Airlines fleet. *Id*. at 2. Narrowing the analysis to active connected aircraft in respectively, North America and the United States, and assigning United Airlines aircraft to Starlink, we estimate that Intelsat's market shares of connected aircraft for North America and the United States are {[ ]}% and {[ ]}% respectively. *See* Letter from Michele Farquhar, Counsel to SES, S.A., to Marlene H. Dortch, Secretary, FCC, Attach. Valour Consultancy IFC Tracker, Q3 2024 (filed Jan. 8, 2025) (Valour Consultancy IFC Tracker, Q3 2024). We expect these figures to decline based on projected {[ ]}. *Id.*

[121] Market analysts estimate that Intelsat's global market share of connected aircraft was {[ ]}% in 2023 whereas Intelsat's ordinary course of business documents estimate their 2022 global market as approximately {[ ]}%. SES-FCC-00000138, at SES-FCC-00000278 (Novaspace, *Satellite Connectivity and Video Market*, Sept. 2024); ISAT-2R-002819015, at ISAT-2R-002819019 (Intelsat | Growth Opportunities, July 2022). By comparison, market analysts estimate that Intelsat's North American share of connected aircraft was {[ ]}%. SES-02968240 at SES-02968303 (Euroconsult, *Prospectus for In-Flight Entertainment and Connectivity*, Sept. 2023).

[122] Mobility and Fixed Data White Paper at 16.

[123] Airbus, *High Bandwidth Connectivity Plus (HBCplus)*, https://aircraft.airbus.com/en/services/enhance/connectivity/hbc-plus (last visited Apr. 30, 2025).

[124] Mobility and Fixed Data White Paper at 13. Since that time, HBCplus has acquired at least two customers that offer flights to and from the United States. Press Release, SES, Two National Airlines Choose a Seamless Multi-orbit IFC Future with SES Open Orbits™ (Oct. 30, 2024), https://www.ses.com/press-release/two-national-airlines-choose-seamless-multi-orbit-ifc-future-ses-open-orbitstm.

SES participate.[125] Furthermore, Intelsat faces robust competition from both GSO and NGSO competitors and is likely to face increased competition as a result of additional entry into this segment.[126]

39. Since SES supplies satellite capacity to other IFC providers, the proposed transaction has a vertical aspect. We find, however, that the proposed transaction is unlikely to result in any vertical competitive harms. The Applicants' ability to foreclose or raise their downstream rivals' costs post-merger is limited by the fact that their share of total satellite capacity is dwarfed by the capacity of LEO providers. We agree with the Applicants that capacity is fungible across different uses and frequency bands, and that any satellite operator could feasibly supply satellite capacity to providers of satellite services in the aviation segment.[127] The Applicants estimate that their combined share of North American NGSO and GSO capacity was {[ ]}% in 2024, and project that their share of capacity will become {[ ]}% by 2028.[128] While we do not have data on satellite capacity limited to the United States, we estimate that the Applicants accounted for at most {[ ]}% of all leased GSO and NSGO capacity revenues in North America, and we expect that this is likely to {[ ]}% in 2025.[129] We anticipate that this

[125] Press Release, SES, Two National Airlines Choose a Seamless Multi-orbit IFC Future with SES Open Orbits™ (Oct. 30, 2024), https://www.ses.com/press-release/two-national-airlines-choose-seamless-multi-orbit-ifc-future-ses-open-orbitstm. We do not have data to quantify SES's HBCplus market share based on its two contracts, but with only two customers the market share is unlikely to be large enough to raise competitive concerns.

[126] For example, in late-2023, Delta chose to switch from Intelsat to Hughes Network Systems for IFC service to 400 Boeing 717 and smaller regional jets serving North America. Jason Rainbow, *Delta Swapping Out Intelsat Wi-Fi for Hughes on 400 Planes* (Nov. 1, 2023), https://spacenews.com/delta-swapping-out-intelsat-wi-fi-for-hughes-on-400-planes/. In addition to recently signing a contract to provide IFC services to United Airlines, Starlink has or was expected to contract with Qatar Airways, JSX Air, Hawaiian Airlines, AirBaltic, ZIPAIR, and Air New Zealand. *See Simple Flying* (Feb. 18, 2024), https://simpleflying.com/starlink-aviation-wifi-guide/. Amazon's Kuiper, which in April 2025, began to launch satellites for its planned LEO constellation, has recently signed a memorandum of understanding with Airbus as part of its HBCplus program. *See* Jeff Foust, *Atlas Launches First Operational Project Kuiper Satellites* (Apr. 29, 2025), https://spacenews.com/atlas-launches-first-operational-project-kuiper-satellites/; Press Release, Airbus, Airbus and Amazon's Kuiper Team-up to Offer LEO Satellite Network for HBCplus (April 8, 2025), https://aircraft.airbus.com/en/newsroom/web-story/2025-04-airbus-and-amazons-kuiper-team-up-to-offer-leo-satellite-network-for.

[127] LEO White Paper at 7-9.

[128] SES Feb. 3, 2025 Confidential RFI Response at 33. We note that these shares comprise high throughput satellite (HTS) capacity and widebeam (or regular) capacity. HTS refers to satellites that offer significantly more capacity compared to traditional fixed satellite services by utilizes multiple spot beams to achieve a more targeted and efficient distribution of bandwidth. *See* Editorial Teams, *SATNow* (Feb. 12, 2025), https://www.satnow.com/community/what-are-high-throughput-satellites-hts.

[129] SES-FCC-00000137 (NSR, NAM, July 2024). A market analysis by NSR finds that in 2022, SES and Intelsat leased, respectively, {[ ]}% and {[ ]}% (or a combined {[ ]}%) of North American leased regular capacity, and that, at most, the Applicants combined to lease {[ ]}% of North American leased HTS capacity. *Id.* HTS refers to satellites that offer significantly more capacity compared to traditional fixed satellite services by utilizing multiple spot beams to achieve a more targeted and efficient distribution of bandwidth. *See also* Editorial Teams, *SATNow* (Feb. 12, 2025), https://www.satnow.com/community/what-are-high-throughput-satellites-hts. The share, {[ ]}% represents the share of satellite operators other than {[ ]} and subsumes {[ ]}. SES-FCC-00000137 (NSR, NAM, July 2024). Market analysts also estimate 2022 North American aggregate leased capacity revenues of $ {[ ]}, with {[ ]}% and {[ ]}% of this comprising of, respectively, leased regular and leased HTS GSO capacity. *Id.* The share, {[ ]}%, represents the total of leased regular C-band, Ku-band, and Ka-band revenue in Exhibits 2.35, 2.36, 2.37, 2.38, 2.41 divided by $ {[ ]}. *Id.* The share {[ ]}% is calculated analogously. *Id.* We then calculate the Applicants' combined share of North American leased regular and leased HTS capacity revenues as, respectively, {[

(continued….)

downward trend in the Applicants' capacity share will continue as existing LEO providers expand their fleets and new LEO providers enter the market, and that this additional capacity would make any post-transaction foreclosure strategy unprofitable.[130]

40. We also note that the Applicant's ordinary course of business documents from 2023 show that SES's predicted commercial aviation profits {[ ]},[131] and that Intelsat has had {[ ]} in the commercial aviation segment between 2022 and 2023, which suggests that neither firm has substantial market power in this segment, either in the downstream supply of aviation services to customers or the upstream supply of capacity to aviation providers.[132] Finally, as we discuss in section VI, we find that the proposed transaction will likely create an incentive for the combined company to lower prices due to the elimination of double marginalization associated with Intelsat's capacity leases to SES.

41. *Business Aviation.* SES offers business IFC services exclusively through its own network, while Intelsat offers business IFC services using its own spectrum and spectrum it leases from other satellite companies.[133] In addition, both SES and Intelsat supply satellite capacity to third-party providers offering business aviation services.[134] For SES, the supply of capacity to third parties constitutes the majority of its business aviation revenues.[135]

42. We find that the proposed transaction will not result in competitive harm to the provision of IFC services to U.S. business aviation customers for two main reasons. First, the Applicants are relatively small players in this segment and do not compete against each other to any significant extent. Indeed, Intelsat only provides service to a single provider in this segment,[136] and SES's ordinary course of business documents confirm its limited presence, stating that {[ ]}% of its revenues come from

]}% and {[ ]}%, which add up to approximately {[ ]}%. *Id.* We note that these calculations rely on the relatively strong assumption that leased revenue per unit of capacity does not vary across market segments or participants. Our 2025 estimate is calculated analogously, using forecast North American revenue, but with 2022 market shares. *Id.*

[130] Market analysts estimate that NGSO leased capacity revenues in North America will exceed ${[ ]} and will go from {[ ]}% of leased capacity revenues in 2022 to {[ ]}% in 2030. SES-FCC-00000137 (NSR, NAM, July 2024).

[131] SES-FCC-00005041, at SES-FCC-00005044 (SES, Due Diligence Report Draft Project Indiana, Apr. 21, 2023).

[132] In 2022, Intelsat forecasted adjusted earnings before interest, taxes, depreciation, and amortization (EBITDA) {[ ]} in the segment. ISAT-2R-002815947, at ISAT-2R-002815951 (Intelsat, Business Unit Performance, Aug. 31, 2022). For the first half of 2023, Intelsat found that after subtracting variable costs, segment profits were {[ ]}% of revenue and in line with {[ ]}, which Intelsat described as {[ ]}. ISAT-2R-002816217, at ISAT-2R-002816220 (Intelsat, Commercial Report, Dec. 13, 2023); ISAT-2R-002816273, at ISAT-2R-002816286 (Intelsat, Commercial Report, Mar. 6, 2024).

[133] SES, *Business Aviation*, https://www.ses.com/find-service/commercial-aviation/business-aviation (last visited May 1, 2025). SES offers Luxstream in collaboration with Collins Aerospace, exclusively through SES's network. Intelsat, *Product FlexExec for Business*, https://www.intelsat.com/aviation/products/flexexec/ (last visited May 1, 2025). Intelsat offers IFC service directly through its FlexExec program. *See* Mobility and Fixed Data White Paper at 13-14.

[134] *See* Mobility and Fixed Data White Paper at 13.

[135] SES Feb. 3, 2025 Confidential RFI Response at 55.

[136] Mobility and Fixed Data White Paper at 14.

business aviation.[137] In addition, the Bureau previously found that Gogo, Iridium, and Viasat-Inmarsat are the largest providers in this segment,[138] and independent analysts agree.[139] Second, as with commercial aviation, we find that existing and future entry by LEO operators into the provision of IFC services in business aviation will result in substantially greater competitive pressure, both directly and by providing additional capacity to third-parties.

3. Maritime Services

43. Maritime communications services consist of communications services to mobile vessels, including merchant, passenger, leisure, and fishing vessels, as well as to fixed offshore sites.[140] SES directly offers a variety of such services using both GSO and MEO satellites[141] across multiple bands[142] whereas Intelsat operates exclusively as a supplier of capacity to third-parties.[143] SES's maritime business serves major cruise customers as well as one shipping line customer.[144] In 2023, SES earned approximately ${[ ]} million in U.S. maritime revenues,[145] and Intelsat earned approximately ${[ ]} million.[146]

44. The Applicants claim that they face a competitive environment in maritime services and that the merger would not reduce competition.[147] They assert that neither Intelsat nor SES are prominent players in this segment, and they point to Speedcast, Marlink, KVH, and Viasat-Inmarsat as the largest providers in this segment.[148] The Applicants also maintain that they are not direct competitors in the provision of managed services to downstream customers—as Intelsat has no integrated maritime service business[149]—and SES accounts for {[ ]}% of the global share of GSO-VSAT ("very small aperture terminals") equipped maritime vessels globally.[150] Finally, they emphasize that Starlink poses a strong

[137] SES-FCC-00008049, at SES-FCC-00008057 (Aero Strategy 2024: Vertical Strategy Day, June 12, 2024).

[138] *See Viasat-Inmarsat Order*, 34 FCC Rcd at 18, para. 38.

[139] One analysis classifies the market shares of Collins Aerospace, Intelsat, and Satcom direct as "{[ ]}." SES-02968240 at SES-02968351 (Euroconsult, *Prospectus for In-Flight Entertainment and Connectivity*, Sept. 2023).

[140] SES Feb. 3, 2025 RFI Response at 56; *see also* Mobility and Fixed Data White Paper at 4.

[141] Cruise mPowered, is a multi-orbit service that incorporates SES's GSO and MEO satellite network. SES, *Cruise*, https://www.ses.com/find-service/cruise (last visited May 8, 2025). Skala Global Network Platform is a managed service which uses SES and other satellite operators' capacity. Mobility and Fixed Data White Paper at 5.

[142] SES provides maritime services on the C-band, Ku-band, and Ka band. SES Feb. 3, 2025 RFI Response at 56.

[143] SES Feb. 3, 2025 RFI Response at 56; *see also* Mobility and Fixed Data White Paper at 5.

[144] SES Annual Report 2024, at 11, 26, https://www.ses.com/sites/default/files/2025-03/SES_AnnualReport24_4MAR25_final.pdf; *see also* SES-FCC-00008070 at SES-FCC-00008083 (SES, Cruise Growth Initiatives, June 12, 2024).

[145] SES Feb. 3, 2025 Confidential RFI Response at 56.

[146] Intelsat Feb. 3, 2025 Confidential RFI Response at 7.

[147] SES Feb. 3, 2025 RFI Response at 65; *see also* Mobility and Fixed Data White Paper at 13.

[148] SES Feb. 3, 2025 RFI Response at 56-57; *see also* Mobility and Fixed Data White Paper at 6.

[149] SES Feb. 3, 2025 RFI Response at 56.

[150] SES Feb. 3, 2025 Confidential RFI Response at 57-58; *see also* Mobility and Fixed Data White Paper at 6.

and growing competitive threat in maritime,[151] and that competition from LEOs will substantially reduce maritime service prices.[152] No commenter raised the issue of competitive harms in the maritime segment in the record.

45. We find that the proposed transaction is unlikely to result in competitive harms in maritime services. Since Intelsat does not sell directly to maritime customers, the Applicants do not compete directly, and therefore there will be no loss of head-to-head competition in the provision of managed services to maritime customers. Moreover, although Intelsat provides capacity to other competitors in the maritime segment, we see no potential vertical harms because we find that, with respect to maritime services: (1) satellite capacity within a given band is fungible across different uses;[153] (2) the Applicants' share of total capacity {[ ]} is relatively small and declining;[154] and (3) the Applicants' combined share is likely to decline as new LEO providers enter the market.[155]

4. Fixed Data Services

46. Fixed data services refers to satellite services sold to enterprise customers where the terminals are at fixed locations. Such fixed data services include: satellite mobile backhaul, network trunking, enterprise data networks connectivity, and services to energy companies, such as offshore oil and gas rigs.[156]

47. The Applicants contend that the proposed transaction will not cause competitive harms in any subsegment of fixed data services. They assert that they face intense competition, both from new LEO entrants with much greater available capacity[157] and from legacy GSO providers.[158] The Applicants argue that the proposed transaction will not meaningfully reduce competition for trunking because low-

[151] SES Feb. 3, 2025 RFI Response at 58-59, 61-63; *see also* Mobility and Fixed Data White Paper at 7, 9-13. The Applicants further claim that LEO services will surpass the total number of vessels served by GSOs by 2026. SES Feb. 3, 2025 RFI Response at 61. They also note that market analysts forecast that the revenue share of NGSOs will "increase to ~86% in the maritime vertical by 2032." SES Feb. 3, 2025 RFI Response at 63.

[152] SES Feb. 3, 2025 RFI Response at 64; *see also* Mobility and Fixed Data White Paper at 12.

[153] LEO White Paper at 7-9; ISAT-2R-002816217, at ISAT-2R-002816220 (Intelsat, Commercial Report, Dec. 13, 2023) (noting that {
]}).

[154] *See supra* note 129.

[155] Industry analysts expect that the trend of maritime customers switching from GSO to NGSO services will continue, predicting that the share of NGSO as the primary maritime communications link is expected to surge from 20% in 2023 to 90% in 2033. Satnews, *Novaspace's Prospects for Maritime Satellite Communication reveals the market share of Non-Geostationary Orbit solutions* (July 18, 2024), https://news.satnews.com/2024/07/18/novaspaces-prospects-for-maritime-satellite-communication-reveals-the-market-share-of-non-geostationary-orbit-solutions/.

[156] SES Feb. 3, 2025 Confidential RFI Response at 68; Intelsat Feb. 3, 2025 Confidential RFI Response at 8. In 2023, SES had U.S fixed data revenues of approximately ${[ ]} million. SES Feb. 3, 2025 Confidential RFI Response at 68. That same year, Intelsat earned approximately ${[ ]} million in fixed data revenues. Intelsat Feb. 3, 2025 Confidential RFI Response at 8.

[157] *See* Mobility and Fixed Data White Paper at 28 (noting that in 2023, {[,
]}).

[158] *Id.* at 24. We note that legacy competitors include Echostar-Hughes, Viasat-Inmarsat, Hispasat-AXESS, Telesat, and Eutelsat.

cost LEO providers are increasing their market share by offering "{[ ]}," and they further note that fiber is a direct substitute.[159] The Applicants point out that LEO providers are projected to capture approximately 80% of cellular backhaul and trunking service revenues by 2032.[160] The Applicants argue that the enterprise or commercial subsegment is already fiercely competitive and that LEO providers are already strong competitors in this subsegment.[161] In the energy segment, the Applicants claim there are also no competitive harms because the sector is dominated by Viasat-Inmarsat, Eutelsat, and Speedcast, which together account for {[ ]}% of the market.[162] Finally, the Applicants note that expanding fiber deployments have displaced satellite for fixed data services in many geographic areas as users' "medium of choice."[163]

48. We find that the proposed transaction is unlikely to result in competitive harms in the provision of fixed data services. The Applicants face strong competition with respect to this service segment, especially from LEOs, and all GEOs have lost, and are continuing to lose, business to competitors.[164] Indeed, internal documents assert that Starlink is the largest trunking player and one of the largest enterprise players, with shares of {[ ]}% and {[ ]}%, respectively.[165] Intelsat's position in the fixed data segment has similarly been affected by LEOs. Intelsat's ordinary course of business documents from the first half of 2023 highlight {[ ]}.[166] SES internal documents indicated similar competitive pressures on its fixed data services.[167] Other SES internal documents suggest that in mobile backhaul, Intelsat's position is {[

[159] Mobility and Fixed Data White Paper at 29.

[160] *Id.* at 28. *See also* Novaspace, High Throughput Satellites, 7th ed. at 85 (2024).

[161] Mobility and Fixed Data White Paper at 21, 30-31. { }. SES Feb. 3, 2025 Confidential RFI Response at 73; *see also* Mobility and Fixed Data White Paper at 25.

[162] Mobility and Fixed Data White Paper at 31.

[163] SES Feb. 3, 2025 RFI Response at 69.

[164] Mobility and Fixed Data White Paper at 26-31. *See also* SES-2R-0003297, at SES-2R-0003309 (SES, Risk Management Report, Apr. 3, 2024); SES April 30, 2025 RFI Response at 69, 72-73; ISAT-2R-000000771, at ISAT-2R-000000776 (Intelsat, Starlink : How do we compete, No date available); SES-FCC-00007818, at SES-FCC-00007822 (CEO Report: The Board of Directors Meeting, June 13, 2024) (noting that {[ ]}); ISAT-2R-000000683, at ISAT-2R-000000693 (Intelsat, Networks Growth Strategy 2023-26, No date available) (noting that {[}); SES-2R-0004168, at SES-2R-0004206 (SES, Enterprise & Cloud Security, May 16, 2024) (noting that {[ ]}).

[165] SES-2R-0004168 at SES-2R-0004230, SES-2R-0004240 (SES, Enterprise & Cloud Security, May 16, 2024).

[166] ISAT-2R-000000683, at ISAT-2R-000000693 (Intelsat, Networks Growth Strategy 2023-26, No date available).

[167] SES-FCC-00007818, at SES-FCC-00007822 (SES, CEO Report: The Board of Directors Meeting, June 13, 2024) (describing {[ ]}).

]}.[168] Finally, the Applicants internal documents also demonstrate that fiber is a strong competitor in the fixed data segment.[169]

49. Pricing trends provide additional evidence of the competitive pressures that the Applicants face in the fixed data segment. NSR reports that North American backhaul and trunking prices have declined due to increased supply and that backhaul and enterprise prices will likely fall in the future.[170] These trends are reflected in Intelsat's North America fixed data pricing reports,[171] and the Applicants' internal documents.[172] Finally, as stated above and as discussed in section VI, elimination of double marginalization may result in the lowering the Applicants' fixed data service pricing.

5. Government Services

50. Many U.S. Government agencies contract with commercial satellite operators and service providers for a variety of domestic and international satellite communication and data services.[173] U.S. federal agencies procure satellite services via a complex process that frequently involves the submission of formal or informal bids.[174] Both Applicants offer managed services and lease satellite transponder capacity to the U.S. Government across multiple spectrum bands and orbits.[175] In August 2022, SES acquired DRS Global Enterprise Services (GES), which roughly doubled its U.S. Government revenues.[176] In 2024, we estimate SES earned $442 million in revenue from sales to the U.S.

[168] SES-2R-0004168, at SES-2R-0004206 (SES, Enterprise & Cloud Security, May 16, 2024).

[169] *Id.*, at SES-2R-0004232 (SES, Enterprise & Cloud Security, May 16, 2024); ISAT-2R-002816642 at ISAT-2R-002816650 (Intelsat, Commercial Business Unit Performance (Media, Networks, and Mobility), May 24-25, 2022).

[170] Mobility and Fixed Data White Paper at 28-30; *see also* SES-2R-0002123, at SES-24-0002131 and SES-24-0002139-140 (NSR, *Satellite capacity pricing index, 10th edition*, Mar. 2024).

[171] ISAT-2R-002816273, at ISAT-2R-002816281 (Commercial Report, Mar. 6, 2024) (noting that {[.]}).

[172] *See, e.g.*, ISAT-2R-000000683, at ISAT-2R-000000749 (Networks Growth Strategy 2023-26); SES-2R-0004168, at SES-2R-0004186, SES-2R-0004187 (Enterprise & Cloud Security, May 16, 2024) (noting that {[ ]}); SES-FCC-00007907, at SES-FCC-00007949 (Strategy Days 2024, June 7, 2024) (noting that {[ ]}); SES-2R-0003297, at SES-2R-0003309 (Risk Management Report, Apr. 3, 2024) (noting that {[ ]}).

[173] *Viasat-Inmarsat Order,* 38 FCC Rcd at 4785, para. 21.

[174] *Id.*

[175] Government White Paper at 2; SES Feb. 3, 2025 RFI Response at 32.

[176] Press Release, SES, SES Doubles High-value US Government Business with $450 Million Acquisition of DRS Global Enterprise Solutions (Mar. 22, 2022), https://www.ses.com/press-release/ses-doubles-high-value-us-government-business-450-million-acquisition-drs-global.

Government.[177] We estimate Intelsat's revenue from U.S. Government sales in 2024 at approximately ${[ ]} million.[178]

51. Even though both Applicants serve the U.S. Government, including its military, and diplomatic and national security agencies,[179] they claim that they rarely compete directly.[180] The Applicants claim that, following SES's {[ ]} U.S. Government satellite communications provider whereas Intelsat predominantly provides wholesale satellite capacity in the government segment.[181] The Applicants also argue that established operators such as Viasat-Inmarsat, Eutelsat-OneWeb, EchoStar, and Hughes, as well as new, well-capitalized NGSO systems, like Starlink, compete for U.S. Government contracts. Furthermore, the Applicants claim that the proposed transaction will enhance the merged firm's ability to compete vigorously to serve U.S. Government customers.[182] No commenter in the record suggested that the merger would cause competitive harms in the government segment.

52. *Discussion*. We find that the proposed transaction is unlikely to result in competitive harms in the U.S. Government segment. As we explain below, direct competition between the Applicants is limited. Moreover, we anticipate that increased competitive pressures from NGSOs will restrain prices in the government services segment.

53. We find that the Applicants seldom compete directly against each other in the prime market. The Applicants present an analysis of SES internal data showing that, of {[ ]} potential contracts for satellite government services between January 1, 2018 and May 12, 2022, SES records Intelsat as a competing bidder only {[ ]} times.[183] We performed our own analysis using the USASpending.gov database, which contains monthly spending information from over 100 federal

[177] SES Annual Report 2024 at 26, https://www.ses.com/sites/default/files/2025-03/SES_AnnualReport24_4MAR25_final.pdf ("Government represents 50% of Networks. The business is comprised of approximately 75% of multiple U.S. defence and civilian agencies."). *Id*. SES's Network business unit generated €1,085 million across all regions in 2024, which implies that 50% of this revenue was due to the overall government segment and that 75% of this segment came from sales to the U.S. government. We use this to estimate 2024 U.S. Government revenues as €1,085 million × 0.5 × 0.75 = €406.9 million. Dollars amounts converted from euros based on the average year exchange rate of $1.0863/€ used by SES. *Id*. at 180. Alternatively, SES reported ${[ ]} in U.S. government revenues from January 2024 to November 2024. SES Feb. 3, 2025 Confidential RFI Response at 32, and at Attach. Response to Request 12.xlsx (Table C).

[178] Intelsat Feb. 3, 2025 Confidential RFI Response at 5; ISAT-FCC-000000092 (Intelsat, Table C_USALL 01_21 to 09_24, Feb. 3, 2025). Intelsat's January 2024 to September 2024 U.S. government revenue was ${[ ]}. *Id.* We approximate the additional three months of revenue as one third of revenue for the first 9 months (${[ ]} = ${[ ]} × (1+1/3)). *Id.*

[179] Narrative at 16.

[180] Government White Paper at 14.

[181] SES Feb. 3, 2025 Confidential RFI Response at 32. The Applicants estimate that SES's prime contract market share is approximately 25% while Intelsat has a prime contract market share of less than 0.5%. *Id*. at 44; *see also* Government White Paper at 13.

[182] Narrative at 18, 21.

[183] Government White Paper at 14-15 (noting that {]}); *see also* SES-01324673 (SES, PAC DATA, No date available).

agencies" and which shows 5,509 awards for satellite telecommunications services during the five years spanning 2020-2024 with a total value of $3.36 billion.[184] Consistent with the Applicants' claims, we find that, while SES derives the much of its U.S. Government revenue from its role as a prime contractor that offers managed services to government customers, Intelsat rarely serves as a prime contractor to the U.S. Government.[185] Thus, we find that there was only limited head-to-head competition between the Applicants for the same government contracts.

54. Given that Intelsat acts primarily as a supplier of capacity for government services, we also considered whether the transaction might result in vertical anticompetitive effects. As stated above, a vertical transaction may cause anticompetitive harms by increasing a merged firm's incentive to "'raise rivals' costs," either by foreclosing supply of the input it sells to downstream competitors or by raising the price at which it sells the input to competitors."[186] Here, however, the Applicants' share of total satellite capacity is dwarfed by the capacity of LEO providers. Moreover, as we discuss in section VI, the proposed transaction should give rise to elimination of double marginalization associated with Intelsat's capacity leases to SES, which would effectively reduce SEC's marginal costs, and thus could lead to lower prices.

55. An additional factor suggesting that the transaction is unlikely to adversely affect competition in government services is that existing LEO providers have been expanding their fleets, while new LEO providers enter the market, both of which are likely to reduce the Applicants' share of government service revenues over time.[187] Moreover, this decline will likely accelerate due to the U.S. Government's shift to HTS capacity and the substantial increase in the supply of HTS capacity by the Applicants' competitors.[188]

VI. POTENTIAL PUBLIC INTEREST BENEFITS

56. We find that the proposed transaction is likely to generate certain transaction-specific public interest benefits. These include lower costs due to synergies and elimination of double marginalization, improved network quality, increased investment, national security benefits, and the creation of a more vigorous satellite competitor.

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[184] USASpending.gov, *Resources: Data Sources*, https://www.usaspending.gov/data-sources (last visited May 7, 2025). Not every executive branch agency and no agency in the judicial or legislative branch is required to report on USASpending.gov. Moreover, USASpending.gov does not include "information that could compromise national security." *Id*.

[185] SES's total revenues as a prime U.S. Government contractor (based on a sum of SES's "total_obligated_amount" revenues in USASpending.gov data) was approximately $198 million for 2024. In contrast, Intelsat's total revenues in 2024 as a prime U.S. Government contractor was much smaller: only approximately $29.1 million. USASpending.gov, *Resources: Data Sources*, https://www.usaspending.gov/data-sources (last visited May 7, 2025).

[186] *Verizon-TracFone Order*, 36 FCC Rcd at 17017-18, para. 56; *NewsCorp.-Hughes Order*, 19 FCC Rcd at 510, para. 78; *see also Comcast-NBC Universal,* 26 FCC Rcd at 4250-51, para. 29.

[187] Government White Paper at 8 (noting that SES considers {[}); SES-FCC-00000840, at SES-FCC-00000844 (SES, MEO Government Strategy Workshop, Sep. 27, 2022) (noting that {]}).

[188] {[}. SES-2R-0001671, at SES-2R-0001789 (Euroconsult, *Satellite Connectivity and Video* Market, Sep. 2023). *See also supra* note 129.

57. The Commission finds a claimed benefit to be cognizable when it arises as a result of the transaction and likely could not be accomplished in the absence of the transaction[189] and is verifiable.[190] Because much of the information relating to the potential benefits of a transaction is in the sole possession of the applicants, they are required to provide sufficient evidence supporting each claimed benefit so that the Commission can verify its likelihood and magnitude.[191] Further, the Commission is "more likely to find marginal cost reductions to be cognizable than reductions in fixed cost"[192] as, in general, reductions in marginal cost are more likely to result in lower prices for consumers. And benefits expected to occur only in the distant future may be discounted or dismissed because, among other things, predictions about the distant future are inherently more speculative than predictions that are expected to occur closer to the present.[193]

58. The Applicants generally contend that the proposed transaction will: (1) free up financial resources for investments in innovative products and services, advanced technologies, new satellite capacity, and new ground equipment and platforms;[194] (2) improve the depth and quality of coverage;[195] (3) maximize spectrum utilization to offer customers greater bandwidth and ensure greater resiliency;[196] (4) produce a better backhaul offering;[197] (5) benefit national security;[198] and (6) enable the combined firm to more vigorously compete, including with well-financed LEO competitors.[199]

59. *Synergies.* The Applicants claim that the above benefits are only possible because the transaction will allow them to save a net present value of €2.4 billion,[200] arising from eliminating

[189] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50 (citing *AT&T-BellSouth Order*, 22 FCC Rcd at 5761, para. 202); *AT&T-DIRECTV Order*, 30 FCC Rcd at 9237, paras 273-74.

[190] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

[191] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58. In addition, "the magnitude of benefits must be calculated net of the cost of achieving them." *See, e.g.*, *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

[192] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

[193] *See, e.g.*, *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10468, para. 87; *T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2342, para. 58.

[194] Narrative at 13-14.

[195] *Id.* at 12.

[196] *Id.* at 14-15.

[197] *Id.* at 14.

[198] *Id.* at 16.

[199] *Id.* at 19.

[200] Press Release, SES, SES to acquire Intelsat: Investor Relations Frequently Asked Questions (May 6, 2024), https://www.ses.com/press-release/ses-acquire-intelsat-investor-relations-frequently-asked-questions. The Applicants claim approximately €210 million in annual run rate or {[net present value operational

(continued….)

duplicative expenses and lowering operational expenditures due to increased scale.[201] The Applicants claim that they will achieve 70% (over $1.6 billion) of these savings in three years.[202] We find the cost savings are based on reasonable assumptions and estimates based on the internal knowledge and analyses of the companies and in reference to industry benchmarks and standard methodologies.[203]

60. The Applicants claim savings of ${[ ]} from reducing operation expenditures.[204] While we find that claimed efficiencies in marketing and procurement and reductions in capacity purchases from third parties could lead to lower marginal costs,[205] other cost-savings that the Applicants identified are savings in fixed costs that do not depend on the level of output. Moreover, the Applicants do not explain how these marginal cost savings might be passed through to customers in the form of lower prices, so we only partially credit these as benefits.

61. *Investment in Capacity, Equipment, Products and Services, and Technology*. Capital expenditures synergies, estimated to be {[ ]} million in net present value,[206] are fixed costs and so would be unlikely to directly lead to lower customer prices.[207] Whether these synergies are cognizable therefore largely rests on whether these fixed-cost savings result in consumer benefits. The Applicants claim that the transaction "will free up financial resources" to invest in new products and services,

expenditure synergies will stem "{[ ]}. SES, *Q1 2024 Results & Acquisition of Intelsat* at 11 (April 30, 2024), https://www.ses.com/sites/default/files/2024-04/2405_SES%20to%20Acquire%20Intelsat_IR%20PRESENTATION_FINAL.pdf; SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 76. Applicants claim approximately €160 million in annual run rate or {[ ]} net present value capital expenditure synergies will flow from {[ ]}. SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 76.

[201] Narrative at 13-14; SES Feb. 3, 2025 RFI Response, Exh. A at 76-78.

[202] Press Release, SES, SES to acquire Intelsat: Investor Relations Frequently Asked Questions (May 6, 2024), https://www.ses.com/press-release/ses-acquire-intelsat-investor-relations-frequently-asked-questions. SES-04664059 (SES, Synergies Overview, No date available).

[203] *See, e.g.*, SES-FCC-00000531, at SES-FCC-00000561 (SES, Update from Strategic Taskforce, Feb. 28, 2024); SES-FCC-00008850, at SES-FCC-00008852 (SES, Synergy Assessment, Apr. 2024); SES-04664059 (SES, Synergies Overview, No date available). A 2022 Credit Suisse report estimating potential synergies for a hypothetical SES-Intelsat merger comes to a similar $2.6 billion. Mark Holmes, Satellite Today, *Credit Suisse Report Highlights Synergy of Hypothetical SES/Intelsat Merger* (June 24, 2022), https://www.satellitetoday.com/finance/2022/06/24/credit-suisse-report-highlights-synergy-of-hypothetical-ses-intelsat-merger/.

[204] SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 76. We note that middle case estimates for the long-term value of these synergies vary across different versions of the calculations with different calculation assumptions. *Compare* SES-FCC-00000531, at SES-FCC-00000561 (SES, Update from Strategic Taskforce, Feb. 28, 2024) *with* SES-FCC-00008850, at SES-FCC-00008852 (SES, Synergy Assessment, Apr. 2024).

[205] *See* SES-FCC-00000531, at SES-FCC-00000561 (SES, Update from Strategic Taskforce, Feb. 28, 2024); SES-FCC-00008850, at SES-FCC-00008852 (SES, Synergy Assessment, Apr. 2024).

[206] SES Feb. 3, 2025 Confidential RFI Response, Exh. A at 76. *See also* SES-FCC-00000531, at SES-FCC-00000561 (SES, Update from Strategic Taskforce, Feb. 28, 2024); SES-FCC-00008850, at SES-FCC-00008852 (SES, Synergy Assessment, Apr. 2024) (containing estimates of annual synergies).

[207] Claimed operational savings in infrastructure could potentially also incentive greater investment. SES-FCC-00000531, at SES-FCC-00000561 (SES, Update from Strategic Taskforce, Feb. 28, 2024); SES-FCC-00008850, at SES-FCC-00008852 (SES, Synergy Assessment, Apr. 2024).

technologies, and capacity.[208] The Applicants highlight ground equipment and platforms, network orchestration, seamless integration, and their MEO network as potential investment and innovation targets.[209] These investment targets complement the Applicants' claims that the transaction will result in a more competitive multi-orbit network,[210] a more resilient network with more contiguous bandwidth,[211] and a better mobile backhaul offering.[212] We recognize that the Applicants face strong competition in multiple segments and so have incentives to invest in order to improve their products and to respond to competition.[213] SES's internal documents indicate its intention to use the additional cash flow from the proposed transaction on a wide variety of technological and quality improvements.[214] Although we cannot precisely quantify these expected benefits, we find that many of them are likely to be realized.

62. *National Security*. The Applicants claim that the transaction will "ensure long-term investment, resiliency and redundancy, greater operational efficiency and coverage, improved service and product quality, and more innovative offerings for U.S. Government customers."[215] They assert that the "U.S. Department of Defense has made it clear that it needs multi-orbit capabilities . . . to ensure that

[208] Narrative at 13.

[209] *Id.* Additional investment targets include "{[

}." LEO White Paper at 21. In investor presentations, SES also characterized the combination of their future satellites fleets as "investing in innovation." SES, *Q1 2024 Results & Acquisition of Intelsat* at 10 (April 30, 2024), https://www.ses.com/sites/default/files/2024-04/2405_SES%20to%20Acquire%20Intelsat_IR%20PRESENTATION_FINAL.pdf; SES, *March 2025 Investor Presentation* at 24 (Mar. 2025), https://www.ses.com/sites/default/files/2025-03/2503_Investor-Presentation_March.pdf.

[210] Narrative at 12. The Applicants point out that the benefits of a multi-orbit fleet have been recognized in the satellite industry, and operators are actively pursuing multi-orbit strategies. Jeff Foust, Space News, *GEO satellite operators seek multi-orbit strategies* (Jan. 26, 2022), https://spacenews.com/geo-satellite-operators-seek-multi-orbit-strategies/; Jason Rainbow, *Dawn of the multi-orbit era* (Mar. 11, 2024) https://spacenews.com/dawn-of-the-multi-orbit-era/; Clarence Oxford, Space Daily, *Multi-Orbit and Multi-Partnership Strategies Shape the Future of Inflight Connectivity* (Apr. 10, 2025). https://www.spacedaily.com/reports/Multi_Orbit_and_Multi_Partnership_Strategies_Shape_the_Future_of_Inflight_Connectivity_999.html; Mark Holmes, Satellite Today, *Multi-Orbit Terminals and Service Make Progress, But Have Further to Go, Leaders Say* (Mar. 10, 2025), https://interactive.satellitetoday.com/via/satellite-2025-show-daily-day-2/multi-orbit-terminals-and-service-make-progress-but-have-further-to-go-leaders-say.

[211] Narrative at 14; SES Feb. 3, 2025 RFI Response, Exh. A at 79.

[212] Narrative at 14; SES Feb. 3, 2025 RFI Response, Exh. A at 76-77.

[213] *See supra* paras. 28-33 (media services); paras. 38-39, 42 (aviation services); paras. 44-56 (maritime services); paras 47-49 (fixed data services); paras. 51, 54-55 (government services).

[214] SES cites "{[

}." SES-FCC-00001094, at SES-FCC-00001105 (SES, Project Early Bird Board Decision, Apr. 2024). *See also* SES-FCC-0000612, at SES-FCC-00000624 (SES, SES Strategy Day 2023, June 7, 2023) ("{

]}.").

[215] Narrative at 16.

U.S. warfighters have access to resilient satellite connectivity,"[216] and they claim that "the combined cashflows and synergies from the proposed transaction [will] enable the Parties to continue to invest efficiently in future GSO and MEO capabilities for the U.S. Government," ensuring access to GSO and MEO capacity in the future.[217] Although we cannot precisely quantify these expected public interest benefits, we partially credit benefits to U.S. Government customers in the form of improved products and services. The Committee states that the additional national security commitments set forth in the July 2, 2025 NSA will help ensure that the Executive Branch agencies can proceed appropriately to satisfy their responsibilities for enforcing the law, protecting the national security, and preserving public safety.[218]

63. *Improved Competitiveness*. The Applicants claim the proposed transaction will result in a stronger competitor with greater ability to invest, innovate and compete.[219] The Applicants further claim that it will enable the merged entity to compete more aggressively against Starlink and other LEO entrants, including Amazon's Project Kuiper.[220] The Applicants explain that that the combined company will be better able to compete against LEO constellations due to improved "throughput, capacity, range, and latency characteristics," and improved innovativeness.[221] Given the competitive pressure that LEOs are putting on the Applicants, as detailed in previous sections of this order, we credit some improved competitiveness as a benefit of this transaction.[222]

64. *Elimination of Double Marginalization.* Applicants argue that savings from the elimination of double marginalization across multiple service segments will result from the merger.[223] Where a merger involves a vertical dimension, and the upstream and downstream entities enjoy some market power (*i.e.,* they have some ability to set prices above marginal cost), vertical integration may reduce downstream prices because the merged entity, in setting the downstream price, will consider the true economic marginal cost of the input rather than the higher price (including upstream profit margin) that the upstream entity would otherwise charge for the input to the downstream entity.[224] Both SES and Intelsat supply capacity to each other in multiple segments.[225] Based on estimated margins of approximately {[ ]}% and {[ ]}% for SES and Intelsat, respectively, the Applicants estimate that the elimination of double marginalization could result in as much as ${[ ]} in annual price

[216] SES Feb. 3, 2025 RFI Response, Exh. A at 77.

[217] *Id.*

[218] Committee Petition at 2-3.

[219] Narrative at 18.

[220] *Id*. at 18-19; SES Feb. 3, 2025 RFI Response, Exh. A at 77.

[221] Narrative at 15; SES Feb. 3, 2025 RFI Response, Exh. A at 77.

[222] SES Feb. 3, 2025 RFI Response, Exh. A at 55; *see also* Mobility and Fixed Data White Paper at 18; Government White Paper at 15.

[223] Government White Paper at 15-16; SES Feb. 3, 2025 RFI Response, Exh. A at 55, 77-78.

[224] *See General Motors Corp. and Hughes Electronics Corp., Transferors, and the News Corporation, Transferee*, MB Docket No. 03-124, Memorandum Opinion & Order, 19 FCC Rcd 473, 507 para. 70 (2004) (*NewsCorp.-Hughes Order*); Patrick Rey & Thibaud Verge, Economics of Vertical Restraints, Handbook of Antitrust Economics 353, 360 (Paolo Buccirossi, ed., 2008).

[225] SES Feb. 3, 2025 RFI Response, Exh. A at 55; Mobility and Fixed Data White Paper at 18; Government White Paper at 15; Appendix: Elimination of Double Marginalization Calculations at 2.

reductions.[226] While we do not necessarily agree with the Applicants' quantification of the price reductions resulting from the elimination of double marginalization, we do agree that this should tend to result in lower prices for their customers.[227]

VII. NATIONAL SECURITY, LAW ENFORCEMENT, FOREIGN POLICY, AND TRADE CONCERNS

65. When analyzing a transfer of control or assignment application or a petition for declaratory ruling that involves foreign investment, we also consider public interest issues related to national security, law enforcement, foreign policy, and trade policy concerns.[228] With respect to such issues, the Commission accords deference to Executive Branch agencies' unique expertise in identifying and interpreting issues of concern related to national security and law enforcement.[229] Accordingly, the Commission considers any concerns raised by Executive Branch agencies, but the Commission makes an independent decision on the applications based on the record in the proceeding.[230]

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[226] ${[ ]} in annual price declines result from multiplying SES's and Intelsat's estimates of 2023 percentage margins on sales to each other by the total dollar value of those sales. Government White Paper at 15-16; Elimination of Double Marginalization Appendix at 1-2. The percentage margins are estimated as 100% -(total cost of sales/total revenues). SES's calculation excludes costs and revenues associated with the C-band repurposing and costs that do not "vary directly with revenue. Intelsat's costs exclude depreciation and amortization. Elimination of Double Marginalization Appendix at 2, note 3-4.

[227] A vertically integrated firm may not want to pass on costs savings if doing so would sufficiently lower its sales of the input to other rival downstream competitors. *2023 DOJ/FTC Horizontal Merger Guidelines* at § 2.5.A.2, note 31. {
]}. Elimination of Double Marginalization Appendix at 1-2.

[228] *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*, 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 applications 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); *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170, para. 178 (1997) (*DISCO II* or *DISCO II Order*) (agreeing with Executive Branch to consider national security, law enforcement, foreign policy, and trade concerns in determining whether to grant access to U.S. market by non-U.S. licensed space stations). *See also Viasat-Inmarsat Order,* 38 FCC Rcd at 4802-03, para. 61.

[229] *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 11272, 11277, para. 6 (2016) (*2016 Foreign Ownership Order*), *pet. for recon. dismissed*, 32 FCC Rcd 4780 (2017); *Foreign Participation Order*, 12 FCC Rcd at 23919, para. 62. *See also Viasat-Inmarsat Order,* 38 FCC Rcd at 4802-03, para. 61.

[230] *Foreign Participation Order*, 12 RCC Rcd at 23921, para. 66; *see also Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934*, *as Amended*, IB Docket 11-133, Second Report and Order, 28 FCC Rcd 5741, 5762, para. 34 (2013) (*2013 Foreign Ownership Order*) ("While the Commission has exercised its discretion to rely substantially on the views of Executive Branch agencies for their expertise on matters of national security, law enforcement, foreign policy and trade policy in cases involving foreign investment in U.S. common carrier and aeronautical licensees, we do not believe it would be appropriate for us essentially to delegate this statutory responsibility to such agencies.").

66. On September 18, 2024, the DOJ, on behalf of the Committee requested that the Commission defer action on the applications until the Committee has concluded its review to determine whether the transaction poses a risk to the national security or law enforcement interests.[231] Pursuant to Commission practice, we referred the applications to the relevant Executive Branch agencies, including the Committee agencies, for their views on any national security, law enforcement, foreign policy, trade policy concerns related to the foreign ownership of the Applicants.[232] On October 3, 2024, the DOJ, on behalf of the Committee requested that the Commission defer action on the applications until the Committee has concluded its review.[233] On July 7, 2025, NTIA filed Committee Petition advising the Commission that the Committee has no objection to the Commission's granting the applications provided that the Commission conditions its approval on the assurances of SES and Intelsat to abide by the commitments and undertakings set forth in the July 2, 2025 NSA..[234]

67. In assessing the public interest, we take into account the record developed in each particular case and accord appropriate deference to the expertise of the Executive Branch agencies on national security and law enforcement, and other concerns related to foreign ownership of Commission licensees.[235] As the Commission stated in the *Foreign Participation Order*, foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch.[236] For the reasons set out herein, in accordance with the request of the Committee and in the absence of any objection from the Applicants, we grant the Committee Petition and condition grant of the applications on compliance by SES and its Affiliates with the commitments and undertakings set forth in the July 2, 2025 NSA. A failure to comply with and/or remain in compliance with any of the provisions of the July 2, 2025 NSA 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 authorizations and licenses may also result in monetary sanctions or other enforcement action by the Commission.

VIII. INTELSAT AND ITSO

68. We find that the transaction will not affect the ability of Intelsat to fulfill its public service obligations under its agreement with the International Telecommunications Satellite Organization (ITSO) to maintain global connectivity and global coverage and provide non-discriminatory access to the Intelsat system. Intelsat assumed these obligations in 2001 when INTELSAT, an intergovernmental

[231] Letter from Christopher R. Clements, Deputy Chief, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, SB Docket No. 24-267 et al. (filed Sep. 18, 2024).

[232] SES-Intelsat Transfer of Control Applications Referred to Executive Branch, SB Docket No. 24-267, Public Notice, DA 24-1020 (SB/WTB/OET). *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, 10935-36, paras. 17, 24 (2020) (*Executive Branch Review Order*); *Foreign Participation Order,* 12 FCC Rcd 23891, 23919, paras. 61-63. *See also Viasat-Inmarsat Order,* 38 FCC Rcd at 4803, para. 62.

[233] Letter from Christine M. Quinn, Attorney Advisor, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, SB Docket No. 24-267 et al. (filed Oct. 3, 2024).

[234] Committee Petition at 1 (citing July 2, 2025 NSA).

[235] *Viasat-Inmarsat Order,* 38 FCC Rcd at 4803-04, para. 63; *T-Mobile-Sprint Order*, 34 FCC Rcd at 10734-35, para. 353; *2016 Foreign Ownership Order*, 31 FCC Rcd at 11277, para. 6; *Foreign Participation Order*, 12 FCC Rcd at 23919, paras. 61-62.

[236] *Foreign Participation Order*, 12 FCC Rcd at 23919, para. 62.

organization created in 1973 to operate a global commercial telecommunications system,[237] was privatized by transferring its assets to a commercial corporation, Intelsat.[238] Pursuant to international agreement,[239] ITSO remains as the intergovernmental organization responsible for monitoring Intelsat's compliance with its public service obligations, called "core principles."[240] In connection with Intelsat's privatization, Intelsat entered into a Public Services Agreement (PSA) with ITSO, through which ITSO supervises Intelsat's compliance with the core principles.[241] The PSA also governs the funding of ITSO by Intelsat.[242] Although ITSO states that it cannot take a more formal position on the transaction,[243] ITSO asserts that the outcome of the transaction is of "paramount importance" to ITSO, and the countries that are parties to the ITSO Agreement, to ensure that ITSO can continue to supervise Intelsat's compliance with the core principles.[244]

69. ITSO does not oppose the transfer of control applications, commenting that the transaction could potentially strengthen the ability of Intelsat to honor the core principles without diminishing ITSO's functions.[245] The Applicants affirm that Intelsat and any successor-in-interest will remain a signatory to the PSA.[246] Furthermore, the conditions related to ITSO that were placed on certain

[237] *See* Intelsat, *Intelsat History Our Story,* https://www.intelsat.com/intelsat-history/ (last visited May 6, 2025); *Intelsat S.A., as debtor-in-possession, (Transferor) and New TopCo S.A. (Transferee)*, IB Docket No. 21-375, Order, 37 FCC Rcd 1837, 1838, para. 5 (Feb. 16, 2022) (*Intelsat Emergence from Bankruptcy Order*).

[238] *See Applications of Intelsat LLC for Authority to Operate, and to Further Construct, Launch and Operate, C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit*, Memorandum Opinion Order and Authorization, FCC 00- 287, 15 FCC Rcd 15460, 15463, paras. 5-6 (2000) (*Intelsat Licensing Order*), *recon. denied*, 15 FCC Rcd 25234 (2000); *Constellation, LLC et al.*, Memorandum Opinion and Order, 21 FCC Rcd 7368, 7395-95, para. 15 (2006) (*PanAmSat Transfer Order*).

[239] *See* Agreement Relating to the International Telecommunications Satellite Organization, *amendment opened for signature* Nov. 17, 2000, 23 UST 3813, 1220 UNTS 21 (entry into force Feb. 12, 1973) (ITSO Agreement); *see also Intelsat Licensing Order* at 15463, paras. 5-6.

[240] The core principles require the company to: (i) maintain global connectivity and global coverage; (ii) serve its lifeline connectivity customers; and (iii) provide non-discriminatory access to the Intelsat system. ITSO Agreement, Art. III(b). With regard to the second principle, the final lifeline customer contracts expired in 2019. *See Intelsat Emergence from Bankruptcy Order,* 37 FCC Rcd 1838, para. 5, n. 15.

[241] *See Intelsat Emergence from Bankruptcy Order* at 1838, para. 5; *PanAmSat Transfer Order* at 7395, para. 15.

[242] *See Intelsat Emergence from Bankruptcy Order* at 1838, para. 5, citing ITSO Agreement, Art. VII(b).

[243] ITSO Comments at 5.

[244] *Id.* at 1.

[245] *Id.* at 5. With respect to timing, however, ITSO requested that the Commission take final action on the applications no later than June 2025 to avoid uncertainty that may weaken Intelsat's ability to meet the core principles. *Id.* at 6.

[246] Narrative at 24-25; Consolidated Response at 2. We note that the ITSO-specific space station license conditions require that any successor-in-interest to Intelsat for those licenses be a signatory of the PSA with ITSO. *See Petition of the International Telecommunications Satellite Organization under Section 316 of the Communications Act, as Amended,* Order of Modification, 23 FCC Rcd 2764, 2765, para. 3 n.7 (IB 2008) (*Modification Order*), citing March 15, 2007 letter from Ambassador David A. Gross, United States Coordinator, International Communications and Information Policy, U.S. Department of State to The Honorable Kevin J. Martin, Chairman, Federal Communications Commission, IB Docket No. 06-137, at 1, recommending conditions that (1) explicitly obligate Intelsat to remain a signatory to the PSA between Intelsat and ITSO and (2) provide, for licensing purposes, that no entity can be considered a successor-in-interest to Intelsat under the ITSO Agreement unless the entity has undertaken to perform the obligations of the PSA.

Intelsat space station licenses will continue to apply,[247] as they continued to apply through prior Intelsat transfers of control,[248] and Intelsat remains the licensee of these space station licenses under the present transaction. In response to ITSO's expressed desire for a "more appropriate approach for ITSO funding" to be established as a result of the transaction,[249] we observe that the present transaction does not alter or otherwise affect the ITSO Agreement, which provides, in part, that ITSO funding shall be obtained "through the Public Services Agreement."[250] Accordingly, we find that the transaction alters neither Intelsat's obligations under the PSA nor the existing ITSO-specific conditions on Intelsat's space station licenses and therefore will not adversely affect the ability of Intelsat to fulfill its obligations under its agreement with ITSO.

IX. CONCLUSION

70. After carefully reviewing the record in this proceeding, we find that the proposed transaction will not violate the Act or the Commission's rules. We further find that it is unlikely to have adverse competitive effects in the market segments in which the Applicants compete. At the same time, we find that the proposed transaction will generate various public interest benefits, including lower costs, improvements to network quality, investment, and national security, and the creation of a more vigorous satellite competitor. Accordingly, we find that approval of this transaction will serve the public interest, convenience, and necessity.

X. ORDERING CLAUSES

71. **ACCORDINGLY**, having reviewed the applications and the record in this matter, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 5(c), 303(r), 309, and 310(d) of the Act, 47 U.S.C. §§ 154(i), 154(j), 155(c), 303(r), 309, 310(d), and sections 1.948 and 25.119 of the Commission's rules, 47 CFR §§ 1.948 and 25.119, and pursuant to the authority delegated under sections 0.241(c), 0.261 and 0.331 of the Commission's rules, 47 CFR §§ 0.241(c), 0.261 and 0.331, that the applications to transfer control of the authorizations and licenses listed in the Appendix **ARE GRANTED**, subject to the conditions specified in this Memorandum Opinion and Order.

72. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 310(d), and sections 1.948, 1.40001-1.40004 and 25.119 of the Commission's rules, 47 CFR §§ 1.948, 1.40001-1.40004, 25.119, the Committee Petition to Adopt Conditions to Authorizations and Licenses filed by the NTIA **IS GRANTED**.

73. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), 309, 310(d), and sections 1.948, 1.40001-1.40004, and 25.119 of the Commission's rules, 47 CFR §§ 1.948, 1.40001-1.40004, 25.119 grant of the applications is **SUBJECT TO** compliance by SES and its Affiliates with the terms of the National Security Agreement by and between SES S.A. and its Affiliates, on the one hand,

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[247] *See Modification Order* at 2767, para. 5.

[248] *See, e.g.*, *Intelsat Emergence from Bankruptcy Order,* 37 FCC Rcd 1837, 1842, para. 15; *Intelsat Global Holdings, S.A., Applications to Transfer Control of Intelsat Licenses and Authorizations from BC Partners Holdings Limited to Public Ownership*, Order, 27 FCC Rcd 5226, 5228, para. 6 (IB 2012).

[249] ITSO argues that funding of ITSO by Intelsat after the transaction should be in line with the minimum funding levels ITSO states are necessary to discharge its obligations under the ITSO Agreement. ITSO Comments at 6.

[250] ITSO Agreement, Art. VII(b). We also note that Article 6.03 of the Public Services Agreement states that "Any dispute, controversy or claim between the parties to this [PSA] arising out of or relating to this [PSA] that is not resolved through negotiation . . . shall be settled by arbitration in the city where ITSO's headquarters is located".

and the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, the U.S. Department of Homeland Security, the U.S. Department of Justice, and the U.S. Department of Defense, on the other hand, dated July 2, 2025. 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 underlying authorizations and licenses and thus grounds for declaring the authorizations and licenses terminated without any further action on the part of the Commission. A failure to meet a condition of the grant may also result in monetary sanctions or other enforcement action by the Commission.

74. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order **SHALL BE EFFECTIVE** upon release, in accordance with section 1.102 of the Commission's rules, 47 CFR § 1.102. Petitions for reconsideration under section 1.106 of the Commission's Rules, 47 CFR § 1.106, may be filed within thirty days of the release date of this Memorandum Opinion and Order.

FEDERAL COMMUNICATIONS COMMISSION

Jay Schwarz
Chief, Space Bureau

Joel Taubenblatt
Acting Chief, Wireless Telecommunications Bureau

Ira Keltz
Acting Chief, Office of Engineering and Technology

APPENDIX
List of Applications

Part 5 – Experimental Licenses

File Number	Licensee	Lead Call Sign
0027-EX-TU-2024	Intelsat Inflight Licenses LLC	WF2XMC
0028-EX-TU-2024	Intelsat License LLC	WO2XDP

Part 25 – Space Station Licenses

File Number	Licensee	Lead Call Sign
SAT-T/C-20240530-00116	Horizons−3 License LLC	S2947
SAT-T/C-20240530-00117	Intelsat License LLC	S2846

Part 25 – Space Station Grants of U.S. Market Access

File Number	Grantee	Call Sign
SAT-MPL-20240809-00176	Intelsat License LLC	S3058
SAT-MPL-20240809-00177	Intelsat License LLC	S2592
SAT-MPL-20240809-00179	Horizons−4 Satellite LLC	S3180

Part 25 – Earth Station Licenses

File Number	Licensee	Lead Call Sign
SES-T/C-20240530-01222	Intelsat Inflight Licenses LLC	E150104
SES-T/C-20240603-01221	Intelsat License LLC	E000048

Part 90 – Industrial/Business Pool Private Wireless License

File Number	Licensee	Lead Call Sign
0011092560	Intelsat License LLC	WQSW724

– FCC –

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

In the Matter of	)	
	)	
Waitt Broadcasting, Inc., Licensee of Full Power Television Station KMEG, Sioux City, Iowa	)	Facility ID No. 39665
	)	LMS File No. 0000159443
	)	FRN: 0004957650
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

ORDER

Adopted: July 17, 2025 **Released: July 17, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Waitt Broadcasting, Inc. (Licensee), the licensee of full power broadcast television station KMEG, Sioux City, Iowa (Station).[2] In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensee's compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[3] We find that through adoption of this Consent Decree, grant of the above-captioned application for renewal of license (Renewal Application) is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensee agrees, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[4] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Station and described in paragraph 1,[5] and granting the Renewal Application.[6] The Bureau finds that the Station has served the public interest,

[1] The only station licensed to Waitt Broadcasting, Inc. that is subject to the above-captioned forfeiture proceeding is KMEG, Sioux City, Iowa. The Commission also found that multiple other third-party stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (*Forfeiture Order*); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (*NAL*). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.2; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[2] The above-captioned application for renewal of license also includes TV translator K18KG-D, Spencer, Iowa (Facility ID No. 39668), which rebroadcasts the programming aired by KMEG. As is permitted, the Licensee filed a single renewal application for both stations and the Bureau's action with regards to the renewal application applies to both stations. *See infra* para. 5; LMS File No. 0000159443; Consent Decree at n.1.

[3] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[4] 47 CFR §§ 73.670(a).

[5] *See also* Consent Decree at paras. 4-5.

convenience, and necessity during the subject license term and that grant of the Renewal Application is warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[7] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to hold or remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[8] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[9] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to full power television station KMEG, Sioux City, Iowa, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[10] the application for renewal of license for full power television station KMEG, Sioux City, Iowa, and jointly filed TV translator station K18KG-D, Spencer, Iowa (LMS File No. 0000159443)[11] **ARE GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to Waitt Broadcasting, Inc., 1125 South 103rd Street, Suite 425, Omaha, NE 68124, Attention John Schuele, Chief Operating Officer and by e-mail to john@waittcompany.com. A copy shall also be sent to counsel for Waitt Broadcasting, Inc., at Lawernce Bernstein, Esq., 3510 Springland Lane NW, Washington, D.C. 20008, and by e-mail to lawberns@verizon.net.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

(Continued from previous page)

[6] 47 CFR §§ 73.670(a).

[7] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[8] 47 U.S.C. § 154(i).

[9] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[10] 47 U.S.C. § 309(k)(1).

[11] *See supra* note 2.

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

In the Matter of	)	
	)	
Waitt Broadcasting, Inc., Licensee of Full Power	)	Facility ID No. 39665
Television Station KMEG, Sioux City, Iowa	)	LMS File No. 0000159443[1]
	)	FRN: 0004957650
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[2]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and Waitt Broadcasting, Inc. (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and Bureau's review of the pending Renewal Application (as defined below) of full power television station KMEG, Sioux City, Iowa (hereafter Station, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Station and the Licensee's compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of commercial matter that commercial television stations may air during children's programming.[3]

2. To resolve these matters, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.670(a) of the Rules.[4] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order*, and grant the Renewal Application in accordance with the terms of this Consent Decree.

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, 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.

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[1] The application for renewal also includes TV translator K18KG-D, Spencer, Iowa (Facility ID No. 39668), which rebroadcasts the programming aired by KMEG. As is permitted, the Licensee filed a single renewal application for both stations and the Bureau's action taken pursuant to paragraph 14 of this Consent Decree applies to all stations listed in the application. *See also* Adopting Order at n.2.

[2] The only station licensed to Waitt Broadcasting, Inc. that is subject to the above-captioned forfeiture proceeding is KMEG, Sioux City, Iowa. The Commission also found that multiple other third-party stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.1; *infra* note 12; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[3] 47 CFR § 73.670(a); *see* 47 U.S.C. § 303a(b).

[4] *Id.*

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

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification" means the records placed in a station's OPIF, as required by 47 CFR § 73.3526(e)(11)(ii), sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with 47 CFR § 73.670.

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the License receives, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensee, or the Station concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensee to 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, as described in this Consent Decree at paragraph 15.

(l) "Compliance Plan" means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a) and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Station who materially participate in scheduling Children's Programming and monitoring such programing to ensure it is broadcast, each of which is a "Covered Employee."

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensee's compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensee" means Waitt Broadcasting, Inc., the licensee of full power broadcast television station KMEG, Sioux City, Iowa (Facility ID No. 39665), as well as its parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest.

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of KMEG to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Application" means the application for renewal of license of KMEG, Sioux City, Iowa (Facility ID No. 39665), LMS File No. 0000159443, as amended.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Station" or "KMEG" means KMEG, Sioux City, Iowa (Facility ID No. 39665).

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during Children's Programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[5] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[6] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF an annual Commercial Limits Certification.[7] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[8]

[5] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[6] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[7] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

[8] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

5. Between November 10, 2018, and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy that was inadvertently aired by the Station on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[9] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[10] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[11] The Commission subsequently released the *NAL* finding that the Station was apparently liable for forfeiture in the amount of $20,000 in total, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[12] On October 7, 2024, the Licensee and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensee have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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

11. **Admission of Facts.** The Licensee 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

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[9] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[10] The "KidsClick" program block contained animated and short form programming targeted at child viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[11] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3

[12] The *NAL* and *Forfeiture Order* also found that in addition to KMEG, multiple non-Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only KMEG is subject to the actions that we undertake herein. The Bureau will address all other non-Licensee stations subject to the forfeiture proceeding by separate action. Adopting Order at n.1; *see supra* note 2.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL* and *Forfeiture Order*, and to take the action specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensee concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensee in any future enforcement actions. 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 *NAL* and *Forfeiture Order* , 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.[13]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission 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 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 Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Application**. In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Application for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. The Compliance Officer must be provided all necessary corporate and organizational authority to ensure it is able to discharge its duties. The Compliance Officer shall report directly to the Licensee's Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws, prior to assuming its duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

[13] *See* 47 CFR § 1.93(b).

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensee shall develop and distribute a "Compliance Manual" to all Covered Employees. The Compliance Officer shall distribute a Compliance Manual that it has personally prepared or one that has been prepared by the Licensee's in-house legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Station's compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensee will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensee shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Station in coordination with the Compliance Officer. The Licensee shall maintain on the Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such

noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted by e-mail to VideoCompliance@fcc.gov. The Licensee must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 17.[14]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensee agrees to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Station within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grant of the Renewal Application. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensee understands that it is fully responsible for the programming that it transmits over the Station, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve the Licensee from its obligations, and noncompliance can independently subject the Licensee to enforcement action.

[14] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

22. **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 any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, 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[15] 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 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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Station, as applicable, unless otherwise agreed to by the Commission.[16]

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 each Party.

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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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

[16] This includes KPTH Licensee, LLC, in the event that the application for assignment of the Station's license is granted and consummated. *See* LMS File No. 0000271307.

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

Waitt Broadcasting, Inc.

By:

_____
John Schuele
Chief Operating Officer

_____
Date

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 25-616
Released: July 14, 2025

WIRELINE COMPETITION BUREAU NOTIFIES ENHANCED A-CAM RECIPIENTS OF REQUIREMENT TO CERTIFY FCC FORM 481 ANNUALLY BY JULY 1. ENHANCED A-CAM RECIPIENTS WHO HAVE NOT YET CERTIFIED FCC FORM 481 MUST CERTIFY BY JULY 31, 2025

WC Docket Nos. 10-90 and 14-58

The Wireline Competition Bureau (Bureau) issued a limited waiver of the July 1, 2025 deadline to certify the FCC Form 481 for carriers authorized for Enhanced Alternative Connect America Cost Model (Enhanced A-CAM) support until certain rules became effective.[1] The certification requirements for Enhanced A-CAM carriers are effective as of July 9, 2025, and the Bureau sets the annual filing deadline as July 1.[2] Enhanced A-CAM carriers that have not yet certified the FCC Form 481 in 2025 must file and certify by July 31, 2025. The Universal Service Administrative Company (USAC) will calculate any support reductions due to late or missing certifications based on the new deadline for Enhanced A-CAM carriers.[3]

For additional information or questions, please contact Divya Shenoy of the Wireline Competition Bureau, Telecommunications Access Policy Division, Divya.Shenoy@fcc.gov or (202) 418-7400.

[1] *See Connect America Fund, ETC Annual Reports and Certifications*, WC Docket Nos. 10-90, 14-58, Order, DA 25-563 (WCB Jun. 30, 2025); 47 CFR § 54.313(j); Federal Communications Commission, Connect America Fund, 88 Fed. Reg. 55918, 55918 (Aug. 17, 2023) ("Effective August 17, 2023, except for §§ . . . 54.313(f)(1)(i), 54.313(f)(6)(i), 54.313(f)(6)(ii), 54.313(f)(6)(iii) . . . The Commission will publish a document in the Federal Register announcing the effective date.").

[2] 47 CFR §§ 54.313(f)(1)(i), 54.313(f)(6)(i), 54.313(f)(6)(ii), 54.313(f)(6)(iii).

[3] For 2025, USAC will calculate any support reductions due to late or missing certification based on the July 31, 2025 date. Starting in 2026, any support reductions due to late or missing certifications will be calculated as of the July 1 certification date.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-617
Released: July 14, 2025

WIRELINE COMPETITION BUREAU ANNOUNCES ADDITIONAL FOUR 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 or WCB) announces that an additional four rate-of-return local exchange carrier (carrier) study areas in four states elected to move their business data services (BDS) offerings to incentive regulation effective July 1, 2025 pursuant to section 61.50 of the Commission's rules,[1] and the *Rate-of-Return BDS Order*.[2]

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 elect to transition certain BDS offerings from rate-of-return to incentive regulation.[3] The Commission provided eligible carriers with two initial opportunities to elect BDS incentive regulation in 2019 and 2020.[4] 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.[5] Carriers are required to elect BDS incentive regulation "at the holding company-level for study areas in all states where that carrier receives fixed support."[6] This year, four carriers elected incentive regulation for their BDS pursuant to section 61.50 of the Commission's rules effective July 1, 2025.[7]

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[1] 47 CFR § 61.50.

[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] *Id.* at 10404, para. 1; 47 CFR §§ 61.50, 69.801 *et seq*. Business data services (or BDS) includes end user channel termination services and transport services.

[4] *Rate-of-Return BDS Order*, 33 FCC Rcd at 10412-13, para. 23.

[5] *Id*. at 10411, para. 20; 47 CFR § 61.50(l)(3).

[6] *Rate-of-Return BDS Order*, 33 FCC Rcd at 10412, para. 22; 47 CFR § 61.50(a).

[7] Letter from Eric S. Cramer, CEO, Wilkes Tel. Membership Corp., to Trent Harkrader, Chief, WCB, FCC, WC Docket Nos. 17-144 et al. (filed May 28, 2025) (electing BDS incentive regulation on behalf of New Castle Tel. Co.); Letter from Eric S. Cramer, CEO, Wilkes Tel. Membership Corp., to Trent Harkrader, Chief, WCB, FCC, WC Docket Nos. 17-144 et al. (filed May 28, 2025) (electing BDS incentive regulation on behalf of Amelia Tel. Corp.); Letter from Tim Roth, VP of Finance & Legal, Direct Communications Rockland, Inc., to Trent Harkrader, Acting Bureau Chief, WCB, FCC, WC Docket No. 17-144 et al. (filed Apr. 29, 2025) (electing BDS incentive regulation on behalf of Union River Tel. Co. d/b/a Rivah.Net); Chillicothe Tel. Co. Tariff F.C.C. No. 1, Transmittal No. 123, Description and Justification, at 1 (filed June 15, 2025) (electing to move lower speed (DS3 and below) BDS rates to National Exchange Carrier Association, Inc. Tariff F.C.C. No. 6); *Regulation of Business Data Services for Rate-of-*

(continued….)

Carriers electing BDS incentive regulation this year were eligible to begin detariffing their higher-capacity (above DS3) end user channel termination services and transport services and lower-capacity (DS3 and below) end user channel termination services in study areas deemed competitive beginning in tariff filings effective July 1, 2025 and must detariff these BDS offerings no later than July 1, 2028.[8] Carriers electing BDS incentive regulation are also required to detariff their lower 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 section 61.50(j) of the Commission's rules.[9] Rate-of-return carriers electing incentive regulation this year were required to remove their BDS offerings from the National Exchange Carrier Association, Inc. (NECA) traffic-sensitive tariff pool but may continue to participate and tariff access services other than BDS.[10]

For further information about this Public Notice, please contact Simon Solemani, Pricing Policy Division, Wireline Competition Bureau, Simon.Solemani@fcc.gov.

-FCC-

Return Local Exchange Carriers, WC Docket No. 17-144, Order, DA 25-492 (WCB June 6, 2025) (granting waiver of section 61.50 of the Commission's rules to allow Chillicothe Tel. Co. to transition their BDS to incentive regulation).

[8] *See* 47 CFR § 61.50(k)(3) (requiring electing carriers to detariff their higher-capacity BDS within thirty-six months after the effective date of their election and to detariff their lower-capacity end user channel termination services within thirty-six months after such services are deemed competitive).

[9] 47 CFR § 61.50(k)(3); *Rate-of-Return BDS Order*, 33 FCC Rcd at 10452-53, paras. 140-145.

[10] 47 CFR § 61.50(d). *See Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers*, WC Docket No. 17-144, Order, DA 25-434 (WCB May 22, 2025) (granting a waiver of sections 69.3(e)(6) and (i)(1) of the Commission's rules to allow to Union River Tel. Co. to withdraw its BDS rates from the NECA traffic-sensitive tariff pool effective July 1, 2025 and transition their BDS to incentive regulation effective July 1, 2025).

APPENDIX

Rate-of-Return Carriers Electing Incentive Regulation for Business Data Services Effective July 1, 2025

Rate-of-Return Carrier Study Area Name	State	Study Area Code
Amelia Telephone Corporation	VA	190217
Chillicothe Telephone Company	OH	300597
New Castle Telephone Company	VA	193029
Union River Telephone Company d/b/a Rivah.net	ME	100027

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-618
Released: July 14, 2025

GRANT OF APPLICATIONS AND PETITION FOR DECLARATORY RULING FOR THE TRANSFER OF CONTROL OF NORTHWEST FIBER HOLDCO, LLC TO BCE HOLDING CORPORATION

DOMESTIC AND INTERNATIONAL SECTION 214 APPLICATIONS GRANTED
WC Docket No. 24-692
ICFS File Nos. ITC-T/C-20241206-00181, ITC-T/C-20241206-00182

SECTION 310(b)(4) PETITION FOR DECLARATORY RULING GRANTED
ICFS File No. ISP-PDR-20241206-00005

SECTION 310(d) APPLICATIONS GRANTED
ULS File Nos. 0011359917, 0011361241, 0011361247, 0011361254, 0011361259

By this Public Notice, the Wireline Competition Bureau (WCB), Office of International Affairs (OIA), and Wireless Telecommunications Bureau (WTB) grant, as conditioned, the applications (collectively, the Applications) and the restated petition for declaratory ruling (Restated Petition) regarding the transfer of control of Northwest Fiber Holdco, LLC (Northwest Fiber Holdco, and together with Licensees,[1] Ziply Fiber) to BCE Holding Corporation (BCE Holding).

WCB grants the application filed by Ziply Fiber and BCE Holding (together, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended (the Act), and section 63.04 of the Commission's rules,[2] requesting consent to transfer control of the domestic section 214 authority held by the Northwest Fiber Holdco subsidiaries of Ziply Fiber identified on Attachment A to BCE Holding.[3]

OIA grants the applications for transfer of control of the international section 214 authorizations

[1] The wholly owned subsidiaries of Northwest Fiber Holdco that hold domestic and international section 214 authorizations and FCC common carrier and noncommon carrier wireless licenses subject to the Applications are identified in Attachment A together with corresponding FCC file numbers, and are collectively referred to in this Public Notice as Licensees.

[2] *See* 47 U.S.C. § 214(a); 47 CFR § 63.04.

[3] Joint Application for Consent to Transfer Control of Domestic and International Section 214 Authorizations of Northwest Fiber Holdco, LLC to BCE Holding Corporation, WC Docket No. 24-692 (filed Dec. 9, 2024) (Lead Application). On January 8, 2025, Applicants filed a supplement to their domestic and international section 214 applications. Letter from Matthew S. DelNero et al., Counsel for BCE Holding Corporation, and Daniel Brooks et al., Counsel for Northwest Fiber Holdings, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-692, ICFS File Nos. ITC-T/C-20241206-00181, ITC-T/C-20241206-00182 (filed Jan. 8, 2025) (January 2025 Supplement). Any action on the Applications referenced in this Public Notice is without prejudice to Commission action on any other pending applications.

held by the Licensees identified on Attachment A together with corresponding FCC file numbers, pursuant to section 214 of the Act and sections 63.18 and 63.24 of the Commission's rules.[4] In addition, OIA grants the Restated Petition[5] filed by Northwest Fiber Holdco and its subsidiaries, including Northwest Fiber, LLC (Northwest Fiber), the controlling U.S. parent of the Common Carrier Wireless Licensees,[6] and BCE Holding (together, the Petitioners) for a declaratory ruling pursuant to section 310(b)(4) of the Act and section 1.5000(a)(1) of the Commission's rules,[7] requesting that the Commission find that it would serve the public interest to permit foreign ownership interests in Northwest Fiber, the controlling U.S. parent of the Common Carrier Wireless Licensees, in excess of the 25% statutory benchmarks in section 310(b)(4) of the Act.

WTB consents to the applications filed by the Applicants to transfer control of Licensees' common carrier wireless licenses and noncommon carrier wireless licenses identified on Attachment A together with corresponding FCC file numbers, to BCE Holding, pursuant to section 310(d) of the Act and section 1.948 of the Commission's rules.[8]

We also grant a petition (Committee Petition) filed by 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),[9] and condition grant of the Applications and the Restated Petition on compliance by the Applicants and Petitioners with the commitments and undertakings set out in the May 29, 2025 Letter of Agreement (May 29 2025 LOA) filed with the Committee Petition.[10]

On February 14, 2025, WCB, OIA, and WTB released a Public Notice seeking comment on the Applications and Restated Petition.[11] We did not receive any comments or petitions in opposition to the

[4] *See* 47 U.S.C. § 214; 47 CFR §§ 63.18, 63.24.

[5] Northwest Fiber Holdco, LLC et al. Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended and Section 1.5001(a)(1) of the Commission's Rules, ICFS File No. ISP-PDR-20241206-00005, Petition for Declaratory Ruling (filed Dec. 6, 2024) (Petition). The Petitioners filed a Restated Petition on January 8, 2025, which detailed additional foreign ownership information that was requested by Commission staff. Northwest Fiber Holdco, LLC et al. Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended, and Section 1.5001 of the Commission's Rules, ICFS File No. ISP-PDR-20241206-00005 (filed Jan. 8, 2025) (Restated Petition).

[6] The Common Carrier Wireless Licensees include the following entities: Ziply Fiber of Idaho, LLC; Ziply Fiber of Montana, LLC; Ziply Fiber Northwest, LLC; Wholesail Networks LLC, and Ziply Wireless, LLC.

[7] *See* 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1).

[8] *See* 47 U.S.C. § 310(d); 47 CFR § 1.948.

[9] National Telecommunications and Information Administration, Petition to Adopt Conditions to Authorizations and Licenses, ICFS File Nos. ISP-PDR-20241206-00005, ITC-T/C-20241206-00181, ITC-T/C-20241206-00182, WC Docket No. 24-692 (filed June 18, 2025) (Committee Petition).

[10] Letter from Byron E. Springer, Jr., General Counsel, Northwest Fiber LLC; Robert Malcolmson, Chief Regulatory Officer, BCE Holding Corporation and EVP, Chief Legal and Regulatory Officer BCE Inc. to Chief, Foreign Investment Review Section (FIRS), Deputy Chief, Compliance and Enforcement (FIRS), On Behalf of the Assistant Attorney General for National Security, United States Department of Justice, National Security Division; and Assistant Secretary for Trade and Economic Security, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security (dated May 29, 2025) (May 29 2025 LOA). The May 29 2025 LOA is attached to the Committee Petition.

[11] *See Applications and Petition for Declaratory Ruling Filed for the Transfer of Control of Northwest Fiber Holdco, LLC to BCE Holding Corporation*, WC Docket No. 24-692, Public Notice, DA 25-134 (WCB/OIA/WTB 2024) (*WCB/OIA/WTB 2024 Accepted for Filing Public Notice*).

Applications and the Restated Petition.[12]

Applicants

Northwest Fiber Holdco, a Delaware limited liability holding company,[13] does not hold any FCC authorizations, but has continuously operated certain of its wholly-owned subsidiaries as Licensees in the states of Washington, Oregon, Idaho, and Montana using the trade name Ziply Fiber.[14] Ziply Fiber's primary service offerings are fiber Internet and phone for residential and enterprise customers.[15] Licensees provide incumbent local exchange carrier (LEC) and competitive LEC services pursuant to domestic and international authorizations under section 214 of the Act[16] and FCC wireless license holders under section 310(d) of the Act.[17]

BCE Holding Corporation, a Delaware private corporation, is a wholly owned subsidiary of Bell Canada, a Canadian corporation and Canada's largest telephone and telecommunications company.[18] Bell Canada provides facilities-based and non-facilities-based telecommunications, broadband Internet access services, and other IP-based communications services, throughout Canada. Bell Canada, in turn, is a wholly-owned subsidiary of BCE Inc., a publicly traded Canadian corporation headquartered in Montreal, Quebec.[19] Bell MTS Inc, a Canadian Corporation, is also a wholly-owned subsidiary of BCE Inc.[20] The Applicants state that certain of BCE Holding's wholly-owned subsidiaries hold telecommunications authorizations from the Commission; however, these subsidiaries do not provide any facilities-based telecommunications services.[21] The Applicants affirm that, post-consummation, there will be no geographic overlap in their operating territories.[22]

Description of the Transaction and Asserted Post-Transaction Universal Service Fund Commitments

On November 1, 2024, BCE Holding and Northwest Fiber Holdco entered into an Agreement and Plan of Merger under which the parties will engage in a series of transactions by which BCE Holding will become the owner of all the equity and voting interests in Northwest Fiber Holdco by acquiring, both

[12] On February 28, 2025, NorthWestern Energy Group, Inc. (NorthWestern) filed a comment in WC Docket No. 24-692 on issues unrelated to the proposed transaction (NorthWestern Comments). NorthWestern does not oppose the proposed transaction or request the Commission impose any conditions on the grant of the proposed transaction.

[13] Currently, Northwest Fiber Holdco is approximately 90% owned and controlled by investment funds affiliated with Searchlight Capital Partners, L.P., a global private equity investment company whose funds invest in companies across various sectors, including communications, media, and financial and business services. Lead Application at 3. Entities affiliated with WDC Management, LLC (WDC) have an approximate 10% indirect equity and voting interest in Northwest Fiber. *Id*.

[14] *Id*. at 2, 23-24 (identifying the service areas of each Ziply Fiber subsidiary); *see also* Attach. A, Section 310(d) Applications.

[15] Lead Application at 2, 23-24 (describing services provided by Ziply Fiber).

[16] *Id*. at 2-3; *see id*. at 23-24 (listing the classification of each Licensee), Exh. A.

[17] *See* Attach. A, Section 310(d) Applications.

[18] Lead Application at 3.

[19] *Id*.

[20] *Id*. at Exh. C (noting Bell MTS Inc. will hold a 5.9% equity and voting interest in Northwest Fiber Holdco upon consummation of the transaction and has only been included to provide a complete illustration of the post-closing ownership interests in the Licensees).

[21] *Id*. at 3, 15-16 & nn.14, 16.

[22] *Id*. at 9.

directly and indirectly through the acquisition of certain intermediate entities that currently hold units in Northwest Fiber Holdco, all of Northwest Fiber Holdco's issued and outstanding membership units.[23]

Following the acquisition, Bell Canada intends to undertake a series of internal restructuring steps, which are planned to take place contemporaneously with the consummation of the transaction, or as soon as possible (i.e., within approximately one business day) following BCE Holding's acquisition of Northwest Fiber Holdco's membership units"[24] to simplify the holding structure of Ziply Fiber below BCE Holding. Because the restructuring is intended to occur simultaneously with consummation of the transaction, the Applicants assert it is not expected that there will be any interim ownership structures.[25] The Applicants anticipate that the surviving entity of these successive mergers will change its name to Northwest Fiber Ultimate Holdings, LLC (Northwest Ultimate).[26] The Applicants assert that all entities involved in the restructuring will be U.S.-organized entities.[27]

Upon closing, Northwest Ultimate will be a wholly-owned subsidiary of BCE Holding and will be the direct and indirect parent entity of the Licensees.[28] As a result of this series of transactions and mergers, BCE Inc., a publicly traded Canadian corporation and BCE Holding's indirect corporate parent, will acquire ultimate ownership and control of the Licensees.[29] After closing, Licensees will continue to hold their section 214 authorizations and other Commission licenses.[30]

Most Licensees are authorized as Eligible Telecommunications Carriers (ETCs).[31] Certain Licensees for which BCE Holding will assume ultimate ownership and control have been awarded Rural Digital Opportunity Fund (RDOF) or Connect America Fund (CAF) Phase II auction support.[32] BCE Holding has agreed that, as of the consummation of the proposed transaction, in and through certain Northwest Fiber Holdco subsidiaries for which BCE Holding will have assumed ultimate ownership and control, BCE Holding will assume all of Ziply Fiber's buildout and service obligations associated with all prior and future Universal Service Fund (USF) support, regardless of any preexisting conditions that could impact its ability to comply with such obligations.[33]

Public Interest Analysis

Pursuant to sections 214(a) and 310(d) of the Act,[34] we must determine whether the proposed

[23] *Id*. at 4.

[24] *See* January 2025 Supplement at 2.

[25] *Id.*

[26] Lead Application at 4.

[27] January 2025 Supplement at 2.

[28] *Id.*

[29] Lead Application at 4.

[30] *Id.*

[31] Lead Application at 11-12 (listing the Licensees authorized as ETCs and their respective service areas).

[32] *Id*. (listing three entities (Ziply Fiber Northwest, Ziply Fiber of Idaho, and Ziply Fiber of Montana), and their service areas, that receive RDOF support, and one entity (Ziply Wireless) that receives CAF Phase II support).

[33] *See id.*; January 2025 Supplement at 1-2.

[34] 47 U.S.C. §§ 214(a), 310(d). Section 310(d) of the Act requires that we consider applications for transfer of Title III licenses under the same standard as if the proposed transferee were applying for licenses directly under section 308 of the Act, 47 U.S.C. § 308. *See, e.g.*, *Frontier Communications Parent, Inc. and Verizon Communications, Inc. Application for Consent to Transfer Control*, WC Docket No. 25-445, Memorandum Opinion and Order, DA 25-421, para. 9 (WCB, OIA, WTB 2025) (*Verizon-Frontier Order*); *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*,

(continued….)

transfer of control to BCE Holding of licenses and authorizations held and controlled by Northwest Fiber Holdco will serve the public interest, convenience, and necessity. We first assess whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission's rules.[35] We then consider whether the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[36] Notably, the Commission has determined it may impose and enforce transaction-related conditions to ensure that the public interest is served by the transaction.[37] We next consider a transaction's public interest benefits. Applicants bear the burden of proving those benefits by a preponderance of the evidence.[38] As part of our public interest authority, we may impose conditions to ensure for the public the transaction-related benefits claimed by the Applicants.[39]

A. Potential Public Interest Harms

Based on the current record, we find that there are no likely potential transaction-related public interest harms. First, we find that the proposed transaction will not result in a reduction of competition.

Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585, para. 8 (2017) (*CenturyLink-Level 3 Order*); *Application of Verizon Communications Inc. and Straight Path Communications, Inc. for Consent to Transfer Control of Local Multipoint Distribution Service, 39 GHz, Common Carrier Point-to-Point Microwave, and 3650-3700 MHz Service Licenses*, ULS File No. 0007783428, Memorandum Opinion and Order, 33 FCC Rcd 188, 189, para. 5 & n.11 (WTB 2018) (*Verizon-Straight Path Order*); *Applications of GCI Communication Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub, Inc., and Unicom, Inc.*; *For Consent to Assign Licenses to the Alaska Wireless Network, LLC*, WT Docket No. 12-187, WC Docket No. 09-197, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd 10433, 10442, para. 23 & n.71 (2013) (*Alaska Wireless-GCI Order*).

[35] 47 U.S.C. § 310(d); *Verizon-Frontier Order* at para. 9; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 8; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 5; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[36] *See, e.g., CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 5; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[37] *See, e.g.*, *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, 9141, para. 22 (2015) (*AT&T-DIRECTV Order*); *Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, MB Docket No. 10-56, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4249, para. 25 (2011) (*Comcast-NBC Universal Order*); *Application of EchoStar Communications Corp., (a Nevada Corp.), General Motors Corp., and Hughes Electronics Corp (Delaware Corps.) (Transferors) and EchoStar Communications Corp. (A Delaware Corp.) (Transferee)*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20575, para. 27 (2002) (*EchoStar-DIRECTV HDO*); *see also Application of WorldCom, Inc. and MCI Commc'ns Corp. for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, CC Docket No. 97-211, Memorandum Opinion and Order, 13 FCC Rcd 18025, 18032, para. 10 (1998) (*WorldCom-MCI Order*) (stating that the Commission may attach conditions to the transfers); *Applications of T-Mobile US, Inc., and Sprint Corp. for Consent to Transfer Control of Licenses and Authorizations*; *Applications of American H Block Wireless L.L.C., DBSD Corp., Gamma Acquisition L.L.C., and Manifest Wireless L.L.C. for Extension of Time*, WT Docket No. 18-197, ULS File Nos. 0008741236, 0008741420, 0008741603, and 0008741789 et al., Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10596, para. 42 (2019) (*T-Mobile-Sprint Order*); *Verizon-Frontier Order* at para. 10.

[38] 47 U.S.C. § 309(e); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10; *Verizon-Frontier Order* at para. 11; *Verizon-Straight Path Order*, 33 FCC Rcd at 190-91, para. 7; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[39] *See, e.g., Alaska Wireless-GCI Order*, 28 FCC Rcd at 10443, para. 26; *Applications of AT&T Inc. and Centennial Communications Corp. For Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements*, WT Docket No. 08-246, ULS File Nos. 0003652447, et al., ICFS File Nos. ITC-T/C-20081121-00508, et al., and SCL-T/C-20081121-00018, Memorandum Opinion and Order, 24 FCC Rcd 13915, 13929, para. 30 (2009); *Verizon-Frontier Order* at para. 11.

The Applicants contend that because Bell Canada and Ziply Fiber have no geographic overlap in their operating territories and otherwise do not compete, the proposed transaction will not result in any reduction in competition or choice for consumers.[40] The Applicants further state that the proposed transaction will have no adverse impact on Ziply Fiber's current customers, explaining that "Bell Canada intends for the Ziply Fiber business to continue as its own operating entity, maintaining its existing company management and business plan," and the proposed transaction will be seamless, transparent, and "will not result in any disruptions to Ziply Fiber customers or business partners."[41]

Second, we also find no harms associated with USF programs. The record indicates that after consummation of the proposed transaction, BCE Holding has committed to meeting Ziply Fiber's RDOF and CAF Phase II program's public interest and performance requirements[42] and has indicated that Ziply Fiber will continue to have the required technical, financial, and managerial expertise necessary to meet those requirements.[43] The Applicants explain that there are no expected changes that BCE Holding will make to the technologies under which the Ziply Fiber was authorized to receive support, and that, as a result of the proposed transaction, "Bell Canada will bring its fiber deployment expertise to bear to help Ziply Fiber meet its fiber buildout plans and address challenges in deploying fiber in geographically difficult locations."[44] Further, the Applicants explain that there will be no change in debt in connection with the proposed transaction that could negatively impact RDOF and CAF Phase II compliance.[45] Finally, the Applicants explain that although the transaction will not result in changes in management, "Ziply Fiber will be empowered to continue to grow its business in line with its current plans, bolstered by the support of Bell Canada's expertise and resources."[46]

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[40] Lead Application at 9.

[41] *Id*. at 5; *see also id*. at 6-7, 9-10 (also stating they do not anticipate that the proposed transaction "will result in any changes to Ziply Fiber's current operations support systems" for its existing customers).

[42] January 2024 Supplement at 1-2; Lead Application at 12; *see also id*. at 11. The Bureau has provided a summary of the various obligations of authorized CAF Phase II Auction or RDOF 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 USF requirements and the Commission's rules. *See, e.g.*, *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, 3570-78 (AU/WCB 2022); *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, 9406-11 (WCB/OEA 2019). In addition to those requirements specified in these releases, all high cost support recipients must test and certify compliance with the relevant performance requirements in accordance with the uniform framework that has been adopted for measuring and reporting on high-cost performance requirements. 47 CFR § 54.313. Further, ETCs that are designated for the purpose of receiving high-cost support or designated for the purpose of only receiving Lifeline services must offer the Lifeline discount to qualifying households. *See* 47 CFR § 54.101(d); *see also* 47 CFR part 54, subparts D, K, L, M. The Lifeline program provides support to reimburse providers for offering phone, broadband, or bundled services at discounted prices to qualifying low-income households, with enhanced support available for households residing on Tribal lands. 47 CFR §§ 54.401(a), 54.403(a). Eligible services include voice and broadband Internet access service meeting certain requirements. *See* 47 CFR § 54.408.

[43] Lead Application at 6-10, 12. *See Domestic Section 214 Application Granted for the Acquisition of Certain Assets of Computer 5 Inc. d/b/a LocalTel Communications to Northwest Fiber, LLC, Ziply Fiber Northwest, LLC, and Ziply Wireless LLC*, WC Docket No. 24-87, DA 24-946 at 5 (WCB Sept. 13, 2024) ("[Northwest Fiber, LLC], through its relevant affiliates, will remain financially, managerially, and technically obligated to meet all public interest and performance obligations associated with the receipt of CAF Phase II and RDOF funding, and we expect that the proposed transaction will not negatively impact these obligations.").

[44] Lead Application at 5; *see id.* at 7-9.

[45] *Id*. at 12.

[46] *Id*. at 5; *see id.* at 12.

Further, BCE Holding acknowledges that, as part of this transaction and, in and through Ziply Fiber's authorized support recipients, it assumes all USF and ETC-related public interest responsibilities and obligations of Ziply Fiber, including all administrative, performance, and deployment obligations and deadlines associated with the receipt of RDOF and CAF Phase II support, regardless of any preexisting or reasonably foreseeable conditions that could impact the authorized support recipients' abilities to meet their legal obligations, including any technical, marketplace, and on-the-ground conditions.[47] BCE Holding also acknowledges that after consummation of the proposed transaction, it will be responsible for any consequences for noncompliance with program requirements, regardless of whether the circumstances giving rise to such consequences pre-date or post-date the consummation of the transaction, including default recovery of support and potential forfeiture penalties, in all supported areas.[48] Overall, we conclude that, based on the record, there are no public interest harms that will arise from the proposed transaction.

B. Potential Public Interest Benefits

We next review the potential public interest benefits. The Commission finds a claimed benefit to be cognizable only if it is transaction-related, verifiable, and is likely to flow through to consumers and not inure solely to the benefit of the company.[49]

The Applicants contend that grant of the Applications would serve the public interest by combining Ziply Fiber's demonstrated commitment to its current operations with Bell Canada's success in deploying fiber and telecommunications infrastructure, including in rural areas.[50] The Applicants assert that the proposed transaction will "strengthen Ziply Fiber's service offerings through leveraging Bell Canada's deeply embedded fiber expertise."[51] With regard to the various USF programs that Ziply Fiber participates in, the Applicants maintain that leveraging Bell Canada's expertise gained while deploying fiber in geographically difficult locations in Canada will help Ziply Fiber meet its fiber buildout plans.[52]

The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor,[53] and accelerating private sector deployment of advanced services is one

[47] January 2025 Supplement at 1.

[48] *Id*. at 1-2. We note that, pursuant to Northwest Fiber's noncompliance with certain 2021 performance measures testing requirements and in accordance with the Commission's performance testing support recovery rules, USAC must recover approximately $1.1 million of CAF II Model high-cost support from Northwest Fiber. *See Connect America Fund*, WC Docket No. 10-90, Order, 38 FCC Rcd 2391, 2393-94 (WCB 2023) (*Ziply Fiber Waiver Order*); 47 CFR § 54.320(d)(2) (setting forth performance testing support recovery requirements). Ziply Fiber requested waiver or extension of time to demonstrate compliance in 2021 with the performance latency standards and performance testing support recovery requirements in section 54.320(d)(2) of the Commission's rules, which the Bureau denied. *See Ziply Fiber Waiver Order*, 38 FCC Rcd at 2396-97. Ziply Fiber has petitioned the Bureau for reconsideration of certain parts of the *Ziply Fiber Waiver Order*. Northwest Fiber, LLC d/b/a Ziply Fiber, Petition for Reconsideration, WC Docket No. 10-90 (filed May 1, 2023). Ziply Fiber withdrew its Petition for Reconsideration on July 11, 2025. *See* Northwest Fiber d/b/a Ziply Fiber, Motion to Withdraw Petition for Reconsideration of Ziply Fiber, WC Docket No. 10-90 (filed July 11, 2025).

[49] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50 (citing *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5761, para. 202 (2007)); *AT&T-DIRECTV Order*, 30 FCC Rcd at 9237, paras. 273-74.

[50] Lead Application at 5-9.

[51] *Id*. at 9.

[52] *Id.* at 7-9.

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

of the aims of the Act.[54] In light of BCE Holding acknowledging its responsibility to meet all of its federal high-cost support obligations and potentially greater ability to timely expand its fiber network, 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 that the proposed transaction serves the public interest.

National Security, Law Enforcement, Foreign Policy and Trade Policy Concerns

When analyzing a transfer of control, assignment application, or petition for declaratory ruling that includes foreign investment, we also consider public interest issues related to national security, law enforcement, foreign policy, or trade policy concerns.[55] As part of our public interest analysis, the Commission coordinates with the relevant Executive Branch agencies that have expertise in these particular issues.[56] 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.[57] The Commission, however, ultimately makes an independent decision on the application based on the record in the proceedings.[58]

[54] *See 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, 17002, para. 22 (2021) (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Pub. L. No. 104-104, Preamble, 110 Stat. 56 (1996) (stating that one purpose of the Act is to "accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services")).

[55] *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*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997) (*Foreign Participation Order*), *recon. denied*, *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket No. 97-142, Order on Reconsideration, 15 FCC Rcd 18158 (2000) (explaining that 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 T-Mobile-Sprint Order*, 34 FCC Rcd at 10732-33, para. 349.

[56] *See Executive Branch Review Order*, 35 FCC Rcd at 10935-36, paras. 17, 24.

[57] *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,* GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272, 11277, para. 6 (2016) (*2016 Foreign Ownership Order*), *Pet. for recon. dismissed, Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended,* GN Docket No. 15-236, Order on Reconsideration, 32 FCC Rcd 4780 (2017).

[58] 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 Applications and Restated Petition 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 and Petitioners.[59] On February 19, 2025, the U.S. Department of Justice (DOJ), on behalf of the Committee, notified the Commission that the Committee was conducting an initial review of the Applications and Restated Petition to assess whether granting the Applications and Restated Petition would pose a risk to the national security or law enforcement interests of the United States.[60] We deferred action on the Applications and Restated Petition in response to the Committee's notification.

On June 18, 2025, NTIA, on behalf of the Committee, filed the Committee Petition to adopt conditions to Commission grant of the Applications and Restated Petition.[61] It states that the Committee has no objection to grant of the Applications and Restated Petition, provided that the Commission conditions its approval on compliance with the commitments and undertakings set forth in the Northwest Fiber Holdco, LLC and BCE Inc. May 29 2025 LOA.

In accordance with the request, and in the absence of any objection from the Applicants and Petitioners, we grant the Committee Petition. Accordingly, we condition grant of the Applications and Restated Petition on compliance by the Applicants and Petitioners with the commitments and undertakings set out in the May 29 2025 LOA.[62] A failure to comply with and/or remain in compliance with any of the provisions of the May 29 2025 LOA shall constitute a failure to meet a condition of these authorizations and the underlying authorizations and licenses, and therefore is grounds for the Commission to declare the authorizations, licenses, and declaratory ruling as terminated without further action on the part of the Commission. A failure to meet a condition of these authorizations may also result in the Commission initiating monetary sanctions or other enforcement action.

Restated Petition for Declaratory Ruling under Section 310(b)(4)

The Petitioners request that the Commission find that it would serve the public interest to approve foreign equity and voting interests in Northwest Fiber, the controlling U.S. parent of the Common Carrier Wireless Licensees, in excess of the 25% statutory benchmarks in section 310(b)(4) of the Act.[63]

Post-Closing Ownership

Northwest Fiber, a Delaware limited liability company, is the direct parent company of the

[59] *WCB/OIA/WTB 2024 Accepted-for Filing Public Notice* at 6-7 (referring the Applications and the Restated Petition to the Executive Branch agencies); *see, e.g., Applications Filed for the Transfer of Control of Conterra Ultra Broadband, LLC, Network USA, LLC, Detel Wireless, LLC, Broadplex, LLC, and Tim Ron Enterprises, LLC d/b/a Network Communications*, WC Docket No. 20-240, Public Notice, 35 FCC Rcd 10658, 10664 (WCB/IB/WTB 2020) (citing the *Foreign Participation Order*, 12 FCC Rcd at 23918-19, paras. 61-63); *WCB/OIA/WTB 2024 Accepted-for Filing Public Notice*, DA 25-134 (referring the applications and the Restated Petition to the Executive Branch agencies).

[60] Letter from Lucas S. Evans, Department of Justice, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-692, ICFS File Nos. ITC-T/C-20241206-00181, ITC-T/C-20241206-00182, and ISP-PDR-20241206-00005, and Attach. (filed Feb. 19, 2025).

[61] Committee Petition. *supra* note 9, citing LOA, *supra* note 10. A copy of the LOA is attached to the Committee Petition.

[62] *See generally* LOA.

[63] 47 U.S.C. § 310(b)(4). The Commission previously granted a foreign ownership ruling for Northwest Fiber in 2019 when Northwest Fiber acquired the Common Carrier Wireless Licensees from Frontier Communications Corporation and its subsidiaries. *See Applications Filed for the Transfer of Control of Certain Subsidiaries of Frontier Communications Corp. to Northwest Fiber, LLC*, Memorandum Opinion and Order and Declaratory Ruling, 34 FCC Rcd 12344, 12346 (WCB/IB/WTB 2019).

Common Carrier Wireless Licensees, all of which are Delaware entities.[64]

According to the Restated Petition, upon completion of the proposed transaction, Northwest Fiber will be indirectly wholly owned by Bell Canada and will have an estimated aggregate foreign ownership of 100%.[65] BCE Holding will wholly own Northwest Ultimate,[66] a Delaware entity that will be created at or close in time following the Proposed Transaction. Northwest Ultimate will wholly own Northwest Fiber, the proposed controlling U.S. parent of the Common Carrier Wireless Licensees.

BCE Holding, a Delaware corporation, is wholly owned by Bell Canada, a Canadian corporation and Canada's largest telephone and telecommunications company. Bell Canada, in turn, is majority owned by BCE, Inc. (94.1% equity and voting), a publicly traded Canadian corporation headquartered in Montreal, Quebec, Canada, and minority owned by Bell MTS Inc. (5.9% equity and voting), a Canadian corporation. In turn, Bell Canada owns 100% of the Class A preferred shares (100% equity) in Bell MTS Inc. BCE Inc. owns 100% of the voting interest in Bell MTS Inc.

Requests for Aggregate Foreign Ownership, Specific Approvals, and Advance Approvals

The Petitioners seek a declaratory ruling to permit up to 100% indirect foreign ownership in Northwest Fiber.[67]

Pursuant to section 1.5001(i) of the Commission's rules,[68] the Petitioners request that the Commission specifically approve the indirect foreign equity and/or voting interests that would be held in Northwest Fiber, the controlling U.S. parent of the Common Carrier Wireless Licensees, upon completion of the proposed transaction by foreign-organized entities as follows:

Bell Canada (100% equity, 100% voting) (Canada);

Bell MTS Inc. (5.9% equity, 5.9% voting) (Canada); and

BCE Inc. (94.1% equity, 100% voting) (Canada).[69]

In the Restated Petition, the Petitioners contend that the Royal Bank of Canada (RBC), a Canadian financial institution that holds more than 5% but less than 10% interest in the aggregate in BCE Inc. should be treated as an institutional investor under section 1.5001(i)(3)(ii)(A) of the Commission's rules,[70] and therefore, should not require specific approval.[71] The Petitioners state that "[RBC] may hold, in the aggregate through various direct and indirect subsidiaries, a greater than 5 percent but less than 10 percent ownership interest in BCE Inc."[72] The Petitioners further assert that because RBC qualifies as an institutional investor under section 1.5001(i)(3)(ii)(A) of the Commission's rules, RBC is exempt from the specific approval requirements under section 1.5001(i) to hold its interest directly in BCE Inc. and

[64] Restated Petition at 1.

[65] *Id*. at 8.

[66] *Id*. at 4.

[67] *Id*. at 1.

[68] 47 CFR § 1.5001(i).

[69] Restated Petition at 10.

[70] 47 CFR § 1.5001(i)(3)(ii).

[71] Restated Petition at 8-9, n. 6. According to the Restated Petition, "[b]ased upon a review of these reports and shareholder records, Bell Canada and BCE Inc. are not aware of any other foreign person or entity, other than the aforementioned Canadian Entities and the single exempt entity, that will hold a 5 percent or greater interest, as calculated under the Commission's rules, in Northwest Ultimate following the consummation of the Transaction." *Id*. at 9.

[72] *Id*. at 8-9, n.6.

indirectly in Northwest Fiber. According to the Restated Petition, "Bell Canada understands that RBC is an institutional investor eligible to report its beneficial ownership interests in BCE Inc. pursuant to Exchange Act Rule 13d-1(b), 17 CFR § 240.13d-1(b), as are RBC's affiliates."[73] The Restated Petition further states that "RBC regularly files Schedules 13G with the Securities and Exchange Commission (SEC) pursuant to Exchange Act Rule 13d-1(b) with respect to entities of which RBC affiliates have acquired more than 5% of shares outstanding when these RBC affiliates have "acquired such securities in the ordinary course of [ ] business and not with the purpose nor with the effect of changing or influencing the control of the issuer."[74]

The Petitioners state that following the consummation of the proposed transaction, RBC and its affiliates would not indirectly hold more than 10% of the equity and/or voting interests of Northwest Fiber, the controlling U.S. parent.[75] Petitioners also state that RBC and its affiliates do not hold a controlling interest in Northwest Fiber or any of its parent entities, nor have they evidenced a plan or intent to change or influence control of Northwest Fiber or any of its parent entities.[76]

The Commission generally requires a common carrier wireless licensee to identify and request specific approval for any foreign individual, entity, or group of foreign individuals or entities that holds or would hold directly, or indirectly though one or more intervening U.S. or foreign organized entities, more than 5% of the total outstanding voting or equity interest or a controlling interest in the controlling U.S. parent.[77] In certain limited circumstances, however, the Commission does not require specific approval of a foreign individual's or entity's non-controlling interest unless it would exceed, directly or indirectly, 10% of the equity and/or voting interest in the controlling U.S. parent.[78] With respect to this exemption, section 1.5001(i)(3)(ii)(A) of the Commission's rules states that the Commission will presume such criterion is satisfied "[w]here the petitioning applicant or licensee, controlling U.S. parent, or entity holding a direct or indirect equity and/or voting interest in the applicant/licensee or U.S. parent is a 'public company' as defined in § 1.5000(d)(9), provided that the foreign holder is an institutional investor that is eligible to report its beneficial ownership interests in the company's voting, equity securities in excess of 5 percent (not to exceed 10 percent) pursuant to Exchange Act Rule 13d-1(b), 17 CFR 240.13d-1(b), or a substantially comparable foreign law or regulation."[79]

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[73] *Id.* (citing to 47 CFR 1.5001(i)(3)(ii)(A)).

[74] *Id.* (citing to 17 CFR § 240.13d-1(b)(1)(i)).

[75] *Id.*

[76] *Id*.

[77] 47 CFR § 1.5001(i). *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, IB Docket No. 11-133, Second Report and Order, 28 FCC Rcd 5741, 5767, para. 47 (2013) (*2013 Foreign Ownership Second Report and Order*); *see also 2016 Foreign Ownership Order*, 31 FCC Rcd 11272.

[78] Specifically, a foreign investment is exempt from specific approval requirements where (i) the foreign interest is no more than 10 percent of the equity and/or voting interests of the U.S. parent or the petitioning applicant or licensee; and (ii) "the foreign individual or entity does not hold, and would not hold, a controlling interest in the petitioner or any controlling parent company, does not plan or intend to change or influence control of the petitioner or any controlling parent company, does not possess or develop any such purpose, and does not take any action having such purpose or effect." 47 CFR § 1.5001(i)(3); *2013 Foreign Ownership Second Report and Order*, 28 FCC Rcd at 5768-79, paras. 48-68.

[79] 47 CFR § 1.5001(i)(3)(ii)(A); According to section 1.5000(d)(9) of the Commission's rules, "[p]ublic company refers to a U.S.- or foreign-organized company that has issued a class of equity securities for which beneficial ownership reporting is required by security holders and other beneficial owners under sections 13(d) or 13(g) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a et seq. (Exchange Act) and corresponding Exchange Act Rule 13d-1, 17 CFR 240.13d-1, or a substantially comparable foreign law or regulation." CFR § 1.5000(d)(9).

Petitioners provided information and materials regarding RBC, a publicly traded company, in support of the argument that RBC should be considered exempt under section 1.5001(i)(3)(ii)(A) of the Commission's rules.[80] The Petitioners further stated that RBC regularly files Schedules 13G with the SEC pursuant to Exchange Act Rule 13d-1(b) "with respect to entities of which RBC affiliates have acquired more than 5 percent of shares outstanding when these RBC affiliates have "acquired such securities in the ordinary course of [] business and not with the purpose nor with the effect of changing or influencing the control of the issuer."[81] In general, the SEC rules require that beneficial ownership interests be reported by filing a Schedule 13D with the SEC.[82] However, the SEC permits certain beneficial ownership interests to be filed under a Schedule 13G, a short-form statement, in lieu of a Schedule 13D filing.[83] To be eligible to file a Schedule 13G, the SEC requires that a person "has not acquired the securities with any purpose, or with the effect, of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having that purpose or effect" along with certain other requirements specific to each rule.[84] In addition, as the Petitioners state, RBC's interests through various direct and indirect subsidiaries, are less than 5% but no more than 10% BCE Inc. and Northwest Fiber, the controlling U.S. parent of the Common Carrier Wireless Licensees.[85]

We find that Petitioners have made a sufficient showing that RBC should be treated as a passive institutional investor pursuant to section 1.5001(i)(3)(ii)(A) of the Commission's rules. Since RBC's interests falls below 10%, we find, based on the Petitioners' showing, RBC is exempt from specific approval under the 5% rule. Northwest Fiber will be required to file, and receive approval of, a new petition for declaratory ruling for specific approval of RBC before RBC's equity and/or voting interests increase to greater than 10%.

The Petitioners also request advance approval, pursuant to section 1.5001(k) of the Commission's rules,[86] for Bell MTS Inc. to increase its indirect equity and voting interests up to a non-controlling 49.99% in Northwest Fiber; and for BCE Inc. to increase its indirect equity and voting interests up to a controlling 100% in Northwest Fiber.[87]

The Petitioners assert that the public interest would be served by granting the Restated Petition.[88]

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[80] *See* Restated Petition at 9, n.6 (discussing that RBC regularly files with the SEC pursuant to Exchange Act Rule 13d-1(b)).

[81] *Id*.

[82] 17 CFR § 240.13d-1.

[83] *Id.*; 17 CFR § 240.13d-102; 17 CFR § 240.13d-101.

[84] 17 CFR § 240.13d-1(b)(1)(i); 17 CFR § 240.13d-1(c)(1). Under section 240.13d-1(g), any person who has reported pursuant to Schedule 13G or has become obligated to report on Schedule 13G but "thereafter ceases to be a person specified in paragraph (b)(1)(ii) of this section or determines that it no longer has acquired or holds the securities in the ordinary course of business shall immediately become subject to § 240.13d-1(a) or § 240.13d-1(c) (if the person satisfies the requirements specified in § 240.13d-1(c)), and §§ 240.13d-2 (a), (b) or (d), and shall file, within 10 days thereafter, a statement on Schedule 13D (§ 240.13d-101) or amendment to Schedule 13G, as applicable, if the person is a beneficial owner at that time of more than five percent of the class of equity securities." 17 CFR § 240.13d-1(g).

[85] Restated Petition at 9, n.6 (citing to Royal Bank of Canada, Form 13F-HR Cover Page (Nov. 14, 2024), https://www.sec.gov/Archives/edgar/data/1000275/000114036124046848/xslForm13F_X02/primary_doc.xml; Royal Bank of Canada, Form 13F-HR Information Table (Nov. 14, 2024), https://www.sec.gov/Archives/edgar/data/1000275/000114036124046848/xslForm13F_X02/informationtable.xml).

[86] 47 CFR § 1.5001(k).

[87] Restated Petition at 10-11.

[88] *Id.* at 11-13.

Foreign Ownership 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 the proposed controlling U.S. parent, Northwest Fiber, 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, first, 100% aggregate foreign ownership of the proposed controlling U.S. parent, Northwest Fiber, subject to the terms and conditions set forth in section 1.5004 of the Commission's rules and the commitments and undertakings set out in the LOA.

In addition, pursuant to section 1.5001(i) of the Commission's rules, we approve the foreign equity and voting interests that would be held in Northwest Fiber by each of the above-listed foreign entities and individuals in the amounts specified above. 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 Northwest Fiber up to the amounts specified above.

Finally, under this declaratory ruling, 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,[89] and otherwise ensure continuing compliance with the provisions of section 310(b) of the Act.[90]

A failure to comply and/or remain in compliance with any of the conditions of this declaratory ruling shall constitute a failure to meet a condition of this 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 declaratory ruling may also result in monetary sanctions or other enforcement action by the Commission.

Grant of Applications and Restated Petition, Subject to Condition

We find, upon consideration of the record, that the proposed transfers will serve the public interest, convenience, and necessity.[91] We also find that the public interest would not be served by prohibiting the foreign equity and voting interests in Northwest Fiber, the controlling U.S. parent of the Common Carrier Wireless Licensees, in excess of the 25% statutory benchmarks in section 310(b)(4) of the Act.

This grant of the Applications and Restated Petition is conditioned as set out in this Public Notice.

Pursuant to sections 4(i)-(j), 214(a), 214(c), 303(r), 310(b) and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 214(a), 214(c), 303(r), 310(b), 310(d), and sections 1.948, 1.5001-04, 63.04, and 63.24 of the Commission's rules, 47 CFR §§ 1.948, 1.5001-04, 63.04, 63.24, and pursuant to the authority delegated under sections 0.19, 0.91, 0.131, 0.291, 0.331 and 0.351 of the Commission's rules, 47 CFR §§ 0.19, 0.91, 0.131, 0.291, 0.331 and 0.351, we grant the Applications and Restated Petition for Declaratory Ruling listed in Attachment A to this Public Notice as conditioned in this Public Notice.

Pursuant to sections 4(i)-(j), 214(a), 310(b) and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 214(a), 310(b), 310(d) and sections 1.948, 1.5001-04; 1.40001-04, and

[89] 47 CFR §§ 1.5002-1.5003.

[90] *Id.* § 1.5004, note to paragraph (a).

[91] *See* 47 U.S.C. § 214(a); 47 CFR § 63.04.

63.04, and 63.24 of the Commission's rules, 47 CFR §§ 1.948, 1.5001-04; 1.40001-04, 63.04, 63.24, we grant the Petition to Adopt Conditions to Authorizations and Licenses filed by the National Telecommunications and Information Administration. Grant of the Applications and Restated Petition for Declaratory Ruling is conditioned on compliance with the Letter of Agreement from Byron E. Springer, Jr., General Counsel, Northwest Fiber, LLC, and Robert Malcolmson, Chief Regulatory Officer, BCE Holding Corporation and EVP and Chief Legal and Regulatory Officer, BCE 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; and Assistant Secretary for Trade and Economic Security, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security (dated May 29, 2025).

Any failure to comply and/or remain in compliance with any of the conditions set out in the Public Notice shall constitute a failure to meet a condition of the underlying authorizations, licenses, and declaratory ruling and thus grounds for declaring the authorizations, licenses and declaratory ruling terminated without any further action on the part of the Commission. Failure to meet a condition of the authorizations, licenses or declaratory ruling may also result in monetary sanctions or other enforcement action by the Commission.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the consent granted herein 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 release of this Public Notice.

For further information, please contact Megan Danner, Wireline Competition Bureau, (202) 418-1151; Fara Mohsenikolour, Telecommunications and Analysis Division, Office of International Affairs, (202) 418-1429; Nadja Sodos-Wallace, Broadband Division, Wireless Telecommunications Bureau, (202) 418-0955; or Stephanie Asous, Mobility Division, Wireless Telecommunications Bureau, (202) 418-2155.

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ATTACHMENT A

SECTION 214 AUTHORIZATIONS

A. International

The Office of International Affairs grants, as conditioned, the international section 214 transfer of control applications listed below.

File Number	Authorization Holder	Authorization Number
ITC-T/C-20241206-00181	Ziply Fiber Northwest, LLC	ITC-214-20080219-00079; ITC-214-20000703-00390
ITC-T/C-20241206-00182	Northwest Fiber, LLC dba Ziply Fiber	ITC-214-20191219-00208

B. Domestic

The Wireline Competition Bureau grants, as conditioned, the Lead Application to transfer control of domestic section 214 authority in connection with the proposed transaction, WC Docket No. 24-692. [92]

Authorization Holder	Jurisdiction of Formation	Provider Type	ETC
Northwest Fiber, LLC	Delaware	CLEC, IXC	No
Ziply Fiber of Idaho, LLC	Delaware	ILEC	Yes
Ziply Fiber of Montana, LLC	Delaware	ILEC	Yes
Ziply Fiber Northwest, LLC	Delaware	ILEC, CLEC	Yes
Ziply Fiber of Oregon, LLC	Delaware	ILEC, CLEC	Yes
Ziply Fiber Pacific, LLC	Delaware	CLEC	Pending
Ziply Wireless, LLC	Delaware	CLEC	Yes
Wholesail Networks LLC	Delaware	CLEC	No

SECTION 310(d) APPLICATIONS

The Wireless Telecommunications Bureau grants, as conditioned, the applications for consent listed below.

File Number	Licensee
0011359917[93]	Ziply Fiber Northwest, LLC
0011361241	Ziply Fiber of Montana, LLC
0011361247	Ziply Fiber of Idaho, LLC
0011361254	Ziply Wireless, LLC
0011361259	Wholesail Networks LLC

RESTATED PETITION FOR DECLARATORY RULING UNDER SECTION 310(b)(4)

The Office of International Affairs grants, as conditioned, the Petition for Declaratory Ruling, ICFS File No. ISP-PDR-20241206-00005.

[92] 47 CFR § 63.04.

[93] The Applicants designated File No. 0011359917 as the lead application for the wireless licenses.

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 25-619
Released: July 14, 2025

WIRELINE COMPETITION BUREAU ANNOUNCES UPDATED LIFELINE MINIMUM SERVICE STANDARDS AND INDEXED BUDGET AMOUNT

WC Docket No. 11-42

By this Public Notice, the Wireline Competition Bureau (Bureau) announces updated minimum service standards for Lifeline-supported services as required by the *2016 Lifeline Order*.[1] The *2016 Lifeline Order* established minimum service standards for certain Lifeline-supported services and established annual increases in those standards either in the Commission's rules or pursuant to calculations set out in the Order and the Commission's rules.[2] Accordingly, we announce the minimum service standard for fixed broadband data usage allowance. This standard will continue until December 1, 2026. Additionally, we announce that the budget for federal universal service support for the Lifeline program for calendar year 2026 will be $2,976,503,538.[3]

Mobile broadband minimum service standard. On July 1, 2025, the Bureau extended for an additional year the waiver pausing the increase in the Lifeline minimum service standards for mobile broadband data capacity.[4] As such, the standard will continue to be 4.5 GB per month until December 1, 2026.

Fixed broadband minimum service standard for data usage allowance. Pursuant to the *2016 Lifeline Order*, beginning December 1, 2025, the Lifeline minimum service standard for fixed broadband data usage will be 1280 GB per month, as calculated from the 2025 Urban Rate Survey data.[5]

Mobile voice telephony minimum service standard. The *2016 Lifeline Order* established an automatic update to the Lifeline minimum service standard for mobile voice service through November 30, 2018.[6] Accordingly, pursuant to the *2016 Lifeline Order*, on December 1, 2025, the Lifeline minimum service standard for mobile voice service will remain unchanged, at 1000 minutes per month.[7]

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[1] *See Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., 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 § 54.408(c).

[2] *2016 Lifeline Order*, 31 FCC Rcd at 3988-4000, paras. 69-106; 47 CFR § 54.408(b)-(c).

[3] *See 2016 Lifeline Order*, 31 FCC Rcd at 4110, para. 403; 47 CFR § 54.423(a)(2).

[4] *See Lifeline and Link Up Reform and Modernization et. al.*, Docket No. 11-42, Order, DA 25-567, 1, 3-5, paras. 1-2, 9-10, 13-15 (WCB 2025).

[5] *See* 47 CFR § 54.408(c)(1)(ii); *2016 Lifeline Order*, 31 FCC Rcd at 3994, para. 90; FCC, *Urban Rate Survey Data & Resources*, https://www.fcc.gov/economics-analytics/industry-analysis-division/urban-rate-survey-data-resources (last visited July 11, 2025).

[6] *See* 47 CFR § 54.408(b)(3); *2016 Lifeline Order*, 31 FCC Rcd at 3998-99, paras. 100-02.

[7] *See* 47 CFR § 54.408(b)(3)(iii) ("On and after December 1, 2018, the minimum standard will be 1000 minutes."); *2016 Lifeline Order*, 31 FCC Rcd at 3999, para. 102.

Annual budget. The *2016 Lifeline Order* adopted an initial budget of $2.25 billion for the calendar year beginning January 1, 2017.[8] The *2016 Lifeline Order* also stated that the budget amount will be indexed to inflation in accordance with the Consumer Price Index for all items from the Department of Labor, Bureau of Labor Statistics.[9] To perform this calculation, the Bureau used the annual percent change factor for the preceding year (here, 2024) to the year in which the calculation is being performed.[10] Based on this calculation, the indexed budget for federal universal service support for the Lifeline program for the calendar year beginning January 1, 2025 was $2,892,617,627,[11] and the indexed budget for the calendar year beginning January 1, 2026 will be $2,976,503,538.

For further information, please contact Sam Lewis, Telecommunications Access Policy Division, Wireline Competition Bureau, at samuel.lewis@fcc.gov.

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[8] 47 CFR § 54.423(a)(1); *2016 Lifeline Order*, 31 FCC Rcd at 4110, paras. 400-02.

[9] 47 CFR § 54.423(a)(2); *2016 Lifeline Order*, 31 FCC Rcd at 4110, para. 403.

[10] *See* United States Department of Labor, Bureau of Labor Statistics, *Consumer Price-Index All Urban Consumer U.S. City Average, Not Seasonally Adjusted, Series CUUR0000SA0* (last visited July 11, 2025), https://data.bls.gov/timeseries/CUUR0000SA0?output_view=pct_12mths (annual average 12-month percent change for 2024 was 2.9%).

[11] *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards & Indexed Budget Amount*, WC Docket No. 11-42, Public Notice, 39 FCC Rcd 8487, 8488 (WCB 2024).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-620
Released: July 14, 2025

WIRELINE COMPETITION BUREAU RE-AUTHORIZES ENHANCED ALTERNATIVE CONNECT AMERICA MODEL SUPPORT FOR DMEA UTILITIES SERVICES, LLC AND FOR EASTERN SLOPE RURAL TELEPHONE ASSOCIATION, INC.

WC Docket No. 10-90

The Wireline Competition Bureau (Bureau) re-authorizes Enhanced A-CAM support and deployment locations previously authorized on October 30, 2023, to Telephone & Data Systems (TDS).[1] The Bureau takes this action in connection with the Bureau's approval of two separate transfers of control, specifically, a transaction by which one study area, Delta County Tel Co Study Area Code (SAC) 462184, would be transferred from TDS to DMEA Utilities Services, LLC doing business as Elevate (Elevate), and another transaction, by which one study area, Strasburg Tel Co SAC 462207, would be transferred from TDS to Eastern Slope Rural Telephone Association, Inc. (ESRTA).[2] These transactions have been consummated as of June 2, 2025, and as of consummation, TDS has transferred all Enhanced A-CAM support for Colorado.[3] It is thus necessary for the Bureau to allocate the Enhanced A-CAM support and deployment obligations previously authorized to TDS between Elevate and ESTRA.[4]

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[1] *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, 39 FCC Rcd 11737 (WCB 2023); Enhanced A-CAM Authorization Report 1.1, https://docs.fcc.gov/public/attachments/DOC-407197A1.pdf.

[2] *See Domestic Section 214 Application Granted for the Transfer of Control of Delta County Tele-comm, Inc. from TDS Telecommunication, LLC to DMEA Utilities Services, LLC*, WC Docket No. 25-126, Public Notice, DA 25-450 (WCB May 27, 2025) (*DMEA 214 Transfer Public Notice*); *Domestic Section 214 Application Granted for the Transfer of Control of Strasburg Telephone Company from TDS Telecommunications, LLC to Eastern Slope Rural Telephone Association, Inc*., WC Docket No. 25-147, Public Notice, DA 25-451 (WCB May 27, 2025) (*ESRTA 214 Transfer Public Notice*).

[3] *See* Letter from Andrew S. Peterson, Senior Vice President-Corporate Affairs, TDS Telecommunications Corporation to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 25-126 (filed June 2, 2025) (providing notice that the transaction that the Bureau approved in the *DMEA 214 Transfer Public Notice* was consummated as of June 2, 2025); Letter from Andrew S. Peterson, Senior Vice President-Corporate Affairs, TDS Telecommunications Corporation to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 25-147 (filed June 2, 2025) (providing notice that the transaction that the Bureau approved in the *ESRTA 214 Transfer Public Notice* was consummated as of June 2, 2025).

[4] Since Enhanced A-CAM support is at the state-level, TDS has been receiving Enhanced A-CAM support in Colorado under SAC 462184 (the admin SAC). With this re-authorization, each SAC referenced herein (SAC 462184 and SAC 462207) will receive Enhanced A-CAM support separately. We reauthorize this support consistent with the support amounts originally authorized to TDS for each of the SACs and, as stated in the *ERSTA* and *DMEA 214 Transfer Public Notices*, we will make future adjustments to this amount as part of the Commission's true-up process. *See DMEA 214 Transfer Public Notice* at 2 n.20; *ESRTA 214 Transfer Public Notice* at 2 n.22. Such adjustments will include treating all locations that were served by the Transferee or for which

(continued….)

The Bureau therefore releases today a supplemental Authorization Report specifying the separate Enhanced A-CAM support amount and the initial deployment obligation for Elevate and ESRTA.[5] The support amounts and deployment obligations are wholly consistent with Authorization Report 1.1, dated November 1, 2024, and there is no change to the total authorized Enhanced A-CAM support. Neither the support amounts nor deployment obligations reflect the Interim Eligible Locations Update.[6] Pursuant to the *Enhanced A-CAM Order*, the Bureau must finalize Enhanced A-CAM deployment obligations and support amounts no later than December 31, 2025.[7] Consistent with that process, this Authorization is subject to future adjustment. For reference purposes, the Bureau also releases Authorization Report 1.2, which reflects Authorization Report 1.1 as amended by today's re-authorizations.[8]

Elevate will be obligated to meet Enhanced A-CAM obligations in the Delta County Tel Co SAC 462184, and ESRTA will be obligated to meet Enhanced A-CAM obligations in the Strasburg Tel Co SAC 462207. Each of these carriers must report broadband deployment to required locations in the relevant study area in the Universal Service Administrative Company's (USAC) High-Cost Universal Broadband (HUBB) portal.

The Bureau authorizes and directs USAC to obligate and disburse the annual support amounts over the remainder of the 15-year Enhanced A-CAM term, beginning with June 2025 disbursements, through December 31, 2038, for Elevate and ESRTA, as reflected in the supplemental Authorization Report.[9]

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

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(Continued from previous page)
the Transferee held a BFM enforceable commitment, as of August 2023, as served only by a competitor. *See DMEA 214 Transfer Public Notice* at 2 and n.20; *ESRTA 214 Transfer Public Notice* at 2 and n.22.

[5] Enhanced A-CAM Authorization Report for Enhanced A-CAM Authorization Report for Elevate and ESRTA., a*vailable at* https://docs.fcc.gov/public/attachments/DOC-412949A1.xlsx.

[6] *See Wireline Competition Bureau Announces An Updated Interim Eligible Locations List for Enhanced Alternative Connect America Model Mechanism*, WC Docket No. 10-90, Public Notice, 39 FCC Rcd 7494 (WCB 2024).

[7] *See Connect America Fund; ETC Annual Reports and Certifications; Telecommunications Carriers Eligible to Receive Universal Service Support; Connect America Fund –Alaska Plan; Expanding Broadband Service Through the ACAM Program*, WC Docket Nos. 10-90, 14-58, 09-197, and 16-271; RM-1168, Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 38 FCC Rcd 7040, 7060, 7072-73, paras. 43, 77-78 (2023) (*Enhanced A-CAM Order*).

[8] Enhanced A-CAM Authorization Report 1.2, *available at* https://docs.fcc.gov/public/attachments/DOC-412953A1.xlsx.

[9] Consistent with normal practice, June Enhanced A-CAM disbursements for each of Elevate and ESRTA will be remitted in July.

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

In the Matter of	)	
	)	
Delete, Delete, Delete	)	GN Docket No. 25-133
	)	
Targeting and Eliminating Unlawful Text Messages	)	CG Docket No. 21-402
	)	
Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991	)	CG Docket No. 02-278
	)	
Advanced Methods to Target and Eliminate Unlawful Robocalls	)	CG Docket No. 17-59

ORDER

Adopted: July 14, 2025 **Released: July 14, 2025**

By the Acting Chief, Consumer and Governmental Affairs Bureau:

1. By this Order, we conform Part 64 of the Commission's rules to a court decision nullifying the first full paragraph of section 64.1200(f)(9) as adopted in the *Second Text Blocking Report and Order*.[1] In the *Delete, Delete, Delete* proceeding, the Commission made clear its goal to "review its rules to identify and eliminate those that are unnecessary in light of current circumstances."[2] The Consumer and Governmental Affairs Bureau (Bureau) takes this action in furtherance of that goal.[3] Our action ensures that new and burdensome requirements are eliminated from the rules.

2. In *Insurance Marketing Coalition Limited v. FCC*,[4] the United States Court of Appeals for the Eleventh Circuit vacated and remanded part III.D of the Commission's *Second Text Blocking Report and Order*.[5] Pursuant to F. R. App. P. 41(b), the court issued its mandate on April 30, 2025, which vacated, as of that date, the rule change adopted in the *Second Text Blocking Report and Order* for the first full paragraph of section 64.1200(f)(9) of the Commission's rules.[6] With this Order, we amend our rules to reflect the court's mandate. Specifically, this Order repeals the revised version of section 64.1200(f)(9) of the Commission's rules adopted in the *Second Text Blocking Report and Order* and reinstates in our codified rules the version of section 64.1200(f)(9) as it existed prior to the *Second Text Blocking Report and Order*.

[1] *Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket Nos. 02-278, 21-402, 17-59, Second Report and Order and Second Further Notice of Proposed Rulemaking in CG Docket Nos. 02-278 and 21-402 and Waiver Order in CG Docket No. 17-59, 38 FCC Rcd 12247 (2023) (*Second Text Blocking Report and Order*).

[2] *Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, DA 25-219, at 1 (rel. Mar. 12, 2025).

[3] *Id.* at 5.

[4] *Insurance Marketing Coalition Limited v. FCC*, 127 F.4th 303 (11th Cir. 2025).

[5] *Second Text Blocking Report and Order*.

[6] 47 CFR § 64.1200(f)(9).

3. The Bureau for good cause finds that notice and comment are unnecessary for this rule amendment under 5 U.S.C. § 553(b)(B) because this ministerial order merely implements the mandate of the United States Court of Appeals for the Eleventh Circuit, and the Commission lacks discretion to depart from this mandate.[7] Because this Order is being adopted without notice and comment, the Regulatory Flexibility Act does not apply.[8]

4. Accordingly, IT IS ORDERED that section 64.1200(f)(9) of the Commission's rules, 47 CFR § 64.1200(f)(9), is amended as set forth in the Appendix, effective upon publication in the Federal Register.[9]

5. This action is taken pursuant to the authority contained in sections 4(i), 4(j), 5(c), and 227(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 155(c), 227(b), and sections 0.141 and 0.361 of the Commission's rules, 47 CFR §§ 0.141, 0.361.

6. The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A). The Bureau finds good cause to make this rule effective earlier than 60 days after the Order is submitted to Congress and the Government Accountability Office, pursuant to 5 U.S.C. § 808(2), because this ministerial order merely implements the mandate of the United States Court of Appeals for the Eleventh Circuit, and the Commission lacks discretion to depart from this mandate.

[7] 5 U.S.C. § 553(b)(B); *see* 5 U.S.C. § 706 (directing reviewing court, among other things, to "decide all relevant questions of law" and to "hold unlawful and set aside agency action" found to be arbitrary, capricious, or otherwise not in accordance with law); *EME Homer City Generation LP v. EPA*, 795 F.3d 118, 134-35 (D.C. Cir. 2015) (affirming agency good cause determination that notice and comment were unnecessary when a court order invalidated a rule and "commentators could not have said anything during a notice and comment period that would have changed that fact"); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Order, 34 FCC Rcd 9366, 9366, para. 2 & n.7 (WTB 2019) (finding good cause for reinstating rules without notice and comment to comply with a court mandate); *see also Amendment of the Part 95. Subpart E, Technical Regulations in the Personal Radio Services Rules*, Order, 3 FCC Rcd 5032, 5032, para. 11 (1988) (finding notice and comment unnecessary when revisions in an order "merely . . . delete redundant or obsolete rules").

[8] 5 U.S.C. § 604(a) (stating that the requirement to prepare a final regulatory flexibility analysis for a final rule applies "[w]hen an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking"); *id*. § 603(a) (same for initial regulatory flexibility analysis).

[9] While the effect of the court's mandate was to vacate a rule change and restore the prior rule, as described above, we now undertake by this Order the ministerial step of amending our rules to reflect the court's mandate. Prior to the court's mandate, the Commission had postponed the effective date of the revised rule and the revised rule has not gone into effect. *See Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket Nos. 21-402, 02-278, 17-59, Order, DA 25-90 (CGB Jan. 24, 2025). For this reason, we find "good cause" under 5 U.S.C. § 553(d)(3) to make the rule amendment effective immediately upon publication in the Federal Register, as the amendment will make the codified rule in section 64.1200(f)(9) reflect the rule currently in effect due to the January 24, 2025 order. *See* 5 U.S.C. § 553(d)(3) (stating that publication of a "substantive" rule shall be made not less than 30 days before its effective date, "except . . . as otherwise provided by the agency for good cause found and published with the rule").

FEDERAL COMMUNICATIONS COMMISSION

Eduard W. Bartholme III
Acting Chief,
Consumer and Governmental Affairs Bureau

APPENDIX

Final Rules

The Federal Communications Commission amends Part 64 of Title 47 of the Code of Federal Regulations as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Subpart L—Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising

Amend § 64.1200 by revising the first full paragraph of paragraph (f)(9) to read as follows:

(f)(9) The term prior express written consent means an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered.

(i) The written agreement shall include a clear and conspicuous disclosure informing the person signing that:

(A) By executing the agreement, such person authorizes the seller to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice; and

(B) The person is not required to sign the agreement (directly or indirectly), or agree to enter into such an agreement as a condition of purchasing any property, goods, or services.

(ii) The term "signature" shall include an electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.

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

In the Matter of	)	
	)	
Deerfield Media (Port Arthur) Licensee, LLC;	)	FRNs: 0021989033 et al.[1]
Deerfield Media (San Antonio) Licensee, LLC;	)	Facility ID Nos. 61214 et al.[2]
Deerfield Media (Rochester) Licensee, LLC;	)	LMS File Nos. 0000188614 et al.[3]
Deerfield Media (Cincinnati) Licensee, LLC; and	)	
Manhan Media, Inc.	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[4]

ORDER

Adopted: July 18, 2025 **Released: July 18, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Deerfield Media (Port Arthur) Licensee, LLC; Deerfield Media (San Antonio) Licensee, LLC; Deerfield Media (Rochester) Licensee, LLC; Deerfield Media (Cincinnati) Licensee, LLC; and Manhan Media, Inc. (collectively, Licensees), the licensees of the full power broadcast television stations listed in the Appendix (Stations). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensees' compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[5] We find that through adoption of this Consent Decree, grant of the Renewal Applications are in the public interest.

2. The Bureau and the Licensees have negotiated the terms of the attached Consent Decree in which the Licensees agree, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[6] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Stations and described in paragraph 1,[7] and

[1] All FRNs are listed in the Appendix.

[2] All facility ID numbers are listed in the Appendix.

[3] All application file numbers are listed in the Appendix (Renewal Applications).

[4] The stations listed in the Appendix were subject to the above-captioned forfeiture proceeding. The Commission also found that multiple other stations not licensed to the above-captioned licensees violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (*Forfeiture Order*); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (*NAL*). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.4; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[5] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[6] 47 CFR §§ 73.670(a).

[7] *See also* Consent Decree at paras. 4-5.

granting the Renewal Applications.[8] The Bureau finds that the Stations have served the public interest, convenience, and necessity during the subject license terms and that grant of the Renewal Applications are warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[9] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensees possess the basic qualifications to hold or remain Commission licensees.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[10] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[11] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to the full power television stations listed in the Appendix **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[12] the applications for renewal of license for the full power television stations listed in the Appendix **ARE GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to the above captioned licensees at Danielle Turner, 573 E 840 S, Heber City, UT 84032, and by e-mail at dturner@manhanmedia.com. A copy shall also be sent to counsel for the above-captioned licensees at Scott R. Flick, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street NW, Washington, D.C. 20036, and by e-mail at scott.flick@pillsburylaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[8] 47 CFR §§ 73.670(a).

[9] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[10] 47 U.S.C. § 154(i).

[11] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[12] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
Deerfield Media (Port Arthur) Licensee, LLC;	)	FRNs: 0021989033 et al.[1]
Deerfield Media (San Antonio) Licensee, LLC;	)	Facility ID Nos. 61214 et al.[2]
Deerfield Media (Rochester) Licensee, LLC;	)	LMS File Nos. 0000188614 et al.[3]
Deerfield Media (Cincinnati) Licensee, LLC; and	)	
Manhan Media, Inc.	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[4]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and the Licensees (as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending Renewal Applications (as defined below) involving the full power television stations listed in the Appendix (hereafter Stations, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Stations and the Licensees' compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of Commercial Matter (as defined below) that commercial television stations may air during Children's Programming (as defined below).[5]

2. To resolve these matters, the Licensees agree to implement a comprehensive Compliance Plan to ensure their future compliance with section 73.670(a) of the Rules.[6] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order* in accordance with the terms herein, and grant the Renewal Applications in accordance with the terms of this Consent Decree.

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, 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.

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[1] All FRNs are listed in the Appendix.

[2] All facility ID numbers are listed in the Appendix.

[3] All application file numbers are listed in the Appendix.

[4] The stations listed in the Appendix were subject to the above-captioned forfeiture proceeding. The Commission also found that multiple other stations not licensed to the above-captioned licensees violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.4; *infra* note 15; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[5] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[6] *Id.*

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

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification Rule" means the requirements detailed in 47 CFR § 73.3526(e)(11)(ii).

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensees are subject by virtue of their being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the Licensees receive, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensees, or the Stations concerning issues related to a Station's compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensees to be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensees comply with the terms and conditions of the Compliance Plan and this Consent Decree, as described in paragraph 15.

(l) "Compliance Plan" means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a) and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Stations who materially participate in scheduling Children's Programming and monitoring such programing to ensure it is broadcast.

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensees' compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensees" means Deerfield Media (Port Arthur) Licensee, LLC; Deerfield Media (San Antonio) Licensee, LLC; Deerfield Media (Rochester) Licensee, LLC; Deerfield Media (Cincinnati) Licensee, LLC; and Manhan Media, Inc., the licensees of the Stations listed in the Appendix, as well as their parent(s), affiliates,

subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest, each of which is a "Licensee."

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of the Stations to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Applications" means the applications for renewal of license, as amended, listed in the Appendix.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Stations" means the full power broadcast television stations listed in the Appendix each of which is a "Station."

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[7] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[8] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF an annual Commercial Limits Certification.[9] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[10]

[7] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[8] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[9] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

[10] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

5. Between November 10, 2018 and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired by the Stations on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[11] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[12] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[13] The Commission subsequently released the *NAL* finding that the Stations were apparently liable for forfeiture in the amount of $120,000 in total, constituting an apparent willful and repeated violation of the Commercial Limits Rule.[14] On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[15] On October 7, 2024, the Licensees and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration, asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensees have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Applications. In consideration, the Licensees agree to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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 Licensees agree that the Bureau has jurisdiction over them 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. **Violations**. The Parties agree that any violation of the Adopting Order or the terms of this Consent Decree, in whole or in part, by the Licensees shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

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[11] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[12] The "KidsClick" program block contained animated and short form programming targeted at child viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[13] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[14] The *NAL* found the Licensees apparently liable as follows: Deerfield Media (Port Arthur) Licensee, LLC in the amount of $20,000; Deerfield Media (San Antonio) Licensee, LLC in the amount of $20,000; Deerfield Media (Rochester) Licensee, LLC in the amount of $20,000; Deerfield Media (Cincinnati) Licensee, LLC in the amount of $40,000; and Manhan Media, Inc. in the amount of $20,000. The Commission found that Deerfield Media (Cincinnati) Licensee, LLC was apparently liable in the amount of $40,000 because WSTR-TV, Cincinnati, OH aired the Commercial Matter at issue on two of its broadcast streams. *See NAL*, 37 FCC Rcd at 11047, n.28 *aff'd Forfeiture Order*, 39 FCC Rcd at 9841, n.42.

[15] The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only the Stations are subject to the actions that we undertake herein. The Bureau will address all other stations subject to the forfeiture proceeding by separate action. Adopting Order at n.1; *see supra* note 4.

11. **Admission of Facts.** The Licensees admit 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensees make no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL* and *Forfeiture Order*, and to take the actions specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensees agree to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensees concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensees in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, 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 Licensees' basic qualifications to be Commission licensees or to hold Commission licenses or authorizations.[16]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Licensees with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against the Licensees 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 Licensees acknowledge that the Commission retains the discretion and authority to propose sanctions against the Licensees, including the issuance of notices of apparent liability for forfeiture, for any apparent willful and/or repeated violation by the Licensees of the Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Applications**. In the Adopting Order, the Bureau has determined that grant of the Renewal Applications is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Applications for a full eight (8) year term from the prior license expiration date. The Renewal Applications will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensees shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. 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 Licensees' Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws and this Consent Decree prior to assuming their duties. The name and contact information (mailing

[16] *See* 47 CFR § 1.93(b).

address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensees agree that they shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Stations and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensees 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 the Licensees' in-house legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Stations' compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that each Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensees' legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensees will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensees' legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensees shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Stations in coordination with the Compliance Officer. The Licensees shall maintain on each Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensees shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business 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 relevant Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted by e-mail to VideoCompliance@fcc.gov. The Licensees must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensees are subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensees shall place in each Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in each Station's OPIF until the date specified in paragraph 17.[17]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensees agree to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Stations within 10 business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and the grants of the Renewal Applications. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensees acknowledge that the Bureau retains the discretion and authority to propose sanctions against the Licensees, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensees understand that they are fully responsible for the programming that they transmit over the Stations, even if such programming is provided by a network or third party.

[17] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve a licensee from its obligations, and noncompliance can independently subject the Licensees to enforcement action.

22. **Waivers**. As of the Effective Date, the Licensees waive any and all rights they 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 Licensees shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither the Licensees nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensees shall waive any statutory right to a trial *de novo* relating thereto. The Licensees hereby agree to waive any claims they may have under the Equal Access to Justice Act[18] 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 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 Licensees do not expressly consent) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensees agree that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Stations, as applicable, unless otherwise agreed to by the Commission.[19]

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 all 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.

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

[19] This includes KBTV Licensee, LLC and WSTR Acquisition, LLC in the event that the applications for assignment of KBTV-TV and WSTR-TV are granted and consummated. *See* LMS File Nos. 0000274543 and 0000274535, respectively.

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

Deerfield Media (Port Arthur) Licensee, LLC; Deerfield Media (San Antonio) Licensee, LLC; Deerfield Media (Rochester) Licensee, LLC; Deerfield Media (Cincinnati) Licensee, LLC; and Manhan Media, Inc.

By:

_____
Stephen P. Mumblow
President

_____
Date

APPENDIX

Call Sign	Facility ID	Community	Licensee	FRN	LMS File No.
KBTV-TV	61214	Port Arthur, TX	Deerfield Media (Port Arthur) Licensee, LLC	0021989033	0000188614
KMYS	51518	Kerrville, TX	Deerfield Media (San Antonio) Licensee, LLC	0022238778	0000188645
WHAM-TV	73371	Rochester, NY	Deerfield Media (Rochester) Licensee, LLC	0022244495	0000210031
WSTR-TV	11204	Cincinnati, OH	Deerfield Media (Cincinnati) Licensee, LLC	0022238810	0000148180
WWHO	21158	Chillicothe, OH	Manhan Media, Inc.	0021241484	0000148170

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 25-623
Released: July 15, 2025

COMMENTS INVITED ON SECTION 214 APPLICATION(S) TO DISCONTINUE DOMESTIC TELECOMMUNICATIONS SERVICES AS PART OF A TECHNOLOGY TRANSITION

WC Docket No(s). 25-220 & 25-221

Comments Due: July 30, 2025

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 15, 2025**, 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 service ("Authorized Date"). Any applicant whose application has been deemed granted may discontinue their Affected Service(s) in their Service Area(s) on or after the authorized discontinuance date(s) specified in the Appendix, in accordance with their filed representations. Accordingly, pursuant to

[1] 47 CFR § 63.71.

[2] 47 U.S.C. § 214.

[3] 47 CFR § 63.71.

[4] *See* 47 CFR § 63.71(f)(1) (stating, in relevant part, that an application filed by "any carrier meeting the requirements of paragraph (f)(2)(ii) of this section shall be automatically granted on the 31st day… unless the Commission has notified the applicant that the grant will not be automatically effective."); *see also* 47 CFR § 63.71(f)(2)(ii) (stating that "[a]n application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(i), may be automatically granted only if: The applicant (A) Offers a stand-alone interconnected VoIP service, as defined in §9.3 of this chapter, throughout the affected service area, and (B) At least one other alternative stand-alone facilities-based wireline or wireless voice service is available from another unaffiliated provider throughout the affected service area); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-248, para. 6 (WCB Mar. 20, 2025) (waiving the "stand-alone" requirement for a period of two years when a carrier seeks to discontinue a legacy voice service pursuant to section 214(a), thereby allowing carriers to satisfy both prongs of the Alternative Options Test with a bundled service).

section 63.71(f), and the terms outlined in each application, absent further Commission action, each applicant may discontinue 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 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 the application(s) listed in the Appendix must be filed with the Commission on or before **July 30, 2025**. Comments should refer to the specific WC Docket No. and Comp. Pol. File No. listed in the Appendix for the Section 214 Discontinuance Application. 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). *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.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.

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.

This proceeding(s) shall be treated as a "permit-but-disclose" proceeding(s) 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

[5] 47 CFR § 1.1200 *et seq*.

proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding(s) 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.

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/general/domestic-section-214-discontinuance-service.

– FCC –

Appendix

1) **Applicant(s): Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications**
WC Docket No. 25-220, Comp. Pol. File No. 2030
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-220%22))
Affected Service(s) – legacy voice service
Service Area(s) – at locations in 5 exchanges in Maine and 12 exchanges in New Hampshire that are passed by fiber, as specified in the application
Authorized Date(s) – on or after October 7, 2025
Contact(s) – Rodney McDonald, (202) 418-7513 (voice), Rodney.McDonald@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau

2) **Applicant(s): Consolidated Communications of Vermont Company, LLC d/b/a Consolidated Communications**
WC Docket No. 25-221, Comp. Pol. File No. 2031
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-221%22))
Affected Service(s) – legacy voice service
Service Area(s) – at locations in 2 exchanges in Vermont that are passed by fiber, as specified in the application
Authorized Date(s) – on or after October 7, 2025
Contact(s) – Rodney McDonald, (202) 418-7513 (voice), Rodney.McDonald@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau

PUBLIC NOTICE

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

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

DA 25-624
Released: July 15, 2025

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

WC Docket No. 25-222

Comments Due: July 30, 2025

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 15, 2025**, 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 service ("Authorized Date"). Any applicant whose application has been deemed granted may discontinue their Affected Service(s) in their Service Area(s) on or after the authorized discontinuance 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 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

[1] 47 CFR § 63.71.

[2] 47 U.S.C. § 214.

[3] 47 CFR § 63.71.

[4] *See* 47 CFR § 63.71(f)(1) (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.").

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 the application(s) listed in the Appendix must be filed with the Commission on or before **July 30, 2025**. Comments should refer to the specific WC Docket No. and Comp. Pol. File No. listed in the Appendix for the Section 214 Discontinuance Application. 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). *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.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.

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.

This proceeding(s) shall be treated as a "permit-but-disclose" proceeding(s) 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(s) 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.

[5] 47 CFR § 1.1200 *et seq*.

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/general/domestic-section-214-discontinuance-service.

– FCC –

Appendix

1) **Applicant(s): Mitel Cloud Services Inc.**
WC Docket No. 25-222, Comp. Pol. File No. 2032
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-222%22))
Affected Service(s) – network services (SIP Trunks, Dynamic Local Services, Integrated Local Services, Dedicated Long Distance, Switched Long-Distance, Toll-Free Services, Private Line, and Webfax) that are or facilitate telecommunications and/or interconnected VoIP services
Service Area(s) – California and Indiana
Authorized Date(s) – on or after December 31, 2025
Contact(s) – Rodney McDonald, (202) 418-7513 (voice), Rodney.McDonald@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-625
Released: July 15, 2025

DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF DANVILLE MUTUAL TELEPHONE COMPANY TO IMON COMMUNICATIONS, LLC

WC Docket No. 25-171

By this Public Notice, the Wireline Competition Bureau (Bureau) grants an application filed by Danville Mutual Telephone Company (Danville) and ImOn Communications, LLC (ImOn) (together, Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended (the Act), and section 63.04 of the Commission's rules,[1] requesting Commission consent to transfer control of Danville to ImOn.[2]

On May 23, 2025, the Bureau released a public notice seeking comment on the Application.[3] The Bureau did not receive any comments or petitions in opposition to the Application.

Danville, an Iowa corporation, provides service as an incumbent local exchange carrier (LEC) in Danville, Iowa (study area code 351147).[4]

ImOn, an Iowa limited liability company, provides service as a competitive LEC and also provides interexchange telecommunications services, cable, and other communications services in Iowa, Nebraska, and South Dakota.[5] ImOn is indirectly wholly owned by Hawkeye Topco Holdings, LLC (Hawkeye), a Delaware limited liability company, which, in turn is ultimately controlled by the Goldman

[1] *See* 47 U.S.C. § 214(a); 47 CFR § 63.04.

[2] Domestic Section 214 Application for the Transfer of Control of Danville Mutual Telephone Company to ImOn Communications LLC, WC Docket No. 25-171 (filed May 8, 2025) (Application). On May 14, 2025, Applicants filed a supplement to their domestic section 214 application. Letter from Catherine Wang, Counsel to ImOn Communications, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 25-171 (filed May 14, 2025) (Supplement). Applicants also filed an application for the transfer of an authorization associated with international services (ICFS File No. ITC-T/C-20250508-00043). Any action on the Application is without prejudice to Commission action on other related, pending applications.

[3] *See Domestic Section 214 Application Filed for the Transfer of Control of Danville Mutual Telephone Company to ImOn Communications, LLC*, WC Docket No. 25-171, Public Notice, DA 25-448 (WCB 2025).

[4] Danville is designated as an Eligible Telecommunications Carrier (ETC) and receives Universal Service Fund support in the form of Intercarrier Compensation Recovery support and Enhanced Alternative Connect America Cost Model support (for a total of $340,782.96 ($28,398.58 annually)). Application at 2 and 12. Danville also participates in the Lifeline program as well as the E-Rate and Rural Health Care programs. *Id.* at 12.

[5] Applicants state that ImOn recently obtained intrastate authority to provide telecommunications services in Wisconsin, and has an application pending to provide intrastate telecommunications services before the state public utility commission in Minnesota. *Id.* at 2. Applicants note that ImOn wholly owns FiberComm, L.C. and SiouxLAN Communications LLC, both Iowa entities that do not provide domestic telecommunications services. *Id.* at n.1, 12, and Exh. A at 2; *see also* Supplement at 1.

Sachs Group, Inc. (Goldman Sachs), a Delaware corporation.[6]

Pursuant to the terms of the merger agreement dated May 1, 2025, by and among ImOn, Holdings Purchaser, Inc. (Merger Sub), Danville, and Danville's subsidiary, Tri-County Satellite T.V., Inc, Merger Sub will merge with and into Danville, with Danville surviving the merger.[7] As a result, Danville will become a direct, wholly owned subsidiary of ImOn Holdings, Inc., an Iowa corporation, and an indirect, wholly owned subsidiary of ImOn.[8]

Applicants assert that the proposed transaction is in the public interest.[9] Applicants maintain that ImOn and Danville currently serve customers in areas of Iowa that are complementary to each other and that the proposed transaction will allow Applicants to better serve customers in their respective service areas in Iowa.[10] Applicants state that Danville will be able to draw upon the extensive financial, managerial, and operational experience of ImOn.[11] Applicants note that following the proposed transaction, Danville will continue to provide service to its customers at the same rates, terms, and conditions and without interruption.[12]

Grant of Application

We find that grant of the Application will serve the public interest, convenience, and necessity.[13] Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, and 63.04 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 63.04, the Bureau hereby grants the Application discussed in this Public Notice.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or application 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 Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov.

-FCC-

[6] Applicants provide further information on domestic and foreign entities in the ownership chain sitting between Hawkeye and Goldman Sachs, which, post-transaction, hold a 10% or greater interest in Danville. *See* Application at 5-9, Exh. A (Pre- and Post-Transaction Ownership Structure Charts) at 2-4. The ultimate general partner of Danville, post-transaction, will be West Street Infrastructure Advisors IV, LLC, a Delaware limited liability company. *Id* at 8, Exh. A at 3-4. Applicants state that, other than what is disclosed in the Application, neither ImOn, nor any entity holding a 10% or greater interest in ImOn, also holds a 10% or greater interest in any other provider of domestic telecommunications services. Supplement at 1.

[7] Application at 3.

[8] *Id.*

[9] *Id*. at 11-12.

[10] *Id.* at 11.

[11] *Id.*

[12] *Id.*

[13] *See* 47 U.S.C. § 214(a).

Federal Communications Commission
Washington, D.C. 20554

July 16, 2025

DA 25-626
In Reply Refer to:
1800B3-JAC
Released July 16, 2025

Heme Aqui CA Church
c/o Dan J. Alpert, Esq.
2120 21st Rd. N
Arlington, VA 22201
(sent by email)

MENA Coalition, Inc.
c/o Dirán Deukmajian
1987 Paseo Gabriela
San Dimas, CA 91773
(sent by email)

In re: LPFM MX Group 12

Heme Aqui CA Church
New LPFM, Cucamonga, California
Facility ID No. 788625
Application File No. 0000233172

MENA Coalition, Inc.
New LPFM, San Dimas, California
Facility ID No. 787918
Application File No. 0000232301

Petition to Deny

Dear Applicants:

We have before us the above-referenced mutually exclusive applications for construction permits for new low power FM (LPFM) stations in Cucamonga and San Dimas, California, filed by Heme Aqui CA Church (Heme) and MENA Coalition, Inc. (MENA), respectively.[1] We also have before us a Petition to Deny the Heme Application, filed by MENA.[2] For the reasons set forth below, we grant the Petition, dismiss the Heme Application, and grant the MENA Application.

Background. Heme, MENA, and Iglesia Ministerios Voz de Jubilo (Iglesia)[3] filed applications for construction permits for new LPFM stations during the 2023 LPFM filing window.[4] The Media

[1] *See* Application File Nos. 0000233172 (Heme Application, filed Dec. 15, 2023) and 0000232301 (MENA Application, filed Dec. 11, 2023).

[2] *See* Pleading No. 0000271331 (filed May 22, 2025) (Petition). Heme did not file an opposition to the Petition.

[3] Application File No. 0000231696 (Iglesia Application, filed Dec. 6, 2023).

[4] *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, 38 FCC Rcd 6660 (MB 2023). Based on a request from LPFM advocates, the

Bureau (Bureau) identified these applications as LPFM MX Group 12.[5] The Commission conducted a point system analysis and awarded Iglesia five points, awarded Heme and MENA four points each, and identified Iglesia as the tentative selectee of MX Group 12.[6] The Bureau, however, subsequently dismissed the Iglesia Application and identified the Heme Application and MENA Application as the new tentative selectees of LPFM MX Group 12 on a time-share basis.[7]

In the Petition, MENA argues that "Heme fails to meet the basic qualification requirement to be local to its proposed antenna site" under section 73.853(b) of the Commission's rules (rules).[8] Specifically, MENA asserts that the residences of Heme's directors are "more than 20 miles" from Heme's proposed antenna site.[9] MENA also asserts that the purported address of Heme's headquarters is a vacant building which, along with the lack of evidence that Heme "has done anything since its inception other than file [its] application," demonstrates that Heme is an "inchoate corporate shell."[10] MENA also argues that "the structure of Heme's corporate board as described in the application does not comply with California law for religious nonprofit corporations."[11]

Discussion. Pursuant to section 309(d) of the Communications Act of 1934, as amended (Act),[12] 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*

Bureau subsequently delayed the window until December 6, 2023. *Media Bureau Announces Revised Dates for LPFM New Station Application Filing Window*, Public Notice, 38 FCC Rcd 9589 (MB 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, 38 FCC Rcd 11882 (MB 2023).

[5] *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the December 2023 LPFM Filing Window*, Public Notice, 39 FCC Rcd 2355 (MB 2024).

[6] *Commission Identifies Tentative Selectees in 93 Groups of Mutually Exclusive Applications Submitted in the December 2023 LPFM Window*, Public Notice, FCC 24-113 at Attach. A (Oct. 16, 2024). Heme, MENA, and Iglesia each received one point for each of the following criteria: (1) commitment to originate local programming; (2) commitment to maintain a main studio; (3) commitment to originate local programming and to maintain a main studio; and (4) diversity of ownership. *Id.* Iglesia also received one point for established community presence of at least two years. *Id.*

[7] *See LPFM MX Group 12*, Letter Order, DA 25-354, 2025 WL 1189909 (MB Apr. 22, 2025) (*April 2025 Letter Order*) (dismissing Iglesia Application for failure to prosecute).

[8] 47 CFR § 73.853(b).

[9] Petition at 2.

[10] *Id*. at 2-4 (citing *Comparative Consideration of Seven Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 30 FCC Rcd 5161, 5174-75, para. 40 (2015); *Comparative Consideration of 33 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 26 FCC Rcd 9058, 9089, para. 91 (2011) (*2011 NCE Comparative Ord*er); *Maka'ainana Broadcasting Company*, Letter Order, 27 FCC Rcd 9295, 9299 (MB 2012)).

[11] Petition at 1-2. MENA asserts that one of Heme's three directors has 70% voting control; however, MENA argues that California law states that directors of religious nonprofit corporations shall have one vote each, and therefore each of Heme's directors should have one-third voting control. *Id*. at 5-6.

[12] 47 U.S.C. § 309(d).

facie inconsistent with the public interest.[13] As explained below, we grant the Petition, dismiss the Heme Application, and grant the MENA Application.

We find that Heme fails to meet the localism requirements of section 73.853(b) of the rules.[14] An LPFM applicant must qualify as a "local" entity at the time that it files its FCC Form 2100, Schedule 318 application (LPFM Application).[15] To qualify as local, an LPFM applicant within the top 50 urban markets, such as Heme,[16] must either: (1) be physically headquartered or have a campus within 10 miles of the transmitting antenna site proposed in its application; or (2) have 75% of its board members residing within 10 miles of the transmitting antenna site proposed in its application.[17]

Heme certifies in its Application that both its physical headquarters and 75% of its board members reside within 10 miles of the proposed transmitting antenna site.[18] However, the address that Heme lists for all three of its board members, 20814 Sholic Road, Apple Valley, California 92308 (Apple Valley Address),[19] is 33 miles from its proposed transmitting antenna site, the coordinates of which are 34° 06' 22.0" N 117° 34' 04.0" W (Proposed Transmitter Site) in the community of Rancho Cucamonga,[20] and thus beyond the 10 mile limit specified in section 73.853(b) of the rules.[21]

It is not clear from its Application which address Heme puts forth as its headquarters. There are two possibilities. First, it lists 16870 Merrill Ave., Fontana, California 92335 (Fontana Address), as its contact address and its proposed main studio address.[22] Second, it lists the Apple Valley Address as its "Principal Office" with the California Secretary of State.[23] As discussed above, the Apple Valley address is more than 10 miles from the Proposed Transmitter Site, and therefore beyond the 10 mile limit

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[13] *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).

[14] 47 CFR § 73.853(b).

[15] *See* Instructions for LPFM Application, Legal Certifications Section, Eligibility Certifications and Community-Based Criteria Certifications questions. *See also* LPFM Application, Legal Certifications Section, Eligibility Certifications questions.

[16] Heme's proposed community of license is in the Riverside-San Bernardino radio market, which is a top 50 market. *See* The Nielsen Company (US) LLC, Radio Market Survey Population & Information, Spring 2024, at 1 (2024) https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations_Rankings.pdf.

[17] 47 CFR § 73.853(b). *See also Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2219-20, para. 33 (2001) (*LPFM R&O*) (localism requirement may be met by relying on either headquarters or board member residences).

[18] Heme Application at Legal Certifications Section, Community-Based Criteria questions.

[19] *Id*. at Applicant Information Section, Parties to the Application; *see also id*. at Attach. "Heme Aquica Articles.pdf" (State Filing Attachment).

[20] *Id*. at Antenna Location Data Section, Coordinates question.

[21] 47 CFR § 73.853(b).

[22] Heme Application at Applicant Information Section, Applicant Name, Type, and Contact Information; *id*. at Point System Factors Section, Main Studio question.

[23] *Id*. at State Filing Attachment.

specified in section 73.853(b) of the rules.[24] While the Fontana Address is within 10 miles of the Proposed Transmitter Site, MENA provides photographs of the Fontana Address that show a vacant building with a sign in the window indicating that a tax preparation service previously occupied the building.[25] The photographs also show an electrical meter that is turned off, and MENA states that there is "no evidence of any current or recent activity of any kind at this site."[26] Heme did not file an opposition to MENA's Petition or provide any additional information.

When it established the LPFM service, the Commission required that an applicant be "based in the local community," either through its "physical headquarter[s]" or board member residences.[27] In adopting the localism requirement, the Commission explained that "[g]iven the small coverage of LPFM stations, and our intention that the particular needs and interests of these small areas be served, local familiarity is more significant than it might be for a station serving a larger area and population."[28] In the analogous full-service noncommercial educational FM context, the Commission has clarified that a local headquarters must be a primary place of business and not, for example, a post office box, vacation home, attorney's office, or branch office, which are more easily feigned and/or present less of an opportunity for meaningful contact with the community.[29] Similarly, a headquarters must be operational and not merely an address used by a "paper" or "shell" organization.[30] Here, Heme did not respond to the Petition and has not provided any evidence that it uses the Fontana Address as its headquarters. In fact, nothing in the record indicates a connection between Heme and the Fontana Address beyond Heme's inclusion of the address on its Application.[31] Absent some showing that Heme uses the Fontana Address as its headquarters, the vacant nature of the property serves as evidence that the Apple Valley address is the correct headquarters for Heme. Allowing Heme to rely on the Fontana Address, which apparently is an unused commercial building where Heme has no actual physical presence, would eviscerate the Commission's intention to ensure that the LPFM service is responsive to local needs, especially when Heme's official "Principal Office" and residence(s) of its board members are in Apple Valley, a community approximately 40 miles from the community of license.[32] We therefore find that the Fontana Address does not qualify as a headquarters for the purpose of satisfying the localism requirement.

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[24] 47 CFR § 73.853(b).

[25] Petition at Exhibit 3.

[26] *Id*. at Exhibit 3; *id*. at 3.

[27] *LPFM R&O*, 15 FCC Rcd at 2219-20, paras. 33, 36 ("the community-based requirement that we adopt today does not rest on quantitative factors and is not based on promises of future conduct. Rather, we are adopting a simple, straightforward requirement that applicants be based in the local community.").

[28] *Id*. at 2219, para. 33.

[29] *2011 NCE Comparative Order*, 26 FCC Rcd at 9089, para. 91. *See also Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386, 7410, para. 54 (2000); *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Notice of Proposed Rulemaking, 34 FCC Rcd 851, 858, n.56 (2019).

[30] *2011 NCE Comparative Order*, 26 FCC Rcd at 9089, para. 91.

[31] An independent review by the staff found that the Fontana Address is not listed in any of Heme's filings with the State of California. *See* California Secretary of State, https://bizfileonline.sos.ca.gov/search/business (last visited July 11, 2025).

[32] *See also LPFM R&O*, 15 FCC Rcd at 2219, para. 33 ("We chose the 10-mile distance as proportionate to most stations' likely effective reach. We are concerned that a larger distance, in many areas of the country, could lead to ownership outside the bounds of the station's real community and the people they will actually serve.").

Because there is no indication in the Heme Application that Heme has a headquarters located within 10 miles of its proposed transmitting antenna site, or that 75% of its board members reside within the 10-mile limit, Heme has not sufficiently demonstrated that it is local. We therefore conclude that Heme does not qualify as local under section 73.853(b) of the rules,[33] and dismiss the Heme Application.[34] Dismissing the Heme Application renders the MENA Application as the sole remaining tentative selectee in LPFM MX Group 12.[35] Accordingly, we grant the MENA Application.

Conclusion/Actions. For the reasons set forth above, **IT IS ORDERED**, that the Petition to Deny filed by MENA Coalition, Inc., on May 22, 2025 (Pleading File No. 0000271331) **IS GRANTED.**

IT IS FURTHER ORDERED that the tentative selection of the application of Heme Aqui CA Church (Application File No. 0000233172) on December 15, 2023, for a construction permit for a new LPFM station in Cucamonga, California, **IS RESCINDED** and the application **IS DISMISSED**.

IT IS FURTHER ORDERED that the application filed by MENA Coalition, Inc. (Application File No. 0000232301) on December 11, 2023, for a construction permit for a new LPFM station in San Dimas, California **IS GRANTED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

[33] 47 CFR § 73.853(b). In light of this finding, we need not address the remaining allegation in the Petition regarding Heme's corporate structure.

[34] *See, e.g., Bump FM Inc.*, Letter Order, 39 FCC Rcd 2304 (MB 2024) (dismissing LPFM application for insufficient demonstration of localism).

[35] Because we dismiss the Heme Application, MENA and Heme are no longer required to submit a time-sharing agreement. *See April 2025 Letter Order* at *2 (requiring MENA and Heme to submit a time-sharing agreement within 90 days of the release of the letter).

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 25-627
Released: July 16, 2025

MEDIA BUREAU ANNOUNCES EFFECTIVE DATE OF CABLE TELEVISION RATE REGULATION REVISIONS

MB Docket No. 02-144, MM Docket Nos. 92-266 and 93-215, CS Docket No. 94-28

On June 27, 2025, the Commission released a Report and Order (*Order*) that adopted rules to streamline the cable television rate regulations in Part 76 of the Commission's rules.[1]

On July 14, 2025, the Federal Register published a summary of the final rules adopted in the *Order*.[2] Accordingly, the rules adopted in the *Order* will take effect on August 13, 2025, except for 47 CFR §§ 1.1204, 1.1206, 76.911, 76.922, 76.923, 76.934, 76.944 and 76.990, which may contain new or modified information collection requirements that require review by the Office of Management and Budget (OMB).[3] At the conclusion of the OMB review process, the Media Bureau will announce the effective date of the modifications to 47 CFR §§ 1.1204, 1.1206, 76.911, 76.922, 76.923, 76.934, 76.944 and 76.990 in a document published in the Federal Register and in a subsequent Public Notice.

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

For additional information, contact Katie Costello, Policy Division, Media Bureau at Katie.Costello@fcc.gov or (202) 418-2233.

-- FCC --

[1] *Revisions to Cable Television Rate Regulations*, MB Docket No. 02-144, MM Docket Nos. 92-266 and 93-215, CS Docket No. 94-28, Report and Order, FCC 25-33 (rel. Jun. 27, 2025) (*Order*) available online at https://docs.fcc.gov/public/attachments/FCC-25-33A1.pdf.

[2] *See* Federal Communications Commission, Revisions to Cable Television Rate Regulations, Final Rule, 90 Fed. Reg. 31145 (July 14, 2025).

[3] *See Order* at paras. 48, 54. The information collection requirements contained in the rules that require OMB approval are subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. §§ 3501-3521.

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

In the Matter of	)	
	)	
New Age Media of Gainesville License, LLC and	)	FRNs: 0015435407 and 0015435357
New Age Media of Pennsylvania License, LLC	)	Facility ID Nos. 7727 et al.[1]
	)	LMS File Nos. 0000123425 et al.[2]
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[3]

ORDER

Adopted: July 17, 2025 **Released: July 17, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and both New Age Media of Gainesville License, LLC and New Age Media of Pennsylvania License, LLC, (Licensees) the licensees of full power broadcast television stations listed in the Appendix (Stations). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensees' compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[4] We find that through adoption of this Consent Decree, grant of the above-captioned Renewal Applications is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensees agree, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[5] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Stations and described in paragraph 1,[6] and granting the Renewal Applications.[7] The Bureau finds that the Stations have served the public interest,

[1] All facility ID numbers are listed in the Appendix.

[2] All application file numbers are listed in the Appendix (Renewal Applications).

[3] All stations that are licensed to New Age Media of Gainesville License, LLC and New Age Media of Pennsylvania License, LLC that are subject to the above-captioned forfeiture proceeding are listed in the Appendix with an asterisk symbol (*). The Commission also found that multiple other third-party stations not licensed to the above-captioned licensees violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.3; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[4] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[5] 47 CFR §§ 73.670(a).

[6] *See also* Consent Deree at paras. 4-5.

[7] 47 CFR §§ 73.670(a).

convenience, and necessity during the subject license terms and that grant of the Renewal Applications is warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[8] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensees possess the basic qualifications to hold or remain Commission licensees.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[9] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[10] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to the full power television stations in the Appendix,[11] **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[12] the applications for renewal of license for the full power television stations listed in the Appendix **ARE GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to New Age Media of Gainesville License, LLC and New Age Media of Pennsylvania License, LLC, 1575 Wyoming Avenue, Forty Fort, PA 18704, and by email to jparente1966@gmail.com. A copy shall also be sent to counsel for both licensees at Daniel Kirkpatrick, Esq., Baker & Hostetler LLP, 1050 Connecticut Avenue, NW, Suite 1100, Washington D.C. 20036 and by e-mail to dkirkpatrick@bakerlaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[8] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[9] 47 U.S.C. § 154(i).

[10] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[11] *See supra* note 1 (noting that stations that are subject to the *NAL* and *Forfeiture Order* are listed in the Appendix with an asterisk symbol (*)).

[12] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
New Age Media of Gainesville License, LLC and	)	FRNs: 0015435407 and 0015435357
New Age Media of Pennsylvania License, LLC	)	Facility ID Nos. 7727 et al.[1]
	)	LMS File Nos. 0000123425 et al.[2]
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[3]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and both New Age Media of Gainesville License, LLC and New Age Media of Pennsylvania License, LLC (hereafter Licensees, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Bureau's Investigation (as defined below) and review of the pending Renewal Applications (as defined below) of the full power television stations listed in the Appendix (hereafter Stations, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Stations[4] and the Licensees' compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of commercial matter that commercial television stations may air during children's programming.[5]

2. To resolve these matters, the Licensees agree to implement a comprehensive Compliance Plan to ensure their future compliance with section 73.670(a) of the Rules.[6] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order* in accordance with the terms herein, and grant the Renewal Applications in accordance with the terms of this Consent Decree.

[1] All facility ID numbers are listed in the Appendix.

[2] All application file numbers are listed in the Appendix.

[3] All stations that are licensed to New Age Media of Gainesville License, LLC and New Age Media of Pennsylvania License, LLC, that are subject to the above captioned forfeiture proceeding are listed in the Appendix with an asterisk symbol (*). The Commission also found that multiple other third-party stations not licensed to the above captioned licensees violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.3; *infra* note 14; *Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[4] *See supra* note 3 (noting that only certain Stations listed in the Appendix were subject to the *NAL* and *Forfeiture Order*).

[5] 47 CFR § 73.670(a); *see* 47 U.S.C. § 303a(b).

[6] *Id.*

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, 47 U.S.C. § 151 *et seq*.

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

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

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification Rule" means the requirements detailed in 47 CFR § 73.3526(e)(11)(ii).

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensees are subject by virtue of their being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the Licensees receive, whether written or oral, resulting from a person or entity contacting either the Commission, either or both of the Licensees, or the Stations concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensees to be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensees comply with the terms and conditions of the Compliance Plan and this Consent Decree, as described in paragraph 15.

(l) "Compliance Plan" means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Stations who materially participate in scheduling Programming and monitoring such programing to ensure it is broadcast, each of which is a "Covered Employee."

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensees' compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensees" or "New Age" means New Age Media of Gainesville License, LLC and New Age Media of Pennsylvania License, LLC, the licensees of the broadcast television stations listed in the Appendix, as well as their parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest, each of which is a "Licensee."

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of the Stations to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Applications" means the applications for renewal of license listed in the Appendix.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Stations" means the broadcast television stations listed in the Appendix, except as otherwise provided, each of which is a "Station."

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during Children's Programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[7] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[8] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF an annual Commercial Limits Certification.[9] In addition, as part of a station's license renewal application, a

[7] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[8] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order, 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[9] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[10]

5. Between November 10, 2018, and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired by the Stations on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[11] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[12] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[13] The Commission subsequently released the *NAL* finding that each Station was apparently liable for forfeiture in the amount of $20,000, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[14] On October 7, 2024, the Licensees and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration, asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensees have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Applications. In consideration, the Licensees agree to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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 Licensees agree that the Bureau has jurisdiction over them 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. **Violations**. The Parties agree that any violation of the Adopting Order or the terms of this Consent Decree, in whole or in part, by the Licensees shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

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[10] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

[11] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[12] The "KidsClick" program block contained animated and short form programming targeted at children viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[13] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3

[14] The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only the Stations are subject to the actions that we undertake herein. The Bureau will address all non-Licensee stations subject to the forfeiture proceeding by separate action. *See* Adopting Order at n.3; *supra* note 3.

11. **Admission of Facts.** The Licensees admit 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensees make no admission of liability of any Communications Law and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL* and *Forfeiture Order*, and to take the action specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensees agree to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensees concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensees in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding (formal or informal) to set for hearing the question of the Licensees' basic qualifications to be Commission licensees or to hold Commission licenses or authorizations.[15]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Licensees with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against the Licensees 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 Licensees acknowledge that the Commission retains the discretion and authority to propose sanctions against the Licensees, including the issuance of notices of apparent liability for forfeiture, for any apparent willful and/or repeated violation by the Licensees of the Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Applications**. In the Adopting Order, the Bureau has determined that grant of the Renewal Applications is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Applications for a full eight (8) year term from the prior license expiration date. The Renewal Applications will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensees shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. 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 Licensees' Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws and this Consent Decree prior to assuming their duties. The name and contact information (mailing

[15] *See* 47 CFR § 1.93(b).

address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensees agree that they shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Stations and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensees 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 the Licensees' in-house legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Stations' compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that each Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensees' legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensees will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensees' legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensees shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Stations in coordination with the Compliance Officer. The Licensees shall maintain on each Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensees shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business 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 relevant Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the relevant Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted by e-mail to VideoCompliance@fcc.gov. The Licensees must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensees are subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensees shall place in each Station's OPIF that is subject to the Compliance Plan, a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in each Station's OPIF until the date specified in paragraph 17.[16]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensees agree to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Stations within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grant of the Renewal Applications. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensees acknowledge that the Bureau retains the discretion and authority to propose sanctions against the Licensees, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensees understand that they are fully responsible for the programming that they transmit over the Stations, even if such programming is provided by a network or third party.

[16] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve the Licensees from their obligations and noncompliance can independently subject the Licensees to enforcement action.

22. **Waivers**. As of the Effective Date, the Licensees waive any and all rights they 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 Licensees shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither the Licensees nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensees shall waive any statutory right to a trial *de novo*. The Licensees hereby agree to waive any claims they may have under the Equal Access to Justice Act[17] 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 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 Licensees do not expressly consent) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensees agree that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Stations, as applicable, unless otherwise agreed to by the Commission.[18]

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 all 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.

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

[18] This includes WGFL Licensee, LLC and WOLF Licensee, LLC in the event that the applications for assignment of the Stations' licenses are granted and consummated. *See* LMS File Nos. 0000271548 and 0000271545, respectively.

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

New Age Media of Gainesville License, LLC and
New Age Media of Pennsylvania License, LLC

By:

_____
John Parente
Chief Executive Officer

_____
Date

APPENDIX

Call Sign	Facility ID	Community	Licensee	FRN	LMS File No.
*WGFL	7727	High Springs, FL	New Age Media of Gainesville License, LLC	0015435407	0000123425
*WOLF-TV	73375	Hazleton, PA	New Age Media of Pennsylvania License, LLC	0015435357	0000213282
*WQMY	52075	Williamsport, PA	New Age Media of Pennsylvania License, LLC	0015435357	0000213283
W24DB-D[1]	52077	Clarks Summit, PA	New Age Media of Pennsylvania License, LLC	0015435357	0000213284

[1] Class A station that according to New Age operates as a translator of WOLF-TV. *See* Application for Renewal of License of W24DB-D, Clarks Summit, Pennsylvania filed by New Age Media of Pennsylvania License, LLC, LMS File No. 0000213284 at Attach. – Children's Commercial Limitations (as amended Mar. 31, 2023).

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

In the Matter of	)	
	)	
GoCom Media of Illinois, LLC, Licensee of Full Power Television Station WBUI, Decatur, Illinois	)	FRN: 0015021157
	)	Facility ID No. 16363
	)	LMS File No. 0000155313
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

ORDER

Adopted: July 17, 2025 **Released: July 17, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and GoCom Media of Illinois, LLC (Licensee), the licensee of full power broadcast television station WBUI, Decatur, Illinois (Station). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensee's compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2] We find that through adoption of this Consent Decree, grant of the above-captioned application for renewal of license (Renewal Application) is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensee agrees, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[3] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Station and described in paragraph 1,[4] and granting the Renewal Application.[5] The Bureau finds that the Station has served the public interest, convenience, and necessity during the subject license term and that grant of the Renewal Application is

[1] The only station licensed to GoCom Media of Illinois, LLC, that is subject to the above-captioned forfeiture proceeding is WBUI, Decatur, Illinois. The Commission also found that multiple other stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.1; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] 47 CFR §§ 73.670(a).

[4] *See also* Consent Decree at paras. 4-5.

[5] 47 CFR §§ 73.670(a).

warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[6] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to hold or remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[7] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[8] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to full power television station WBUI, Decatur, Illinois, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[9] the application for renewal of license for full power television station WBUI, Decatur, Illinois (LMS File No. 0000155313) **IS GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to GoCom Media of Illinois, LLC, 400 Main Street, Suite 200F, Hilton Head Island, SC 29926 and by email to ricgorman@gmail.com. A copy shall also be sent to counsel for both licensees at Daniel Kirkpatrick, Esq., Baker & Hostetler LLP, 1050 Connecticut Avenue, NW, Suite 1100, Washington D.C. 20036 and by e-mail to dkirkpatrick@bakerlaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[6] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[7] 47 U.S.C. § 154(i).

[8] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[9] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
GoCom Media of Illinois, LLC, Licensee of Full Power Television Station WBUI, Decatur, Illinois	)	FRN: 0015021157
	)	Facility ID No. 16363
	)	LMS File No. 0000155313
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

CONSENT DECREEE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and GoCom Media of Illinois, LLC (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending Renewal Application (as defined below) involving the full-power station WBUI, Decatur, Illinois (hereafter Station, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Station and the Licensee's compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2]

2. To resolve these matters, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.670(a) of the Rules.[3] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order* in accordance with the terms herein, and grant the Renewal Application in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq*.

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

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

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

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[1] The only station licensed to GoCom Media of Illinois, LLC, that is subject to the above-captioned forfeiture proceeding is WBUI, Decatur, Illinois. The Commission also found that multiple other stations not licensed to the above captioned licensee violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.1; *infra* note 11; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] *Id.*

(e) "Commercial Limits Certification Rule" means the requirements detailed in 47 CFR § 73.3526(e)(11)(ii).

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the Licensee receives, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensee, or the Station concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensee to 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, as described in paragraph 15.

(l) "Compliance Plan" means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Station who materially participate in scheduling Programming and monitoring such programing to ensure it is broadcast, each of which is a "Covered Employee."

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensee's compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensee" means GoCom Media of Illinois, LLC, the licensee of full power broadcast television station WBUI, Decatur, Illinois (Facility ID No. 16363), as well as its parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest.

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 § CFR 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of WBUI to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Application" means the application for renewal of license of WBUI, Decatur, Illinois (Facility ID No. 16363), LMS File No. 0000183206, as amended.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC

(bb) "Station" or "WBUI" means WBUI, Decatur, Illinois (Facility ID No. 16363).

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during Children's Programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[4] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[5] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF an annual Commercial Limits Certification.[6] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[7]

5. Between November 10, 2018, and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired by the Station on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[8] The program and commercial

[4] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[5] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[6] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

[7] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

[8] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

were distributed by Sinclair under a programming block entitled "KidsClick."[9] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[10] The Commission subsequently released the *NAL* finding that the Station was apparently liable for forfeiture in the amount of $20,000 in total, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[11] On October 7, 2024, the Licensee and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensee have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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

11. **Admission of Facts.** The Licensee 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL*/*Forfeiture Order*, and to take the action specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15,

[9] The "KidsClick" program block contained animated and short form programming targeted at children viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[10] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3

[11] The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only the Station is subject to the actions that we undertake herein. The Bureau will address all non-Licensee stations subject to the forfeiture proceeding by separate action. *See* Adopting Order at n.1; *supra* note 1.

16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensee concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensee in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding(formal or informal) to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.[12]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission 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 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 Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Application**. In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Application for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. 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 Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws and this Consent Decree, prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Children's Compliance Plan designed to ensure future compliance with the Commercial Limits Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensee shall develop and distribute a "Compliance Manual" to all Covered Employees. The Compliance Officer shall distribute a Compliance Manual that it has personally prepared or one that has been prepared by the Licensee's in-house legal

[12] *See* 47 CFR § 1.93(b).

counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Station's compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensee will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensee shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Station in coordination with the Compliance Officer. The Licensee shall maintain on the Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted to VideoCompliance@fcc.gov. The Licensee must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 17.[13]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensee agrees to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Station within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grant of the Renewal Application. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensee understands that it is fully responsible for the programming that it transmits over the Station, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve a licensee from its obligations and noncompliance can independently subject the Licensee to enforcement action.

22. **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 any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, 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*

[13] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

novo. The Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act[14] 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 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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Station, as applicable, unless otherwise agreed to by the Commission.

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 each Party.

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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

GoCom Media of Illinois, LLC

By:

_____
Richard L. Gorman
CEO

_____
Date

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-630
Released: July 16, 2025

OFFICE OF ENGINEERING AND TECHNOLOGY SEEKS COMMENT ON HITACHI RAIL STS USA REQUEST FOR WAIVER OF SECTION 15.205(A) OF THE COMMISSION'S RULES FOR OPERATION IN THE 3.8-4.5 MHZ BAND

ET Docket No. 25-225

Comment Date: August 15, 2025
Reply Comment Date: September 2, 2025

By this public notice, we seek comment on a request by Hitachi Rail STS USA (Hitachi) to waive Section 15.205(a) of the Commission's rules to allow Hitachi's Communications Based Train Control (CBTC) system to operate in the 3.8-4.2 MHz band.[1]

Hitachi states its train protection system is intended to provide high-resolution train location determination; continuous, high-capacity, bi-directional train-to-wayside data communications; and a network of processors installed on board trains.[2] Hitachi intends to upgrade the Bay Area Rapid Transit District (BART) train control system with its new system which is comprised of three units: the transponder installed along the train track, the antenna installed at the bottom of the train, and the transponder reading system located onboard the train.[3] The antenna located under the train energizes the passive transponder as the train passes over it.[4] The transponder then transmits its location as a FSK modulated signal at a center frequency of 4.234 MHz.[5] Once the onboard reading system detects the transponder it can evaluate the position of the train. The train's location is subsequently relayed to the wayside system.[6] The wayside system, not considered as a part of the automatic train protection system, then determines safe movement authority for all trains.[7] Hitachi claims its upgraded system will allow BART to safely operate trains on tighter schedules and at more closely spaced intervals, significantly increasing the throughput and passenger capacity all without introducing risk of causing harmful interference.[8]

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[1] Hitachi Rail STS USA Request for Waiver of Section 15.205(a) of the Commission's Rules, ET Docket No. 25-225 (filed May 14, 2025), https://www.fcc.gov/ecfs/search/search-filings/filing/1051405095037 (Hitachi Waiver).

[2] Hitachi Waiver at 3.

[3] *Id.* at 5.

[4] *Id.* at 5.

[5] *Id. Exhibit 1* at 27.

[6] *Id.* at 5.

[7] *Id.* at 5.

[8] Hitachi Waiver at 2.

Section 15.205(a) of the Commission's rules does not permit intentional radiators to be operated in the 4.125-4.128 MHz, 4.17725-4.17775 MHz, and 4.20725-4.20775 MHz bands.[9] The rules only permit spurious emissions in these bands to protect maritime safety-of-life related operations in the bands.[10] Hitachi claims that its system will not present a significant risk of harmful interference given the very limited space and time in which the transponder transmits.[11] Additionally, Hitachi states that interference will not occur because none of the protected maritime licensees could operate at locations within a few meters of any BART track with a moving train.[12] Hitachi seeks a waiver to permit its system to operate as an intentional radiator across the 3.8-4.5 MHz band.[13]

We seek comment on Hitachi'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). Hitachi filed its petition electronically as a non-docketed proceeding in the Commission's Electronic Comment Filing System.[14] We have opened a new docket, **ET Docket 25-225** to facilitate consideration of this request and have moved Hitachi's submission into this docket. Parties should file all comments and reply comments in **ET Docket 25-225**.

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. 25-101 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 courier, or by the 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. 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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[9] 47 CFR § 15.205(a).

[10] The 4.125-4.128 MHz band is allocated for primary shared use by federal and non-federal users in the Maritime Mobile service for distress and safety communications by maritime stations and aircraft; 47 CFR §§ 80.369(b), 2.106(b)(130). The 4.17725-4.17775 MHz band is allocated for primary shared use by federal and non-federal users in the Maritime Mobile service for maritime search and rescue; 47 CFR § 2.106(b)(110). The 4.20725-4.20775 MHz band is allocated for primary shared use by federal and non-federal users in the Maritime Mobile service for maritime distress and safety purposes; 47 CFR § 2.106(b)(109).

[11] The transmission is limited in time since the transponder is only energized for the brief moment the train passes over and it is limited in space due to the enclosed space between the antenna underneath the train and the transponder located on the train tracks. *Hitachi Waiver* at 6.

[12] *Hitachi Waiver* at 9-10.

[13] *Hitachi Waiver* at 11.

[14] Hitachi filed its request in INBOX-PART15 ("Petition for Waiver of Part 15"), which is located under the Non-Docketed Filing tab in the Commission's Electronic Comment Filing System (ECFS).

- 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 St. NE, Washington, DC 20554.

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

Parties should also send a copy of their filings to Damian G. Ariza, Office of Engineering and Technology, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20002, or by e-mail to damian.ariza@fcc.gov. Documents associated with this docket will be available for public inspection through the Commission's ECFS.

By the Acting Chief, Office of Engineering and Technology

-FCC-

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-631
July 16, 2025

FCC ANNOUNCES INTENT TO RE-CHARTER THE TECHNOLOGICAL ADVISORY COUNCIL AND SOLICITS NOMINATIONS FOR MEMBERSHIP

By this Public Notice, the Federal Communications Commission (FCC or Commission), consistent with the Federal Advisory Committee Act (FACA),[1] announces its intent to re-charter the Technological Advisory Council (TAC or Council) on or before September 3, 2025, following consultation with the General Services Administration. The Commission intends to re-charter the TAC for a period of two (2) years, with an expected first meeting in January 2026. By this Public Notice, we also seek nominations for membership and chairperson(s) for the Council.

The TAC will provide technical advice to the Commission and make recommendations on the issues and questions presented to it. It is anticipated that Chairman Brendan Carr will ask the TAC to evaluate several issues, including: continued efforts at looking beyond 5G advanced as 6G continues to develop so as to facilitate U.S. leadership; studying advanced spectrum sharing techniques, including the implementation of artificial intelligence and machine learning to improve the utilization and administration of spectrum; and other emerging technologies.

In seeking nominations for the TAC, Chairman Carr will again look to include in the Council's membership a broad variety of stakeholders, including representation from the FCC's federal government partners with similar interests.

Nominations for membership to the TAC should be submitted to the FCC no later than Friday, October 3, 2025. Procedures for submitting nominations are set forth below, and applications should be sent by email to TAC@fcc.gov.

MISSION

The mission of the TAC is to provide technical advice and recommendations to the Federal Communications Commission on the issues and questions presented to it by the FCC. The TAC will focus on key issues affecting the development and deployment of emerging communications technologies to spur opportunities for innovation, competition, adoption, greater efficiencies, job creation, and other national priorities. The TAC is organized under, and will operate in accordance with, the Federal Advisory Committee Act (FACA).[2] As authorized by FACA, the Council may facilitate its work through informal subcommittees, or other subgroups of the Council, which shall report their activities and recommendations to the Council as a whole.

[1] 5 U.S.C. Ch. 10

[2] 5 U.S.C. Ch. 10.

WHO MAY APPLY FOR MEMBERSHIP

The Commission seeks applications from interested organizations, institutions, or other entities from both the public and private sectors that wish to be considered for membership on the Committee. Selections will be based on factors such as expertise and a wide range of viewpoints that are necessary to address effectively the questions before the Committee. Members will be selected to balance the expertise and viewpoints that are necessary to effectively address the issues to be considered by the Council.

Individuals who do not represent an organization, institution, or entity, but who possess expertise valuable to the Committee's work, may also apply. However, any applicants who want to serve in their individual capacities should be aware that government ethics rules may require detailed financial and other disclosures as part of the consideration of their application to serve as independent subject matter experts, and if appointed such individuals would be considered special government employees (SGEs).

Applicants should describe both their specific interests and their expertise or experience as it relates to the questions before the Committee, including issues affecting the development and deployment of emerging communications technologies, including 6G and advanced spectrum sharing techniques, such as the implementation of artificial intelligence and machine learning to improve the utilization and administration of spectrum.

All organizational or individual members appointed to the Committee or its working groups are subject to an ethics review by the Commission's Office of General Counsel. Some applicants possessing expertise or perspectives of interest to the Committee, and who have been appointed to serve on the Committee in an individual capacity (and not as the representative of a nonprofit organization, corporation, or other entity) are deemed to be Special Government Employees (SGEs). Such individuals are ineligible to serve if they are federally registered lobbyists. SGEs are subject to a variety of restrictions under the conflict of interest statutes, 18 U.S.C. § 203 et seq., and the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635. SGEs must file confidential employee financial disclosure reports prior to beginning their service and annually thereafter. SGEs will also be subject to ethics restrictions in section 4(b) of the Communications Act, 47 U.S.C. § 154(b), and in the Commission's rules, 47 CFR Part 19 and 5 CFR Parts 3901 and 3902.

All members will have an initial and continuing obligation to disclose any interests in, or connections to, persons or entities that are, or will be, regulated by or have interests before the Commission and shall promptly report to the Committee's Designated Federal Officer (DFO) any changes in representation during their tenure on the Committee. Committee members will not be compensated for their service.
The Commission is particularly interested in receiving nominations and expressions of interest from individuals and organizations in the following categories:

- Communications service providers, and organizations representing communications service providers, including wireline and wireless communications service providers, broadcast radio and television licensees, cable television operators and other multichannel video programming distributors, satellite communications service providers, and Internet Service Providers;
- Manufacturers of communications equipment and organizations representing manufacturers of communications equipment;
- Providers of internet applications or cloud-based services; and
  Scientists and engineers from academia, or who serve as independent consultants, who are recognized experts in their field.

OBLIGATIONS OF MEMBERS AND COUNCIL MEETINGS

Members will serve at the discretion of the Chairman of the Commission. Members must be willing to commit to a two-year term of service from the date of re-charter of the Council and should be willing and able to attend approximately four (4) one-day plenary committee meetings per year during the Council's term. Members also will be encouraged to participate in deliberations of at least one (1) subcommittee or other subgroup, if any are established. The time commitment for participation in any subcommittee or other subgroup may be substantial as such groups may be asked to submit recommendations or reports to the full Council for its consideration. However, subcommittee or other subgroup meetings may be conducted informally, using suitable technology to facilitate the meetings, subject to oversight by the Designated Federal Officer of the TAC.

Meetings of the full Council shall be open to the public and timely notice of each meeting shall be published in the Federal Register and shall be further publicized through other appropriate vehicles. All such meetings will be fully accessible to individuals with disabilities.

APPLICATION PROCEDURE, DEADLINE, AND MEMBER APPOINTMENTS

Each organization, institution or entity ("organizational applicant") may propose for nomination one primary representative. Organizational applicants are also encouraged to propose on alternate representative. The application requirements for both organizational and individual applicants are set forth below.

Organizational applicants. Organizational applicants proposing a nominee should include the following:

- Name, title, and organization of the nominee and a description of the organization, sector or other interest the nominee will represent;
- Nominee's mailing address, e-mail address, and telephone number;
- A statement summarizing the nominee's qualifications and reasons why the nominee should be appointed to the Council;
- A current resume of the nominee; and
- A statement describing the organization the nominee will represent as well as the benefit of having the organization represented on the Council.

The application from organizational applicants must be accompanied by confirmation on the following two (2) issues:

1. The nomination must be confirmed by a written statement of an authorized person (*e.g.*, organization or company official) that such organization or company supports the application of the nominee to represent it on the Council. The nominating official must possess the executive authority or hold a sufficiently high-level position within the organization or company to select a representative whose actions will be legally binding on the organization or company. For example, this confirmation may be in the following format:

"I am [insert official's name], the [insert official's title] at the [insert name of organization - *e.g.*, company, government entity, trade association, *etc.*], with responsibilities for [concise description of position]. My organization supports [insert proposed member's name], who is currently [an employee of/consultant/attorney to the company], to serve as our representative on the Commission's Technological Advisory Council."

2. For applicants seeking to represent an entity that is, or who are themselves, a party to an FCC contract or subcontract or providing services for the benefit of the FCC under contract or

subcontract, the application must include the following: 1) a general description of the contract/agreement; 2) a description of the product/services that the applicant provides pursuant to the contract/agreement; 3) a list of all parties to the contract/agreement; 4) the name of the Commission contracting officer (if known); and 5) a certification of the applicant that the applicant has provided written notice to the contracting officer and the FCC Manager, Contracts and Purchasing Center, that the applicant or representative nominee, as applicable, has applied for membership on the Commission's Communications Security, Reliability, and Interoperability Council.

In addition, organizational nominees are required to disclose whether they represent clients before the Commission or represent clients in matters that may come before the Council, other than representing the organizational applicant that has nominated them for service on the Council. Each nominee shall provide with the application all details of any such representation.

Individual Applicants. Applications from individual applicants who would serve as SGEs, as defined above, should include the following:

- Name and title of the applicant; current mailing address, email address, and telephone number;
- A statement summarizing the applicant's qualifications and reasons why the applicant should be appointed to the Council. The statement shall include the individual's specific knowledge or expertise that is relevant to the work of the Council;
- A current resume of the applicant;
- A statement that the individual applicant is not a registered federal lobbyist (as noted above, financial and other additional disclosures may also apply to individual applicants);
- An acknowledgement that the individual will not be entitled to receive reimbursement of travel expenses or payment of honoraria or other compensation from the Commission;
- A statement that the applicant does not have a contractual or other financial agreement (including as a subcontractor) with the Commission; and
- A statement that the applicant does not have clients with matters before the Commission or matters that may come before the Council.

Please note this *Public Notice* is not intended to be the exclusive method by which the Commission will solicit nominations to identify qualified candidates; however, all candidates for membership on the Council will be subject to the same evaluation criteria.

All nominations and applications, including contact information and the statement of qualifications, should be submitted to the Commission by e-mail to TAC@fcc.gov **as soon as possible, but no later than October 3, 2025.**

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 & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

More information about the TAC can be found at https://www.fcc.gov/general/technological-advisory-council. You may also contact Martin Doczkat, the Designated Federal Official (DFO) for the Technological Advisory Council, at (202) 418-2435, email: Martin.Doczkat@fcc.gov, or Sean Yun, the Deputy Designated Federal Official (DDFO) for the Technological Advisory Council, at (202) 418-0980, email: Sean.Yun@fcc.gov.

-FCC-

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-632
Released: July 16, 2025

WIRELESS TELECOMMUNICATIONS BUREAU APPROVES THE REVISED PERFORMANCE PLAN OF GCI PURSUANT TO THE ALASKA PLAN

WC Docket No. 16-271

By this Public Notice, the Wireless Telecommunications Bureau (WTB) approves the revised performance plan of GCI Communication Corp. (GCI), filed pursuant to the terms set forth in the *Alaska Plan Order*.[1] The approved performance plan is included in the attached Appendix A.

The *Alaska Plan Order* requires eligible service providers participating in the Alaska Plan to submit for WTB approval individual performance plans with their service commitments.[2] WTB approved wireless service providers' initial performance plans in 2016.[3] However, throughout the duration of the ten-year Alaska Plan, WTB "may require the filing of revised commitments at other times if justified by developments that occur after the approval of the initial performance commitments."[4] If a provider relies upon "performance-limiting satellite backhaul" to serve all or a portion of the population in its service area, it is required to certify if terrestrial backhaul or new-generation satellite backhaul became commercially available in the previous calendar year in the affected area.[5] If a carrier so certifies and has not previously committed to providing 10/1 Mbps LTE in the affected area, the carrier must revise its performance plan to take into account the availability of the new backhaul option.[6]

[1] *Connect America Fund et al.*, WC Docket Nos. 16-271, 10-90, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139 (2016) (*Alaska Plan Order*).

[2] *See* 47 CFR § 54.317(f); *Alaska Plan Order*, 31 FCC Rcd at 10160, para. 67.

[3] *Wireless Telecommunications Bureau Approves Performance Plans of the Eight Wireless Providers That Elected to Participate in the Alaska Plan*, WC Docket No. 16-271, Public Notice, 31 FCC Rcd 13317, Appx. A, Approved Performance Commitments (WTB 2016) (*Wireless Commitments Public Notice*) (approving all eight mobile providers' initial performance plans); *see also Wireless Telecommunications Bureau Approves GCI's Revised Performance Plan Pursuant to the Alaska Plan Order*, WC Docket No. 16-271, Public Notice, 34 FCC Rcd 12183 (2019) (*GCI's 2019 Revised Performance Plan*) (accepting GCI's and ASTAC's revised 2019 performance plans); *Wireless Telecommunications Bureau Approves GCI's Revised Performance Plan Pursuant to the Alaska Plan Order*, WC Docket No. 16-271, Public Notice, 35 FCC Rcd 9539, 9539-41, Appx. (WTB 2020) (*GCI's 2020 Revised Performance Plan*) (accepting GCI's revised 2020 performance plan); *Wireless Telecommunications Bureau Approves Bristol Bay Cellular Partnership's, TelAlaska Cellular's, and Windy City Cellular's Revised Performance Plans Pursuant to the Alaska Plan*, WC Docket No. 16-271, Public Notice, 39 FCC Rcd 5898 (2024) (accepting BBCP's, TelAlaska's, and Windy City's revised and currently operative performance plans).

[4] 47 CFR § 54.317(f).

[5] *See Alaska Plan Order*, 31 FCC Rcd at 10172, para. 102.

[6] *Id*.

Due to fiber middle mile becoming available,[7] GCI's latest revised performance plan increases the number of Alaskans that it commits to serve with 4G LTE at 10/1 Mbps from 69,601[8] to 77,111.[9] Of the 7,510 added to the fiber-based 4G LTE commitment at 10/1 Mbps, GCI previously committed to serve 6,237[10] Alaskans with satellite-based 4G LTE at speeds of 1/0.256 Mbps and the remaining 1,273 Alaskans with satellite-based 2G/Voice commitment.

The attached revised performance plan at Appendix A, *infra*, is an improvement that will benefit Alaskans and is hereby approved as GCI's operative performance plan for the Alaska Plan.

Additional Information. For additional information on this proceeding, contact ak.plan@fcc.gov.

- FCC -

[7] Letter from John T. Nakahata, Counsel, GCI, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-271 (filed July 1, 2025) (GCI July 1, 2025 *Ex Parte*), https://www.fcc.gov/ecfs/document/10701010667486/1

[8] *See* Appendix B, *infra*.

[9] *See* Appendix A, *infra*; *see also* GCI July 1, 2025 *Ex Parte*, Attach.

[10] GCI previously reallocated 5,354 Alaskans from a satellite-based 4G LTE commitment to a fiber-based 4G LTE commitment. *See* Appendix C, *infra*. However, that performance plan was not officially approved by WTB. 47 CFR § 54.317(f). GCI's latest revised performance plan adds to this number by moving 883 Alaskans from a satellite-based 4G LTE commitment to a fiber-based one. The 5,354 Alaskans added to the 883 equals 6,237. *See* Appendix A, *infra*.

Appendix A
GCI's Newly Operative Performance Plan

Middle Mile	Technology Of Transmission (477 Code)	Population 2010 Census	Population Served 12/31/15	% Base Population Served 12/31/15	5 Year Base Population Served	5 Year % Total Population Served	10 Year Total Base Population Served - as of 7/1/2024	10 Year % Population Served - as of 7/1/2024	Increase / (Decrease) by Year 10	10 Year Total Base Population Served - Revised 7/1/2025	10 Year % Population Served - Revised 7/1/2025	Minimum Expected Download/ Upload Speeds at Edge	Spectrum Codes (477 Code)
Fiber	83 (LTE)	64,158	13,455	21%	32,079	50%	74,955	100%	2,156	77,111	100%	10/1 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		43,882	68%	25,258	39%	-	0%	-	-	0%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		6,821	11%	6,821	11%	-	0%	-	-	0%	<.2 Mbps	90, 91, 93, 94
Fiber Total			64,158	100%	64,158	100%	74,955	100%	2,156	77,111	100%		
Microwave	83 (LTE)	50,717	125	0%	125	0%	42,497	83%	-	42,497	83%	2/.8 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		29,764	59%	41,970	83%	8,622	17%	-	8,622	17%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		20,828	41%	8,622	17%	-	0%	-	-	0%	<.2 Mbps	90, 91, 93, 94
Microwave Total			50,717	100%	50,717	100%	51,119	100%	-	51,119	100%		
Satellite	83 (LTE)	24,482	-	0%	12,363	50%	2,796	21%	(883)	1,913	17%	1/.256 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		-	0%	-	0%	-	0%	-	-	0%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		24,482	100%	12,119	50%	10,487	79%	(1,273)	9,214	83%	<.2 Mbps	90, 91, 93, 94
Satellite Total			24,482	100%	24,482	100%	13,283	100%	(2,156)	11,127	100%		
Total	83 (LTE)		13,580	10%	44,567	32%	120,248	86%	1,273	121,521	87%		
Total	80, 81, 82 (3G)		73,646	53%	67,228	48%	8,622	6%	-	8,622	6%		
Total	85, 86 (Voice/2G)		52,131	37%	27,562	20%	10,487	8%	(1,273)	9,214	7%		
Grand Total		**139,357**	**139,357**	100%	**139,357**	100%	**139,357**	100%	-	**139,357**	100%		

Appendix B
GCI's Previously Operative 2020 Performance Plan[11]

		Note 1		Note 2	Note 3		Note 4						
Middle Mile	Technology Of Transmission (477 Code)	Population 2010 Census	Population Served 12/31/15	% Base Population Served 12/31/15	5 Year Base Population Served	5 Year % Total Population Served	10 Year Total Base Population Served	10 Year % Population Served	Increase/ (Decrease) by Year 10	10 Year Total Population Served - Revised 7/1/20	10 Year % Population Served - Revised 7/1/20	Minimum Expected Download/ Upload Speeds at Edge	Spectrum Codes (477 Code)
Fiber	83 (LTE)	64,158	13,455	21%	32,079	50%	69,601	100%	-	69,601	100%	10/1 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		43,882	68%	25,258	39%	-	0%	-	-	0%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		6,821	11%	6,821	11%	-	0%	-	-	0%	<.2 Mbps	90, 91, 93, 94
Fiber Total			64,158	100%	64,158	100%	69,601	100%		69,601	100%		
Microwave	83 (LTE)	50,717	125	0%	125	0%	42,095	83%	402	42,497	83%	2/.8 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		29,764	59%	41,970	83%	8,622	17%	-	8,622	17%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		20,828	41%	8,622	17%	-	0%	-	-	0%	<.2 Mbps	90, 91, 93, 94
Microwave Total			50,717	100%	50,717	100%	50,717	100%		51,119	100%		
Satellite	83 (LTE)	24,482	-	0%	12,363	50%	8,150	43%	-	8,150	44%	1/.256 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		-	0%	-	0%	-	0%	-	-	0%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		24,482	100%	12,119	50%	10,889	57%	(402)	10,487	56%	<.2 Mbps	90, 91, 93, 94
Satellite Total			24,482	100%	24,482	100%	19,039	100%		18,637	100%		
Total	83 (LTE)		13,580	10%	44,567	32%	119,846	86%	402	120,248	86%		
Total	80, 81, 82 (3G)		73,646	53%	67,228	48%	8,622	6%		8,622	6%		
Total	85, 86 (Voice/2G)		52,131	37%	27,562	20%	10,889	8%	(402)	10,487	8%		
Grand Total		139,357	139,357	100%	139,357	100%	139,357	100%		139,357	100%		

Note 1: Population per 2010 Census in service area. Excludes population served by AT&T and/or Verizon at 4G LTE using their infrastructure.
Note 2: Percentage of population served at benchmark speeds as of 12/31/15.
Note 3: Year 1 is 2017.
Note 4: 10 year figures reflect commitments as revised on July 1, 2019.

[11] *GCI's 2020 Revised Performance Plan*, 35 FCC Rcd at 9541, Appx.

Appendix C
GCI's Unadopted 2024 Revised Performance Plan[12]

Middle Mile	Technology Of Transmission (477 Code)	Population 2010 Census	Population Served 12/31/15	% Base Population Served 12/31/15	5 Year Base Population Served	5 Year % Total Population Served	10 Year Total Base Population Served - as of 7/1/2020	10 Year % Population Served - as of 7/1/2020	Increase / (Decrease) by Year 10	10 Year Total Base Population Served - Revised 7/1/2024	10 Year % Population Served - Revised 7/1/2024	Minimum Expected Download/ Upload Speeds at Edge	Spectrum Codes (477 Code)
Fiber	83 (LTE)	64,158	13,455	21%	32,079	50%	69,601	100%	5,354	74,955	100%	10/1 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		43,882	68%	25,258	39%	-	0%	-	-	0%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		6,821	11%	6,821	11%	-	0%	-	-	0%	<.2 Mbps	90, 91, 93, 94
Fiber Total			64,158	100%	64,158	100%	69,601	100%	5,354	74,955	100%		
Microwave	83 (LTE)	50,717	125	0%	125	0%	42,497	83%	-	42,497	83%	2/.8 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		29,764	59%	41,970	83%	8,622	17%	-	8,622	17%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		20,828	41%	8,622	17%	-	0%	-	-	0%	<.2 Mbps	90, 91, 93, 94
Microwave Total			50,717	100%	50,717	100%	51,119	100%	-	51,119	100%		
Satellite	83 (LTE)	24,482	-	0%	12,363	50%	8,150	44%	(5,354)	2,796	21%	1/.256 Mbps	90, 91, 93, 94
	80, 81, 82 (3G)		-	0%	-	0%	-	0%	-	-	0%	.2/.05 Mbps	90, 91, 93, 94
	85, 86 (Voice/2G)		24,482	100%	12,119	50%	10,487	56%	-	10,487	79%	<.2 Mbps	90, 91, 93, 94
Satellite Total			24,482	100%	24,482	100%	18,637	100%	(5,354)	13,283	100%		
Total	83 (LTE)		13,580	10%	44,567	32%	120,248	86%	-	120,248	86%		
Total	80, 81, 82 (3G)		73,646	53%	67,228	48%	8,622	6%	-	8,622	6%		
Total	85, 86 (Voice/2G)		52,131	37%	27,562	20%	10,487	8%	-	10,487	8%		
Grand Total		**139,357**	**139,357**	100%	**139,357**	100%	**139,357**	100%	-	**139,357**	100%		

[12] Letter from Julie A. Veach, Counsel, GCI, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-271 (filed July 1, 2024) ("[GCI] hereby updates its performance plan for mobile services to reflect that new terrestrial middle mile facilities became commercially available in areas previously served only by performance-limiting satellite middle mile. Specifically, fiber middle mile facilities became available in 2023 in Sand Point and Unalaska."), https://www.fcc.gov/ecfs/document/10701718701195/1.

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

In the Matter of	)	
	)	
Second Generation of Iowa, LTD, Licensee of Full Power Television Station KFXA, Cedar Rapids, Iowa	)	FRN: 0003742939
	)	Facility ID No. 35336
	)	LMS File No. 0000161068
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

ORDER

Adopted: July 18, 2025 **Released: July 18, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Second Generation of Iowa, LTD (Licensee), the licensee of full power broadcast television station KFXA, Cedar Rapids, Iowa (Station). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensee's compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2] We find that through adoption of this Consent Decree, grant of the Renewal Application is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensee agrees, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[3] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Station and described in paragraph 1,[4] and granting the Renewal Application.[5] The Bureau finds that the Station has served the public interest, convenience, and necessity during the subject license term and that grant of the Renewal Application is warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[6] We also find

[1] The only station licensed to Second Generation of Iowa, LTD, that is subject to the above captioned forfeiture proceeding is KFXA, Cedar Rapids, Iowa. The Commission also found that multiple other stations not licensed to the above captioned licensee violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (*Forfeiture Order*); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (*NAL*). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.1; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] 47 CFR §§ 73.670(a).

[4] *See also* Consent Decree at paras. 4-5.

[5] 47 CFR §§ 73.670(a).

[6] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal (continued….)

that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to hold or remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[7] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[8] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to full power television station KFXA, Cedar Rapids, Iowa, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[9] the application for renewal of license for full power television station KFXA, Cedar Rapids, Iowa (LMS File No. 0000161068) **IS GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to Second Generation of Iowa, LTD, Thomas J. Embrescia, Second Generation Place, 3029 Prospect Avenue, Cleveland, OH 44115, and by email to tje@secondgen.com. A copy shall also be sent to counsel for the licensee at Dennis P Corbett, Telecommunications Law Professionals PLLC, 1025 Connecticut Avenue, NW, Suite 1011, Washington, DC 20036 and by e-mail to dcorbett@tlp.law.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

(Continued from previous page)
application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[7] 47 U.S.C. § 154(i).

[8] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[9] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
Second Generation of Iowa, LTD, Licensee of Full Power Television Station KFXA, Cedar Rapids, Iowa	)	FRN: 0003742939
	)	Facility ID No. 35336
	)	LMS File No. 0000161068
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and Second Generation of Iowa, LTD (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending Renewal Application (as defined below) of license of KFXA, Cedar Rapids, Iowa (hereafter Station, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Station and the Licensee's compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2]

2. To resolve these matters, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.670(a) of the Rules.[3] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order*, and grant the Renewal Application in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq*.

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

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

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

[1] The only station licensed to Second Generation of Iowa, LTD, that is subject to the above captioned forfeiture proceeding is KFXA, Cedar Rapids, Iowa. The Commission also found that multiple other stations not licensed to the above captioned licensee violated 47 CFR § 73.670(a). *See* C*unningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.1; *infra* note 11; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] *Id.*

(e) "Commercial Limits Certification Rule" means the requirements detailed in 47 CFR § 73.3526(e)(11)(ii).

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the License receives, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensee, or the Station concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensee to 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, as described in paragraph 15.

(l) "Compliance Plan" means the means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Station who materially participate in scheduling Children's Programming and monitoring such programing to ensure it is broadcast.

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensee's compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensee" means Second Generation of Iowa, LTD, the licensee of full power broadcast television station KFXA, Cedar Rapids, Iowa, as well as its parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest.

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of the Station to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Application" means the application for renewal of license of KFXA, Cedar Rapids, Iowa (Facility ID No. 35336), LMS File No. 0000161068, as amended.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Station" or "KFXA" means KFXA, Cedar Rapids, Iowa (Facility ID No. 35336).

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of Commercial Matter that television stations may air during Children's Programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[4] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[5] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to file an annual Commercial Limits Certification.[6] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[7]

5. Between November 10, 2018, and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired by the Station on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[8] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[9] The commercial was

[4] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[5] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[6] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

[7] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

[8] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[9] The "KidsClick" program block contained animated and short form programming targeted at children viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also*

(continued….)

pulled from airing during *Team Hot Wheels* immediately after discovery.[10] The Commission subsequently released the *NAL* finding that the Station was apparently liable for forfeiture in the amount of $20,000, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[11] On October 7, 2024, the Licensee and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensee have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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 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. **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 to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. **Admission of Facts.** The Licensee 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL* and *Forfeiture Order*, and to take the actions specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the

(Continued from previous page)
supra para. 2(d). Sinclair stopped distributing the KidsClick program block in its licensed stations, the Station, and other non-Sinclair Stations as of March 31, 2019.

[10] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[11] The *NAL* and *Forfeiture Order* also found that in addition to KFXA, multiple non Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only KFXA is subject to the actions that we undertake herein. The Bureau will address all other non-Licensee stations subject to the forfeiture proceeding by separate action. Adopting Order at n.1; *see supra* note 1.

Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order* 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 or recommend any such action by the Commission against the Licensee concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensee in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding, (formal or informal) to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.[12]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission 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 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 Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Application**. In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Application for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. 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 Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws, prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensee 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 the Licensee's in-house

[12] *See* 47 CFR § 1.93(b).

legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Station's compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensee will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee's legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensee shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Station in coordination with the Compliance Officer. The Licensee shall maintain on the Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted by e-mail to VideoCompliance@fcc.gov. The Licensee must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 17.[13]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensee agrees to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Station within 10 business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grant of the Renewal Application. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensee understands that it is fully responsible for the programming that it transmits over the Station, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve a licensee from its obligations and noncompliance can independently subject the Licensee to enforcement action.

22. **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 any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, 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

[13] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

Act[14] 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 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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Station, as applicable, unless otherwise agreed to by the Commission.[15]

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 all 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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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

[15] This includes KFXA Licensee, LLC, in the event that the assignment of the Station's license, granted on June 16, 2025, is consummated. *See* LMS File No. 0000270468. The Licensee agrees that it will not consummate the authorized assignment (LMS File No. 0000270468) until grant of the Renewal Application.

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

Second Generation of Iowa, LTD.

By:

_____
Thomas Embrescia
Manager

_____
Date

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 Number: 25-634
Report No. TEL-02609 **Thursday July 17, 2025**

International Authorizations Granted

Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)

The following applications have been granted pursuant to the Commission's processing procedures set forth in sections 63.12, 63.20 of the Commission's rules, 47 CFR §§ 63.12, 63.20, other provisions of the Commission's rules, or procedures set forth in an earlier public notice listing the applications as accepted for filing.

Unless otherwise noted, these grants authorize the applicants: (1) to become a facilities-based international common carrier subject to 47 CFR §§ 63.21, 63.22; and/or (2) to become a resale-based international common carrier subject to 47 CFR §§ 63.21, 63.23; (3) to assign or transfer control of international section 214 authority in accordance with 47 CFR § 63.24; or (4) to 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 thirty days of this public notice (see 47 CFR § 1.4(b)(2)).

ITC-T/C-20240808-00131 Jaguar Communications LLC
Date filed: 2024-08-08
Transfer of Control
Grant of Authority

Date of Action: 2025-07-09

Jaguar Communications LLC (Jaguar), a Delaware limited liability company that holds an international section 214 authorization to provide global resale service (ITC-214-20010125), filed an application for the transfer of control of Jaguar from Metronet Holdings LLC (Metronet Holdings) to MetroNet Systems Holdings LLC (MetroNet Systems) (Proposed Transaction). MetroNet Systems is an indirect wholly owned subsidiary of Metronet Holdings and Jaguar is an indirect wholly owned subsidiary of MetroNet

Systems.

Pursuant to a July 18, 2024 Agreement and Plan of Merger, MetroNet Systems will become a joint venture, 50/50 controlled and co-managed by T-Mobile USA, Inc. (T-Mobile USA) and, indirectly, by KKR Metro Parent LLC (KKR Metro). KKR Metro, which has been formed for purposes of the Proposed Transaction, is indirectly owned and controlled by investment funds advised and/or managed by KKR & Co. Inc.

The Proposed Transaction includes two primary steps. First, Metronet Holdings will assign substantially all of its assets to MetroNet Systems. Second, T-Mobile USA and MetroNet Vexus Holdings, LLC (Vexus Holdings), an indirect wholly owned subsidiary of KKR Metro, will acquire essentially all of the outstanding equity interests in MetroNet Systems. CMN-RUS, a Delaware limited liability company, and MFN, a Nevada limited liability company, will become indirect wholly owned subsidiaries of MetroNet Systems and will provide international service under the authority held by MetroNet Systems (ITC-214-20110114-00005).

As a result of the Proposed Transaction, T-Mobile will hold 50% of MetroNet Systems' voting membership interests and equity interests. Vexus Holdings will hold 50% of the voting membership interests and approximately 49.69% of the equity interests, with current management of Metronet Holdings holding the remainder of the MetroNet Systems' equity interests. MetroNet Systems will have a five member board of directors and T-Mobile USA and KKR Metro will each have the right to appoint two members. The fifth member will be an independent director designated by KKR Metro after reasonable consultation with T-Mobile USA.

T-Mobile USA, which will hold 50% equity and voting interests in MetroNet Systems, is wholly owned by T-Mobile US Inc. (T-Mobile US), both Delaware corporations. Deutsche Telekom Holding B.V. (DT Holding), a Netherlands entity, has a 50.4% and controlling interest in T-Mobile US. DT Holding is an indirect wholly owned subsidiary of Deutsche Telekom AG (DT), a German entity. DT holds a direct 10.99% interest in DT Holding and an 89.01% indirect interest through T-Mobile Global Zwischenholding GmbH (T-Mobile Global), DT's direct wholly owned subsidiary, and T-Mobile Global Holding GmBH, a direct wholly owned subsidiary of T-Mobile Global, both German entities. Kreditanstalt fur Wiederaufbrau (KfW), a German entity, holds a 13.97% interest in DT. The Federal Republic of Germany holds an 80% interest in KfW and a direct 14.21% interest in DT.

Vexus Holdings, which will hold a 49.69% equity and a 50% voting interest in MetroNet Systems, is wholly owned by MetroNet Preferred Holdings, LLC which in turn is wholly owned by Python Holdings, LLC (Python Holdings), all Delaware entities. Python Holdings is wholly owned by Venus Python Newco Corp, which is wholly owned by Q-Comm Python Corporation, which in turn is wholly owned by Q-Comm NewCo, LLC (Q-Comm NewCo), all Delaware entities. Q-Comm NewCo is currently an indirect wholly owned subsidiary of KKR Metro, but the Applicants state that they may undertake certain pro forma restructuring upon closing to remove the intermediate entities so that Q-Comm NewCo would be a direct wholly owned subsidiary of KKR Metro, a Delaware limited liability company.

KKR Metro is indirectly owned and controlled by KKR & Co., Inc. KKR Metro Holdings, L.P. (Metro Holdings), is the 100% direct owner of KKR Metro. KKR Metro Holdings GP LLC is the general partner Metro Holdings. KKR Metro Sponsor Aggregator L.P. (Sponsor Aggregator LP) holds a 96.29% limited partnership interest in Metro Holdings. KKR Metro Sponsor Aggregator GP LLC (Sponsor Aggregator GP) is the general partner of Sponsor Aggregator L.P. KKR Metro Aggregator L.P. (KKR

Metro Aggregator LP) is the sole member of Sponsor Aggregator GP and Metro Holdings and has a 82.671% limited partnership interest in Sponsor Aggregator LP. All these KKR entities are organized in Delaware.

The Application sets out numerous funds advised and/or managed by KKR & Co. Inc. that are between KKR Metro Aggregator LP and KKR & Co. Inc. These funds are organized in Delaware, the Cayman Islands and Luxembourg. KKR Management LLP, a Delaware limited liability partnership, is the holder of the sole share of KKR & Co. Inc.'s Series I preferred stock, which confers the right, among other things, to elect and remove the members of KKR & Co. Inc.'s board of directors. Founders Henry Kravis and George Roberts, both U.S. citizens, when acting together jointly control KKR Management LLP.

Stapleford Investment Pte. Ltd. (Stapleford) will hold an approximate direct 17.239% equity interest and an approximate indirect 2.443% equity interest in Sponsor Aggregator LP. In addition, Stapleford will have certain consent rights and the ability to appoint a nonvoting observer to the board of MetroNet Systems. Stapleford is wholly owned by GIC Infra Holdings Pte. Ltd., which in turn is wholly owned by GIC (Ventures) Pte. Ltd. (GIC Ventures). GIC Ventures is wholly owned by the Minister for Finance of the Government of Singapore. Stapleford is managed by GIC Special Investments Pte. Ltd., which is wholly owned by GIC Pte. Ltd., which is also wholly owned by the Minister for Finance of the Government of Singapore.

The Applicants state that no other individual or entity is expected to hold 10% or greater direct or indirect equity or voting interests in MetroNet Systems or Jaguar.

We grant the Petition to Adopt Conditions to Authorizations and Licenses filed in this proceeding on June 5, 2025, by the National Telecommunications and Information Administration on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. Accordingly, we condition grant of the application on the assurance of MetroNet Systems to abide by the commitments and undertakings set forth in the Letter of Agreement from Dave Heimbach, President and Chief Executive Officer, Metronet Holdings, LLC Climax Telephone LLC Jaguar Communications, LLC Vexus Fiber, LLC CMN-RUS, LLC Metronet Fibernet, LLC, and Metronet Systems Holdings, LLC; Felix Boyeaux, Manager and Vice President, KKR Mercury Parent LLC; and Mark W. Nelson, Executive Vice President & General Counsel, T-Mobile US, Inc. to the Chief, Foreign Investment Review Section, Deputy Chief, Compliance and Enforcement, on behalf of the Assistant Attorney General for National Security, United States Department of Justice, National Security Division; and Under Secretary for Strategy, Policy and Plans, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security, dated May 9, 2025 (LOA). The Petition and the LOA may be viewed on the FCC's website through the International Communications Filing System by searching for ITC-ASG-20240515-00086 and accessing the "Pleadings & Comments” tab in 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 this grant and the underlying authorization and thus grounds for declaring the authorization terminated without further action on the part of the Commission. Failure to meet a condition of the authorization may also result in monetary sanctions or other enforcement action by the Commission.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-T/C-20240730-00125
Date filed: 2024-07-30
Transfer of Control
Grant of Authority

Infosat Able Holdings, Inc.

Date of Action: 2025-07-16

Infosat Able Holdings, Inc. (Infosat Holdings), a Delaware corporation that holds international section 214 authorizations to provide global facilities-based and resale service (ITC-214-19990128-00050, ITC-214-20000113-00025), filed an application for consent to the transfer of control of Infosat Holdings from Telesat Canada (Telesat) to Network Innovations Inc. (NI). Pursuant to a Purchase and Sale Agreement, NI will acquire all of the interests in Infosat Holdings from Telesat.

After consummation of the transaction, Infosat Holdings will be wholly owned by Networks Innovations US Inc., a Delaware entity, which is wholly owned by Network Innovations US Holdings, LLC (NI US Holdings), a Florida entity. NI US Holdings is wholly owned by Network Terracom, Inc., a Nevada entity, that is wholly owned by NI, a Canadian entity. The New Harkema Family Trust, a Canadian trust, holds an 80% ownership interest in NI. Timothy Harkema and Audrey Harkema, both Canadian citizens, are the trustees of the New Harkema Family Trust, and Timothy Harkema is the CEO of NI. 2030410 Alberta Ltd, a Canadian entity, holds a 20% ownership interest in NI. 2030410 Alberta Ltd is wholly owned by the Dawson Family Trust, a Canadian trust. Derek Dawson and Michelle Dawson, both Canadian citizens, are the trustees of the Dawson Family Trust.

Pursuant to Commission practice, the Application was 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 proposed foreign ownership of the Applicant. On July 9, 2025, the National Telecommunications and Information Administration (NTIA) filed a letter stating that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector (Committee) has no recommendation at this time to the Commission approving the application and no objection to the Commission granting it. The letter may be viewed on the FCC's website through the International Communications Filing System by searching for ITC-T/C-20240730-00125 and accessing the "Pleadings & Comments" tab in the Document Viewing Area.

The Committee requests that the Commission remove the condition that Infosat Holdings comply with Letter of Agreement from Chris DiFrancesco, Secretary, Infosat Able Holdings, Inc. and VP, Telesat Corporation, to the Chief, Foreign Investment Review Section, Deputy Chief, Compliance and Enforcement, on behalf of the Assistant Attorney General for National Security, United States Department of Justice, National Security Division, dated July 15, 2021 (LOA). We grant the Committee’s request and remove compliance with the LOA as a condition on Infosat Holdings. Compliance with the LOA, however, remains a condition on the other entities named in the LOA, including Telesat Canada; Skynet Satellite Corp.; Telesat Network Services, Inc.; and Telesat Corporation.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-ASG-20241004-00146 T-Mobile USA, Inc.
Date filed: 2024-10-02
Assignment
Grant of Authority Date of Action: 2025-07-14
Current licensee: IOWA RSA NO. 9 LIMITED PARTNERSHIP

T-Mobile USA, Inc. (T-Mobile) filed an application for consent to the assignment of assets and international section 214 authority for global resale services (ITC-214-20240723-00117) from Iowa RSA No. 9 Limited Partnership (Iowa RSA 9) to T-Mobile. Iowa RSA 9 is an authorized dealer for United States Cellular Corporation (UScellular). Under the proposed transaction, T-Mobile will acquire the wireless business of Iowa RSA 9, including its customers, licenses, and certain other assets. Upon consummation, Iowa RSA 9 customers will become T-Mobile customers.

T-Mobile is wholly owned by T-Mobile US Inc. (T-Mobile US), both Delaware corporations. Deutsche Telekom Holding B.V. (DT Holding), a Netherlands entity, has a 50.42% and controlling interest in T-Mobile US. DT Holding is an indirect wholly owned subsidiary of Deutsche Telekom AG (DT), a German entity. DT holds a direct 11.96% interest in DT Holding and an 88.04% indirect interest through T-Mobile Global Zwischenholding GmbH (T-Mobile Global), DT's direct wholly owned subsidiary, and T-Mobile Global Holding GmBH, a direct wholly owned subsidiary of T-Mobile Global, both German entities. Kreditanstalt fur Wiederaufbrau (KfW), a German entity, holds a 13.97% interest in DT. The Federal Republic of Germany holds an 80% interest in KfW and a direct 14.21% interest in DT.

T-Mobile is affiliated with carriers with market power on certain U.S.-international routes. T-Mobile shall comply with the dominant carrier safeguards contained in section 63.10 of the Commission's rules, 47 CFR § 63.10, on the following routes: U.S.-Croatia, U.S.-Germany, U.S.-Greece, U.S.-Hungary, U.S.-Macedonia, U.S.-Montenegro, U.S.-Romania, and U.S.-Slovakia.

In the Executive Branch Review Process Order, the Commission set out categories of applications with reportable foreign ownership that may be excluded from referral to the Executive Branch for review for national security, law enforcement, foreign policy and trade policy issues. 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, 10938-42, paras. 29-39 (2020) (Executive Branch Review Process Order). The Applicants state that the Application should be exempt from referral for Executive Branch review because T-Mobile: (1) is subject to an agreement with an Executive Branch agency concerning national security and/or law enforcement, (2) there are no new reportable foreign owners of T-Mobile since the effective date of that agreement, and (3) T-Mobile agrees to continue to comply with the terms of that agreement.

We exercised our discretion and did not formally refer the application to the Executive Branch agencies. Although we did not formally refer the Petition, we provided a courtesy copy of the Public Notice to the Executive Branch agencies. See Executive Branch Review Order, 35 FCC Rcd at 10939, para 30, n.81. We did not receive any comments or requests from the agencies.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-ASG-20241004-00145 T-Mobile USA, Inc.
Date filed: 2024-10-02
Assignment
Grant of Authority Date of Action: 2025-07-14
Current licensee: FARMERS CELLULAR TELEPHONE COMPANY, INC.

T-Mobile USA, Inc. (T-Mobile) filed an application for consent to the assignment of assets and international section 214 authority for global resale services (ITC-214-20240723-00116) from Farmers Cellular Telephone Company, Inc. (Farmers Cellular) to T-Mobile. Farmers Cellular is an authorized dealer for United States Cellular Corporation (UScellular). Under the proposed transaction, T-Mobile will acquire the wireless business of Farmers Cellular, including its customers, licenses and certain other assets. Upon consummation, Farmers Cellular customers will become T-Mobile customers.

T-Mobile is wholly owned by T-Mobile US Inc. (T-Mobile US), both Delaware corporations. Deutsche Telekom Holding B.V. (DT Holding), a Netherlands entity, has a 50.42% and controlling interest in T-Mobile US. DT Holding is an indirect wholly owned subsidiary of Deutsche Telekom AG (DT), a German entity. DT holds a direct 11.96% interest in DT Holding and an 88.04% indirect interest through T-Mobile Global Zwischenholding GmbH (T-Mobile Global), DT's direct wholly owned subsidiary, and T-Mobile Global Holding GmBH, a direct wholly owned subsidiary of T-Mobile Global, both German entities. Kreditanstalt fur Wiederaufbrau (KfW), a German entity, holds a 13.97% interest in DT. The Federal Republic of Germany holds an 80% interest in KfW and a direct 14.21% interest in DT.

T-Mobile is affiliated with carriers with market power on certain U.S.-international routes. T-Mobile shall comply with the dominant carrier safeguards contained in section 63.10 of the Commission's rules, 47 CFR § 63.10, on the following routes: U.S.-Croatia, U.S.-Germany, U.S.-Greece, U.S.-Hungary, U.S.-Macedonia, U.S.-Montenegro, U.S.-Romania, and U.S.-Slovakia.

In the Executive Branch Review Process Order, the Commission set out categories of applications with reportable foreign ownership that may be excluded from referral to the Executive Branch for review for national security, law enforcement, foreign policy and trade policy issues. 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, 10938-42, paras. 29-39 (2020) (Executive Branch Review Process Order). The Applicants state that the Application should be exempt from referral for Executive Branch review because T-Mobile: (1) is subject to an agreement with an Executive Branch agency concerning national security and/or law enforcement, (2) there are no new reportable foreign owners of T-Mobile since the effective date of that agreement, and (3) T-Mobile agrees to continue to comply with the terms of that agreement.

We exercised our discretion and did not formally refer the application to the Executive Branch agencies. Although we did not formally refer the Petition, we provided a courtesy copy of the Public Notice to the Executive Branch agencies. See Executive Branch Review Order, 35 FCC Rcd at 10939, para 30, n.81. We did not receive any comments or requests from the agencies.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-T/C-20240808-00132 Climax Telephone LLC
Date filed: 2024-08-08
Transfer of Control
Grant of Authority
Date of Action: 2025-07-09

Climax Telephone LLC (Climax), a Delaware limited liability company that holds an international section 214 authorization to provide global resale service (ITC-214-20010125), filed an application for the transfer of control of Jaguar from Metronet Holdings LLC (Metronet Holdings) to MetroNet Systems Holdings LLC (MetroNet Systems) (Proposed Transaction). MetroNet Systems is an indirect wholly owned subsidiary of Metronet Holdings and Climax is an indirect wholly owned subsidiary of MetroNet Systems.

Pursuant to a July 18, 2024 Agreement and Plan of Merger, MetroNet Systems will become a joint venture, 50/50 controlled and co-managed by T-Mobile USA, Inc. (T-Mobile USA) and, indirectly, by KKR Metro Parent LLC (KKR Metro). KKR Metro, which has been formed for purposes of the Proposed Transaction, is indirectly owned and controlled by investment funds advised and/or managed by KKR & Co. Inc.

The Proposed Transaction includes two primary steps. First, Metronet Holdings will assign substantially all of its assets to MetroNet Systems. Second, T-Mobile USA and MetroNet Vexus Holdings, LLC (Vexus Holdings), an indirect wholly owned subsidiary of KKR Metro, will acquire essentially all of the outstanding equity interests in MetroNet Systems. CMN-RUS, a Delaware limited liability company, and MFN, a Nevada limited liability company, will become indirect wholly owned subsidiaries of MetroNet Systems and will provide international service under the authority held by MetroNet Systems (ITC-214-20110114-00005).

As a result of the Proposed Transaction, T-Mobile will hold 50% of MetroNet Systems' voting membership interests and equity interests. Vexus Holdings will hold 50% of the voting membership interests and approximately 49.69% of the equity interests, with current management of Metronet Holdings holding the remainder of the MetroNet Systems equity interests. MetroNet Systems will have a five member board of directors and T-Mobile USA and KKR Metro will each have the right to appoint two members. The fifth member will be an independent director designated by KKR Metro after reasonable consultation with T-Mobile USA.

T-Mobile USA, which will hold 50% equity and voting interests in MetroNet Systems, is wholly owned by T-Mobile US Inc. (T-Mobile US), both Delaware corporations. Deutsche Telekom Holding B.V. (DT Holding), a Netherlands entity, has a 50.4% and controlling interest in T-Mobile US. DT Holding is an indirect wholly owned subsidiary of Deutsche Telekom AG (DT), a German entity. DT holds a direct 10.99% interest in DT Holding and an 89.01% indirect interest through TMobile Global Zwischenholding GmbH (T-Mobile Global), DT's direct wholly owned subsidiary, and T-Mobile Global Holding GmBH, a direct wholly owned subsidiary of T-Mobile Global, both German entities. Kreditanstalt fur Wiederaufbrau (KfW), a German entity, holds a 13.97% interest in DT. The Federal Republic of Germany holds an 80% interest in KfW and a direct 14.21% interest in DT.

Vexus Holdings, which will hold a 49.69% equity and a 50% voting interest in MetroNet Systems, is wholly owned by MetroNet Preferred Holdings, LLC which in turn is wholly owned by Python Holdings, LLC (Python Holdings), all Delaware entities. Python Holdings is wholly owned by Venus Python Newco Corp, which is wholly owned by Q-Comm Python Corporation, which in turn is wholly owned by Q-Comm NewCo, LLC (Q-Comm NewCo), all Delaware entities. Q-Comm NewCo is currently an indirect wholly owned subsidiary of KKR Metro, but the Applicants state that they may undertake certain pro forma restructuring upon closing to remove the intermediate entities so that Q-Comm NewCo would be a direct wholly owned subsidiary of KKR Metro, a Delaware limited liability company.

KKR Metro is indirectly owned and controlled by KKR & Co., Inc. KKR Metro Holdings, L.P. (Metro Holdings), is the 100% direct owner of KKR Metro. KKR Metro Holdings GP LLC is the general partner Metro Holdings. KKR Metro Sponsor Aggregator L.P. (Sponsor Aggregator LP) holds a 96.29% limited partnership interest in Metro Holdings. KKR Metro Sponsor Aggregator GP LLC (Sponsor Aggregator GP) is the general partner of Sponsor Aggregator L.P. KKR Metro Aggregator L.P. (KKR Metro Aggregator LP) is the sole member of Sponsor Aggregator GP and Metro Holdings and has a 82.671% limited partnership interest in Sponsor Aggregator LP. All these KKR entities are organized in Delaware.

The Application sets out numerous funds advised and/or managed by KKR & Co. Inc. that are between KKR Metro Aggregator LP and KKR & Co. Inc. These funds are organized in Delaware, the Cayman Islands and Luxembourg. KKR Management LLP, a Delaware limited liability partnership, is the holder of the sole share of KKR & Co. Inc.'s Series I preferred stock, which confers the right, among other things, to elect and remove the members of KKR & Co. Inc.'s board of directors. Founders Henry Kravis and George Roberts, both U.S. citizens, when acting together jointly control KKR Management LLP.

Stapleford Investment Pte. Ltd. (Stapleford) will hold an approximate direct 17.239% equity interest and an approximate indirect 2.443% equity interest in Sponsor Aggregator LP. In addition, Stapleford will have certain consent rights and the ability to appoint a nonvoting observer to the board of MetroNet Systems. Stapleford is wholly owned by GIC Infra Holdings Pte. Ltd., which in turn is wholly owned by GIC (Ventures) Pte. Ltd. (GIC Ventures). GIC Ventures is wholly owned by the Minister for Finance of the Government of Singapore. Stapleford is managed by GIC Special Investments Pte. Ltd., which is wholly owned by GIC Pte. Ltd., which is also wholly owned by the Minister for Finance of the Government of Singapore.

The Applicants state that no other individual or entity is expected to hold 10% or greater direct or indirect equity or voting interests in MetroNet Systems or Climax.

We grant the Petition to Adopt Conditions to Authorizations and Licenses filed in this proceeding on June 5, 2025, by the National Telecommunications and Information Administration on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. Accordingly, we condition grant of the application on the assurance of MetroNet Systems to abide by the commitments and undertakings set forth in the Letter of Agreement from Dave Heimbach, President and Chief Executive Officer, Metronet Holdings, LLC Climax Telephone LLC Jaguar Communications, LLC Vexus Fiber, LLC CMN-RUS, LLC Metronet Fibernet, LLC, and Metronet Systems Holdings, LLC; Felix Boyeaux, Manager and Vice President, KKR Mercury Parent LLC; and Mark W. Nelson, Executive Vice President & General Counsel, T-Mobile US, Inc. to the Chief, Foreign Investment Review Section, Deputy Chief, Compliance and Enforcement, on behalf of the Assistant Attorney General for National Security, United States Department of Justice, National Security Division; and Under Secretary for Strategy, Policy and Plans, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security, dated May 9, 2025 (LOA). The Petition and the LOA may be viewed on the FCC's website through the International Communications Filing System by searching for ITC-ASG-20240515-00086 and accessing the "Pleadings & Comments” tab in 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 this grant and the underlying authorization and thus grounds for declaring the authorization terminated without further action on the part of the Commission. Failure to meet a condition of the authorization may also result in monetary sanctions or other enforcement

action by the Commission.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-ASG-20240808-00133 MetroNet Systems Holdings, LLC
Date filed: 2024-08-08
Assignment
Grant of Authority

Current licensee: MetroNet Holdings, LLC Date of Action: 2025-07-09

Metronet Systems Holdings LLC (Metronet Systems) filed an application for consent to the assignment of assets and international section 214 authority for global resale services (ITC-214-20110114-00005) from Metronet Holdings LLC (Metronet Holdings) to MetroNet Systems (Proposed Transaction). CMN-RUS, LLC (CMN-RUS) and Metro FiberNet, LLC (MFN), both indirect wholly owned subsidiaries of Metronet Holdings, each provide international service under the authority held by Metronet Holdings (ITC-214-20110114-00005) pursuant to section 63.21(h) of the Commission's rules. 47 CFR § 63.21(h).

Pursuant to a July 18, 2024 Agreement and Plan of Merger, Metronet Holdings will liquidate and assign substantially all of its assets, including its international section 214 authorization (ITC-214-20110114-00005) and CMN-RUS and MFN, to MetroNet Systems. MetroNet Systems will become a joint venture, 50/50 controlled and co-managed by T-Mobile USA, Inc. (T-Mobile USA) and, indirectly, by KKR Metro Parent LLC (KKR Metro). KKR Metro, which has been formed for purposes of the Proposed Transaction, is indirectly owned and controlled by investment funds advised and/or managed by KKR & Co Inc.

The Proposed Transaction includes two primary steps. First, Metronet Holdings will assign substantially all of its assets to MetroNet Systems. Second, T-Mobile USA and MetroNet Vexus Holdings, LLC (Vexus Holdings), an indirect wholly owned subsidiary of KKR Metro, will acquire essentially all of the outstanding equity interests in MetroNet Systems. CMN-RUS, a Delaware limited liability company, and MFN, a Nevada limited liability company, will become indirect wholly owned subsidiaries of MetroNet Systems and will provide international service under the authority held by MetroNet Systems (ITC-214-20110114-00005).

As a result of the Proposed Transaction, T-Mobile will hold 50% of MetroNet Systems' voting membership and equity interests. Vexus Holdings will hold 50% of the voting membership interests and approximately 49.69% of the equity interests, with current management of Metronet Holdings holding the remainder of the MetroNet Systems equity interests. MetroNet Systems will have a five member board of directors and T-Mobile USA and KKR Metro will each have the right to appoint two members. The fifth member will be an independent director designated by KKR Metro after reasonable consultation with T-Mobile USA.

T-Mobile USA, which will hold 50% equity and voting interests in MetroNet Systems, is wholly owned by T-Mobile US Inc. (T-Mobile US), both Delaware corporations. Deutsche Telekom Holding B.V. (DT Holding), a Netherlands entity, has a 50.4% and controlling interest in T-Mobile US. DT Holding is an indirect wholly owned subsidiary of Deutsche Telekom AG (DT), a German entity. DT holds a direct 10.99% interest in DT Holding and an 89.01% indirect interest through TMobile Global Zwischenholding GmbH (T-Mobile Global), DT's direct wholly owned subsidiary, and T-Mobile Global

Holding GmBH, a direct wholly owned subsidiary of T-Mobile Global, both German entities. Kreditanstalt fur Wiederaufbrau (KfW), a German entity, holds a 13.97% interest in DT. The Federal Republic of Germany holds an 80% interest in KfW and a direct 14.21% interest in DT.

Vexus Holdings, which will hold a 49.69% equity and a 50% voting interest in MetroNet Systems, is wholly owned by MetroNet Preferred Holdings, LLC which in turn is wholly owned by Python Holdings, LLC (Python Holdings), all Delaware entities. Python Holdings is wholly owned by Venus Python Newco Corp, which is wholly owned by Q-Comm Python Corporation, which in turn is wholly owned by Q-Comm NewCo, LLC (Q-Comm NewCo), all Delaware entities. Q-Comm NewCo is currently an indirect wholly owned subsidiary of KKR Metro, but the Applicants state that they may undertake certain pro forma restructuring upon closing to remove the intermediate entities so that Q-Comm NewCo would be a direct wholly owned subsidiary of KKR Metro, a Delaware limited liability company.

KKR Metro is indirectly owned and controlled by KKR & Co., Inc. KKR Metro Holdings, L.P. (Metro Holdings), is the 100% direct owner of KKR Metro. KKR Metro Holdings GP LLC is the general partner Metro Holdings. KKR Metro Sponsor Aggregator L.P. (Sponsor Aggregator LP) holds a 96.29% limited partnership interest in Metro Holdings. KKR Metro Sponsor Aggregator GP LLC (Sponsor Aggregator GP) is the general partner of Sponsor Aggregator L.P. KKR Metro Aggregator L.P. (KKR Metro Aggregator LP) is the sole member of Sponsor Aggregator GP and Metro Holdings and has a 82.671% limited partnership interest in Sponsor Aggregator LP. All these KKR entities are organized in Delaware.

The Application sets out numerous funds advised and/or managed by KKR & Co. Inc. that are between KKR Metro Aggregator LP and KKR & Co. Inc. These funds are organized in Delaware, the Cayman Islands and Luxembourg. KKR Management LLP, a Delaware limited liability partnership, is the holder of the sole share of KKR & Co. Inc.'s Series I preferred stock, which confers the right, among other things, to elect and remove the members of KKR & Co. Inc.'s board of directors. Founders Henry Kravis and George Roberts, both U.S. citizens, when acting together jointly control KKR Management LLP.

Stapleford Investment Pte. Ltd. (Stapleford) will hold an approximate direct 17.239% equity interest and an approximate indirect 2.443% equity interest in Sponsor Aggregator LP. In addition, Stapleford will have certain consent rights and the ability to appoint a nonvoting observer to the board of MetroNet Systems. Stapleford is wholly owned by GIC Infra Holdings Pte. Ltd., which in turn is wholly owned by GIC (Ventures) Pte. Ltd. (GIC Ventures). GIC Ventures is wholly owned by the Minister for Finance of the Government of Singapore. Stapleford is managed by GIC Special Investments Pte. Ltd., which is wholly owned by GIC Pte. Ltd., which is also wholly owned by the Minister for Finance of the Government of Singapore.

The Applicants state that no other individual or entity is expected to hold 10% or greater direct or indirect equity or voting interests in MetroNet Systems, CMN-RUS or MFN.

On May 21, 2025, after the comment period had closed, Stanley Peplinski filed an objection to the grant of the application due to damage to his property he claims was caused by Vexus Fiber, LLC (aka Metronet) during installation of fiber optic cables. He states that there is a pending court case regarding this issue. On May 30, 2025, Metronet Systems and Metronet Holdings filed a response stating that they are working diligently to resolve the issue. They also argued that the Commission has repeatedly found that proper forum for the resolution of private contract issues is the court system and not Commission review of transactions. Stanley Peplinski filed a reply on June 6, 2025, and Metronet Systems and

Metronet Holdings filed a response on June 11, 2025. The objection by Stanley Peplinski was filed well past the comment date and is not related to the Proposed Transaction. Following Commission precedent we will not hold up or condition grant of the application based on this private dispute between Stanley Peplinski and Metronet which is best addressed by the court system.

We grant the Petition to Adopt Conditions to Authorizations and Licenses filed in this proceeding on June 5, 2025, by the National Telecommunications and Information Administration on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. Accordingly, we condition grant of the application on the assurance of MetroNet Systems to abide by the commitments and undertakings set forth in the Letter of Agreement from Dave Heimbach, President and Chief Executive Officer, Metronet Holdings, LLC Climax Telephone LLC Jaguar Communications, LLC Vexus Fiber, LLC CMN-RUS, LLC Metronet Fibernet, LLC, and Metronet Systems Holdings, LLC; Felix Boyeaux, Manager and Vice President, KKR Mercury Parent LLC; and Mark W. Nelson, Executive Vice President & General Counsel, T-Mobile US, Inc. to the Chief, Foreign Investment Review Section, Deputy Chief, Compliance and Enforcement, on behalf of the Assistant Attorney General for National Security, United States Department of Justice, National Security Division; and Under Secretary for Strategy, Policy and Plans, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security, dated May 9, 2025 (LOA). The Petition and the LOA may be viewed on the FCC's website through the International Communications Filing System by searching for ITC-ASG-20240515-00086 and accessing the "Pleadings & Comments" tab in 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 this grant and the underlying authorization and thus grounds for declaring the authorization terminated without further action on the part of the Commission. Failure to meet a condition of the authorization may also result in monetary sanctions or other enforcement action by the Commission.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-T/C-20240808-00130 Vexus Fiber, LLC
Date filed: 2024-08-08
Transfer of Control
Grant of Authority

Date of Action: 2025-07-09

Vexus Fiber LLC (Vexus), a Delaware limited liability company that holds an international section 214 authorization to provide global resale service (ITC-214-19971024-00657), filed an application for the transfer of control of Vexus from Metronet Holdings LLC (Metronet Holdings) to MetroNet Systems Holdings LLC (MetroNet Systems) (Proposed Transaction). MetroNet Systems is an indirect wholly owned subsidiary of Metronet Holdings and Vexus is an indirect wholly owned subsidiary of MetroNet Systems.

Pursuant to a July 18, 2024 Agreement and Plan of Merger, MetroNet Systems will become a joint venture, 50/50 controlled and co-managed by T-Mobile USA, Inc. (T-Mobile USA) and, indirectly, by KKR Metro Parent LLC (KKR Metro). KKR Metro, which has been formed for purposes of the Proposed Transaction, is indirectly owned and controlled by investment funds advised and/or managed by KKR & Co. Inc.

The Proposed Transaction includes two primary steps. First, Metronet Holdings will assign substantially all of its assets to MetroNet Systems. Second, T-Mobile USA and MetroNet Vexus Holdings, LLC (Vexus Holdings), an indirect wholly owned subsidiary of KKR Metro, will acquire essentially all of the outstanding equity interests in MetroNet Systems. CMN-RUS, a Delaware limited liability company, and MFN, a Nevada limited liability company, will become indirect wholly owned subsidiaries of MetroNet Systems and will provide international service under the authority held by MetroNet Systems (ITC-214-20110114-00005).

As a result of the Proposed Transaction, T-Mobile will hold 50% of MetroNet Systems' voting membership and equity interests. Vexus Holdings will hold 50% of the voting membership interests and approximately 49.69% of the equity interests, with current management of Metronet Holdings holding the remainder of the MetroNet Systems' equity interests. MetroNet Systems will have a five member board of directors and T-Mobile USA and KKR Metro will each have the right to appoint two members. The fifth member will be an independent director designated by KKR Metro after reasonable consultation with T-Mobile USA.

T-Mobile USA, which will hold 50% equity and voting interests in MetroNet Systems, is wholly owned by T-Mobile US Inc. (T-Mobile US), both Delaware corporations. Deutsche Telekom Holding B.V. (DT Holding), a Netherlands entity, has a 50.4% and controlling interest in T-Mobile US. DT Holding is an indirect wholly owned subsidiary of Deutsche Telekom AG (DT), a German entity. DT holds a direct 10.99% interest in DT Holding and an 89.01% indirect interest through TMobile Global Zwischenholding GmbH (T-Mobile Global), DT's direct wholly owned subsidiary, and T-Mobile Global Holding GmBH, a direct wholly owned subsidiary of T-Mobile Global, both German entities. Kreditanstalt fur Wiederaufbrau (KfW), a German entity, holds a 13.97% interest in DT. The Federal Republic of Germany holds an 80% interest in KfW and a direct 14.21% interest in DT.

Vexus Holdings, which will hold a 49.69% equity and a 50% voting interest in MetroNet Systems, is wholly owned by MetroNet Preferred Holdings, LLC which in turn is wholly owned by Python Holdings, LLC (Python Holdings), all Delaware entities. Python Holdings is wholly owned by Venus Python Newco Corp, which is wholly owned by Q-Comm Python Corporation, which in turn is wholly owned by Q-Comm NewCo, LLC (Q-Comm NewCo), all Delaware entities. Q-Comm NewCo is currently an indirect wholly owned subsidiary of KKR Metro, but the Applicants state that they may undertake certain pro forma restructuring upon closing to remove the intermediate entities so that Q-Comm NewCo would be a direct wholly owned subsidiary of KKR Metro, a Delaware limited liability company.

KKR Metro is indirectly owned and controlled by KKR & Co., Inc. KKR Metro Holdings, L.P. (Metro Holdings), is the 100% direct owner of KKR Metro. KKR Metro Holdings GP LLC is the general partner Metro Holdings. KKR Metro Sponsor Aggregator L.P. (Sponsor Aggregator LP) holds a 96.29% limited partnership interest in Metro Holdings. KKR Metro Sponsor Aggregator GP LLC (Sponsor Aggregator GP) is the general partner of Sponsor Aggregator L.P. KKR Metro Aggregator L.P. (KKR Metro Aggregator LP) is the sole member of Sponsor Aggregator GP and Metro Holdings and has a 82.671% limited partnership interest in Sponsor Aggregator LP. All these KKR entities are organized in Delaware.

The Application sets out numerous funds advised and/or managed by KKR & Co. Inc. that are between KKR Metro Aggregator LP and KKR & Co. Inc. These funds are organized in Delaware, the Cayman Islands and Luxembourg. KKR Management LLP, a Delaware limited liability partnership, is the holder

of the sole share of KKR & Co. Inc.'s Series I preferred stock, which confers the right, among other things, to elect and remove the members of KKR & Co. Inc.'s board of directors. Founders Henry Kravis and George Roberts, both U.S. citizens, when acting together jointly control KKR Management LLP.

Stapleford Investment Pte. Ltd. (Stapleford) will hold an approximate direct 17.239% equity interest and an approximate indirect 2.443% equity interest in Sponsor Aggregator LP. In addition, Stapleford will have certain consent rights and the ability to appoint a nonvoting observer to the board of MetroNet Systems. Stapleford is wholly owned by GIC Infra Holdings Pte. Ltd., which in turn is wholly owned by GIC (Ventures) Pte. Ltd. (GIC Ventures). GIC Ventures is wholly owned by the Minister for Finance of the Government of Singapore. Stapleford is managed by GIC Special Investments Pte. Ltd., which is wholly owned by GIC Pte. Ltd., which is also wholly owned by the Minister for Finance of the Government of Singapore.

The Applicants state that no other individual or entity is expected to hold 10% or greater direct or indirect equity or voting interests in MetroNet Systems or Vexus.

On May 21, 2025, after the comment period had closed, Stanley Peplinski filed an objection to the grant of the application due to damage to his property he claims was caused by Vexus Fiber, LLC (aka Metronet) during installation of fiber optic cables. He states that there is a pending court case regarding this issue. On May 30, 2025, Metronet Systems and Metronet Holdings filed a response stating that they are working diligently to resolve the issue. They also argued that the Commission has repeatedly found that proper forum for the resolution of private contract issues is the court system and not Commission review of transactions. Stanley Peplinski filed a reply on June 6, 2025, and Metronet Systems and Metronet Holdings filed a response on June 11, 2025. The objection by Stanley Peplinski was filed well past the comment date and is not related to the Proposed Transaction. Following Commission precedent we will not hold up or condition grant of the application based on this private dispute between Stanley Peplinski and Metronet which is best addressed by the court system.

We grant the Petition to Adopt Conditions to Authorizations and Licenses filed in this proceeding on June 5, 2025, by the National Telecommunications and Information Administration on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. Accordingly, we condition grant of the application on the assurance of MetroNet Systems to abide by the commitments and undertakings set forth in the Letter of Agreement from Dave Heimbach, President and Chief Executive Officer, Metronet Holdings, LLC Climax Telephone LLC Jaguar Communications, LLC Vexus Fiber, LLC CMN-RUS, LLC Metronet Fibernet, LLC, and Metronet Systems Holdings, LLC; Felix Boyeaux, Manager and Vice President, KKR Mercury Parent LLC; and Mark W. Nelson, Executive Vice President & General Counsel, T-Mobile US, Inc. to the Chief, Foreign Investment Review Section, Deputy Chief, Compliance and Enforcement, on behalf of the Assistant Attorney General for National Security, United States Department of Justice, National Security Division; and Under Secretary for Strategy, Policy and Plans, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security, dated May 9, 2025 (LOA). The Petition and the LOA may be viewed on the FCC's website through the International Communications Filing System by searching for ITC-ASG-20240515-00086 and accessing the "Pleadings & Comments” tab in 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 this grant and the underlying authorization and thus grounds for declaring the authorization terminated without further action on the part of the Commission. Failure to meet a condition of the authorization may also result in monetary sanctions or other enforcement

action by the Commission.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-ASG-20241004-00147 T-Mobile USA, Inc.
Date filed: 2024-10-02
Assignment
Grant of Authority Date of Action: 2025-07-14
Current licensee: IOWA RSA NO. 12 LIMITED PARTNERSHIP

T-Mobile USA, Inc. (T-Mobile) filed an application for consent to the assignment of assets and international section 214 authority for global resale services (ITC-214-20240723-00118) from Iowa RSA No. 12 Limited Partnership (Iowa RSA 12) to T-Mobile. Iowa RSA 12 is an authorized dealer for United States Cellular Corporation (UScellular). Under the proposed transaction, T-Mobile will acquire the wireless business of Iowa RSA 12, including its customers, licenses and certain other assets. Upon consummation, Iowa RSA 12 customers will become T-Mobile customers.

T-Mobile is wholly owned by T-Mobile US Inc. (T-Mobile US), both Delaware corporations. Deutsche Telekom Holding B.V. (DT Holding), a Netherlands entity, has a 50.42% and controlling interest in T-Mobile US. DT Holding is an indirect wholly owned subsidiary of Deutsche Telekom AG (DT), a German entity. DT holds a direct 11.96% interest in DT Holding and an 88.04% indirect interest through TMobile Global Zwischenholding GmbH (T-Mobile Global), DT's direct wholly owned subsidiary, and T-Mobile Global Holding GmBH, a direct wholly owned subsidiary of T-Mobile Global), both German entities. Kreditanstalt fur Wiederaufbrau (KfW), a German entity, holds a 13.97% interest in DT. The Federal Republic of Germany holds an 80% interest in KfW and a direct 14.21% interest in DT.

T-Mobile is affiliated with carriers with market power on certain U.S.-international routes. T-Mobile shall comply with the dominant carrier safeguards contained in section 63.10 of the Commission's rules, 47 CFR § 63.10, on the following routes: U.S.-Croatia, U.S.-Germany, U.S.-Greece, U.S.-Hungary, U.S.-Macedonia, U.S.-Montenegro, U.S.-Romania, and U.S.-Slovakia.

In the Executive Branch Review Process Order, the Commission set out categories of applications with reportable foreign ownership that may be excluded from referral to the Executive Branch for review for national security, law enforcement, foreign policy and trade policy issues. 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, 10938-42, paras. 29-39 (2020) (Executive Branch Review Process Order). The Applicants state that the Application should be exempt from referral for Executive Branch review because T-Mobile: (1) is subject to an agreement with an Executive Branch agency concerning national security and/or law enforcement, (2) there are no new reportable foreign owners of T-Mobile since the effective date of that agreement, and (3) T-Mobile agrees to continue to comply with the terms of that agreement.

We exercised our discretion and did not formally refer the application to the Executive Branch agencies. Although we did not formally refer the Petition, we provided a courtesy copy of the Public Notice to the Executive Branch agencies. See Executive Branch Review Order, 35 FCC Rcd at 10939, para 30, n.81. We did not receive any comments or requests from the agencies.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

SURRENDER:

ITC-214-20130726-00202 T253230 First Technology Development, Inc.
Date filed: 2013-07-26
International Telecommunications Authorizations
Surrender of Authorization

Date of Action: 2025-07-11

Services:
- Global Facilities-Based Authority pursuant to section 63.18(e)(1) of the Commission's rules.
- Global Resale Authority pursuant to section 63.18(e)(2) of the Commission's rules.

On July 11, 2025, First Technology Development, 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.

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, (202) 418-1480

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-635
Released: July 17, 2025

WIRELESS TELECOMMUNICATIONS BUREAU ESTABLISHES WT DOCKET NO. 25-217

WT DOCKET NO. 25-217

By this Public Notice, the Wireless Telecommunications Bureau establishes WT Docket No. 25-217, which is captioned, "Modernizing the Commission's National Environmental Policy Act Rules."

Presentations are subject to "permit-but-disclose" *ex parte* rules. *See* 47 CFR §§ 1.206, 1.1200(a). Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed in the Sunshine Agenda, which typically is released a week prior to the Commission's meeting. *See* 47 CFR §§ 1.1200(a), 1.1203.

In light of the Commission's trust relationship with Tribal Nations and our commitment to engage in government-to-government consultation with them, we find the public interest requires a limited modification of the *ex parte* rules in this proceeding. Tribal Nations, like other interested parties, should file comments, reply comments, and *ex parte* presentations in the record to put facts and arguments before the Commission in a manner such that they may be relied upon in the decision-making process consistent with the requirements of the Administrative Procedure Act. However, at the option of the Tribe, *ex parte* presentations made during consultations by elected and appointed leaders and duly appointed representatives of federally recognized Tribal Nations and Native Hawaiian Organizations to Commission decision makers shall be exempt from the rules requiring disclosure in permit-but-disclose proceedings and exempt from the prohibitions during the Sunshine Agenda period. To be clear, while the Commission recognizes consultation is critically important, we emphasize that the Commission will rely in its decision-making only on those presentations that are placed in the public record for this proceeding.

Action by Acting Chief, 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

DA 25-636
Released: July 17, 2025

COMMISSION OPENS DOCKET FOR PROPOSED TRANSFER OF CONTROL OF COX COMMUNICATIONS TO CHARTER COMMUNICATIONS, INC.

WC Docket No. 25-233

On July 14, 2025, Charter and Cox filed applications seeking Commission approval to transfer control to Charter of the licenses and authorizations held by Cox and its wholly-owned and controlled subsidiaries. The purpose of this public notice is to announce the opening of a docket, WC Docket No. 25-233, and articulate the *ex parte* status of discussions related to the proposed transaction.

Pursuant to Section 1.1200(a) of the Commission's rules,[1] the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under Section 1.1206 of the Commission's rules.[2] 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.

Under the Commission's current procedures,[3] notices of the *ex parte* presentations, which must include a reference to WC Docket No. 25-233, shall be filed electronically through the Commission's

[1] 47 CFR § 1.1200(a).

[2] *Id*. § 1.1206.

[3] *See* 47 CFR § 1.1206(b)(2). *See also FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009).

Electronic Comment Filing System (ECFS).

- **To file electronically**,[4] access ECFS via the Internet at http://apps.fcc.gov/ecfs. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket number.
- **To file by paper**, the original and one copy of each filing must be filed by hand or 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.

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).

One copy of each *ex parte* submission also must be delivered electronically, by email, to each of the following: (1) Randy Sifers, Competition Policy Division, Wireline Competition Bureau, at Randall.Sifers@fcc.gov; (2) Emily Caditz, Competition Policy Division, Wireline Competition Bureau, at emily.caditz@fcc.gov; (3) Stephanie Asous, Mobility Division, Wireless Telecommunications Bureau, at Stephanie.Asous@fcc.gov; (4) Nadja Sodos-Wallace, Broadband Division, Wireless Telecommunications Bureau, at Nadja.SodosWallace@fcc.gov; (5) Karen Johnson, Office of International Affairs, Karen.Johnson@fcc.gov; (6) Brendan Holland, Media Bureau, at Brendan.Holland@fcc.gov; and (7) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov.

For further information regarding this proceeding, please contact Emily Caditz, Competition Policy Division, Wireline Competition Bureau at Emily.Caditz@fcc.gov.

[4] *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11322 (1998).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-637
Released: July 17, 2025

WIRELESS TELECOMMUNICATIONS BUREAU AND OFFICE OF ENGINEERING AND TECHNOLOGY SEEK COMMENT ON AIRSPAN NETWORK'S REQUEST TO WAIVE SECTION 27.53(N) OF THE COMMISSION'S RULES

WT Docket No. 25-234

Comment Date: August 18, 2025
Reply Comment Date: September 2, 2025

The Wireless Telecommunications Bureau and Office of Engineering and Technology seek comment on a petition for waiver filed by Airspan Networks, Inc. (Airspan).[1] Airspan seeks a waiver of section 27.53(n) of the Commission's rules,[2] which sets out-of-band emission limits for the 3.45 GHz Service. Airspan requests this waiver to facilitate the marketing and operation of base station radios that would be operated in the 3.45 GHz and 3.7 GHz Services, either simultaneously or on a stand-alone basis.[3]

Ex Parte Rules. The proceeding 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). 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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[1] Airspan Networks, Inc. Petition for Waiver, WT Docket No. 25-234 (filed June 25, 2025) https://www.fcc.gov/ecfs/document/10625180963876/1 (Airspan Petition).

[2] 47 CFR § 27.53(n).

[3] Submissions related to the Airspan Petition received prior to the release of this public notice will be added to WT Docket No. 25-234.

Filing Requirements. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document and must reference WT Docket No 25-234. 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 filing 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.

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 about this proceeding, contact Paul Powell, Wireless Telecommunications Bureau, Mobility Division at Paul.Powell@fcc.gov.

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

In the Matter of	)	
	)	
Applications of	)	WC Docket No. 25-233
	)	
Cox Enterprises, Inc. and	)	
Charter Communications, Inc.	)	
	)	
For Consent to Transfer Control of	)	
Licenses and Authorizations	)	

PROTECTIVE ORDER

Adopted: July 17, 2025 **Released: July 17, 2025**

By the Chief, Wireline Competition Bureau:

1. In this Protective Order, we set forth procedures to (i) limit access to proprietary or confidential information that has been or may be filed in this proceeding, and (ii) more strictly limit access to certain particularly competitively sensitive information, which, if released to competitors or those with whom the Submitting Party or a Third-Party Interest Holder does business, would allow those persons to gain a significant competitive advantage or an advantage in negotiations. The information submitted by participants in this proceeding and information we request as relevant and material constitute the record on which the Commission must base its determination of whether granting the applications serves the public interest. While we are mindful of the sensitive nature of some of the information involved, we are also mindful of the general right of the public, and our desire for the public, to participate in this proceeding in a meaningful way. We find that allowing limited access to competitively sensitive materials pursuant to the procedures set forth in this Protective Order allows the public (through appropriate representatives) to do so while also protecting competitively sensitive information from improper disclosure and use. Accordingly, sensibly balancing the public and private interests involved, we conclude that these procedures serve the public interest and adopting them "best conduce[s] to the proper dispatch of the Commission's business and to the ends of justice."[1]

2. *Definitions.* As used herein, capitalized terms not otherwise defined in this Protective Order shall have the following meanings:

"Acknowledgment" means the Acknowledgment of Confidentiality attached as Appendix B hereto.

"Competitive Decision-Making" means a person's activities, association, or relationship with any of his or her clients involving advice about or participation in the relevant business decisions or the analysis underlying the relevant business decisions of the client in competition with or in a business relationship with the Submitting Party or with a Third-Party Interest Holder.

"Confidential Information" means information that is not otherwise available from publicly available sources and that is subject to withholding under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the Commission's implementing rules, unless the Commission determines, sua sponte or by request pursuant to paragraph 4 of this Protective Order or Sections 0.459 or 0.461 of its rules,[2] that

[1] 47 U.S.C. § 154(j).

[2] 47 CFR §§ 0.459, 0.461.

such information is not entitled to confidential treatment.

"Counsel" means In-House Counsel and Outside Counsel of Record.

"Document" means any written, recorded, electronically stored, or graphic material, whether produced or created by the Submitting Party or another person.

"Highly Confidential Information" means information that is not otherwise available from publicly available sources; that the Submitting Party has kept strictly confidential; that is subject to withholding under the FOIA and the Commission's implementing rules; and that the Submitting Party or a Third-Party Interest Holder claims constitutes some of its most sensitive business data which, if released to competitors or those with whom the Submitting Party or Third-Party Interest Holder does business, would allow those persons to gain a significant advantage in the marketplace or in negotiations; and that is described in Appendix A to this Protective Order, as the same may be amended from time to time -- unless the Commission determines, *sua sponte* or by request pursuant to paragraph 4 of this Protective Order or its rules, that any such information is not entitled to confidential treatment.

"In-House Counsel" means an attorney employed by a Participant in this proceeding or employed by an affiliated entity and who is actively engaged in the conduct of this proceeding, provided that such attorney is not involved in Competitive Decision-Making. (In this regard, an In-House Counsel's employer is considered his or her client.)

"Outside Counsel of Record" or "Outside Counsel" means the attorney(s), firm(s) of attorneys, or sole practitioner(s), as the case may be, retained by a Participant in this proceeding, provided that such attorneys are not involved in Competitive Decision-Making. The term "Outside Counsel of Record" includes any attorney employed by a non-commercial Participant in this proceeding, provided that such attorney is not involved in Competitive Decision-Making.

"Outside Consultant" means a consultant or expert retained for the purpose of assisting Outside Counsel or a Participant in this proceeding, provided that such consultant or expert is not involved in Competitive Decision-Making. The term "Outside Consultant" includes any consultant or expert employed by a non-commercial Participant in this proceeding, provided that such consultant or expert is not involved in Competitive Decision-Making.

"Outside Firm" means a firm, whether organized as a partnership, limited partnership, limited liability partnership, limited liability company, corporation, or otherwise, of Outside Counsel or Outside Consultants.

"Participant" means a person or entity that has filed, or has a good faith intention to file, an application, petition to deny, or material comments in this proceeding.

"Redacted Confidential Document" means a copy of a Stamped Confidential Document where the Confidential Information has been redacted.

"Redacted Highly Confidential Document" means a copy of a Stamped Highly Confidential Document where the Highly Confidential Information has been redacted.

"Reviewing Party" means a person who has obtained access to Confidential Information (including Stamped Confidential Documents) or Highly Confidential Information (including Stamped Highly Confidential Documents) pursuant to paragraphs 7 or 12 of this Protective Order.

"Stamped Confidential Document" means any document, or any part thereof, that contains Confidential Information and that bears the legend (or which otherwise shall have had the legend recorded upon it in a way that brings its attention to a reasonable examiner) "CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET No. 25-233 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION." By designating a document a "Stamped Confidential Document," a Submitting Party signifies and represents that it contains Confidential Information.

"Stamped Highly Confidential Document" means any document, or any part thereof, that contains Highly Confidential Information and that bears the legend (or which otherwise shall have had the legend recorded upon it in a way that brings its attention to a reasonable examiner) "HIGHLY CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC Docket No. 25-233 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION." By designating a document a "Stamped Highly Confidential Document," a Submitting Party signifies and represents that it contains Highly Confidential Information.

"Submitting Party" means a person or entity who submits a Stamped Confidential Document or a Stamped Highly Confidential Document.

"Support Personnel" means employees of a Reviewing Party's Outside Firm and third-party contractors and employees of third-party contractors who are assisting in this proceeding, provided such persons are involved solely in performing clerical or ministerial functions with regard to documents and information connected with this proceeding, including performing one or more aspects of organizing, filing, coding, converting, storing, or retrieving documents or data or designing programs for handling data connected with this proceeding.

"Third-Party Interest Holder" means a person who is not a Submitting Party who has a confidentiality interest in Confidential Information or Highly Confidential Information that is submitted under this Protective Order.

3. *Designation of Information as Confidential or Highly Confidential.* A Submitting Party may designate as Highly Confidential only those types of information described in Appendix. If a Submitting Party believes that additional types of information should be designated as Highly Confidential, the Submitting Party shall submit a request to amend this order along with a supporting explanation. To the extent the request is granted, an amended order will be issued. In addition, before a Submitting Party may designate particular documents or information as Highly Confidential, it must receive the written approval of the Commission staff, which, based on the Submitting Party's representations, will make a preliminary determination whether the proposed designation meets the requirements set forth in this Protective Order. By designating documents and information as Confidential or Highly Confidential under this Protective Order, a Submitting Party also will be deemed to have submitted a request that the material not be made routinely available for public inspection under the Commission's rules.[3]

4. *Challenge to Designation*. Any person wishing to challenge the designation of a document, portion of a document, or information as Confidential or Highly Confidential must file such a challenge at the Commission and serve it on the Submitting Party and any known Third-Party Interest Holders. The Commission may also initiate such a review on its own. The Submitting Party and any Third-Party Interest Holders must file any reply within five business days and include a justification for treating the information as Confidential or Highly Confidential, as appropriate. The documents and information challenged will continue to be accorded confidential treatment until the Commission acts on the request and any timely motion for a judicial stay has been acted upon.[4] Any decision on whether the materials should be accorded confidential treatment does not constitute a resolution of the merits concerning whether such information would be released publicly by the Commission upon an appropriate request under our rules implementing the FOIA.[5]

5. *Submission of Stamped Confidential Documents and Stamped Highly Confidential Documents.* A Submitting Party shall submit to the Secretary's Office one copy of each Stamped Confidential Document and each Stamped Highly Confidential Document it seeks to file and an accompanying cover letter. Before doing so, the Submitting Party shall notify any known Third-Party

[3] *See* 47 CFR § 0.459(a).

[4] *Cf.* 47 CFR §§ 0.459(g), 0.461(i).

[5] *See* 47 CFR §§ 0.459(h), 0.461.

Interest Holders who have a confidentiality interest in any such Stamped Confidential Document or Stamped Highly Confidential Document. Each page of the Stamped Confidential Document or Stamped Highly Confidential Document shall be stamped "CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 25-233 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION" or "HIGHLY CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 25-233 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION", as appropriate. The cover letter also shall contain this legend. In addition, with respect to each Stamped Confidential Document and each Stamped Highly Confidential Document submitted, the Submitting Party shall also file through the Commission's Electronic Comment Filing System ("ECFS") a copy of the respective Redacted Confidential Document or Redacted Highly Confidential Document and an accompanying cover letter.[6] Each Redacted Confidential Document or Redacted Highly Confidential Document shall have the same pagination as the Stamped Confidential Document or Stamped Highly Confidential Document from which it is derived. Each page of the Redacted Confidential Document or Redacted Highly Confidential Document and the accompanying cover letter shall be stamped "REDACTED – FOR PUBLIC INSPECTION." To the extent that any page of the filing contains both Confidential Information or Highly Confidential Information and non-confidential information, only the Confidential Information and Highly Confidential Information may be redacted and the page of the unredacted filing shall clearly distinguish among the Confidential Information, the Highly Confidential Information, and the non-confidential information. In addition, copies of each Stamped Confidential Document and Stamped Highly Confidential Document and the accompanying cover letter shall be delivered, as directed by Commission staff, to Randy Sifers, Randall.Sifers@fcc.gov, Wireline Competition Bureau, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554.

6. *Copying Sensitive Documents*. If, in the reasonable judgment of the Submitting Party, a Stamped Highly Confidential Document contains information so sensitive that copying of it should be restricted, the Submitting Party may mark the document with the legend "Additional Copying Restricted." Subject to the provisions for access to information in electronic format in paragraph 10, each Outside Firm shall receive only one copy of the document and no more than two additional copies, in any form, shall be made. Application for relief from this restriction against further copying may be made to the Commission, with notice to Counsel of Record for the Submitting Party, which will be granted only for cause.

7. *Procedure for Obtaining Access to Confidential Information and Highly Confidential Information.* Access to Highly Confidential Information (including Stamped Highly Confidential Documents) is limited to Outside Counsel of Record, Outside Consultants, their employees and employees of their Outside Firms, and Support Personnel. Any person other than Support Personnel seeking access to Confidential Information or Highly Confidential Information subject to this Protective Order shall sign and date the Acknowledgment agreeing to be bound by the terms and conditions of this Protective Order, and file the Acknowledgment with the Commission. A copy of the Acknowledgment also shall be delivered to the relevant Submitting Party through its Counsel of Record and any known Third-Party Interest Holders through counsel so that it is received at least five business days prior to such person's reviewing or having access to the Submitting Party's Confidential Information or Highly Confidential Information. Where there are multiple Submitting Parties or Third-Party Interest Holders, a copy of the Acknowledgment must be served on each within the time period stated above.

[6] If a party is not able to submit a copy of the Redacted Confidential Document or Redacted Highly Confidential Document via ECFS, it must file two copies of the Redacted Confidential Document or Redacted Highly Confidential Document with the Secretary's Office along with the appropriately stamped cover letter.

8. *Procedure for Objecting to the Disclosure of Confidential Information and Highly Confidential Information to a Potential Reviewing Party.*[7] Each Submitting Party and Third-Party Interest Holder shall have an opportunity to object to the disclosure of its Confidential Information or Highly Confidential Information to a person seeking to review that information pursuant to this Protective Order. A Submitting Party or Third-Party Interest Holder must file any such objection at the Commission and serve it on counsel for the person seeking access within three business days after receiving a copy of that person's Acknowledgment. Persons filing Acknowledgments shall not have access to Confidential Information or Highly Confidential Information before the period for filing objections has passed, unless both the Submitting Party and any known Third-Party Interest Holders waive this requirement. If a Submitting Party files additional documents containing Confidential Information or Highly Confidential Information, the Submitting Party shall notify any known Third-Party Interest Holders who have a confidentiality interest in the information before filing the additional documents. The Submitting Party shall file any objection to the disclosure of that additional Confidential Information or Highly Confidential Information to any Reviewing Party before or contemporaneous with the filing, and any Third-Party Interest Holder shall file any such objection as promptly as practicable. Until any timely objection is resolved by the Commission in favor of the person seeking access and, if a motion for a judicial stay is timely filed, until such a motion is acted upon, a person subject to an objection shall not have access to the relevant Confidential Information or Highly Confidential Information.[8] If an objection is not timely filed with the Commission, the Commission will nonetheless consider the objection and retains its discretion to prohibit further access to Confidential Information or Highly Confidential Information by the Reviewing Party until the objection is resolved.

9. *Review of Stamped Confidential Documents and Stamped Highly Confidential Documents.* A Submitting Party shall make available for review the Stamped Confidential Documents and Stamped Highly Confidential Documents of such party at the offices of the party's Outside Counsel of Record. Subject to the provisions of paragraph 6, a Reviewing Party shall be provided the following alternatives: (1) a Reviewing Party shall be provided adequate opportunity to inspect the documents on site; (2) a Reviewing Party may inspect the documents on site with the ability to request copies, at cost, of some or all of the documents; or (3) a Reviewing Party may request a complete set of the documents at cost, allowing two business days after the request is made for receipt of the copies. If a Reviewing Party plans on requesting a complete set of documents, it is encouraged to make such a request at the time it submits the Acknowledgment to allow it the opportunity to begin reviewing the documents at the end of the five-day period referred to in paragraph 7. All copies of documents that are removed from the Submitting Party's office must be returned or destroyed in accordance with the terms of paragraph 21.

10. *Review of Highly Confidential Information in Electronic Format.* A Submitting Party shall make available to a Reviewing Party one copy of Highly Confidential Information contained, recorded, or electronically stored on an appropriate electronic storage device (such as a CD-ROM, DVD, flash drive or portable hard drive), which shall be considered a Stamped Highly Confidential Document. A Submitting may, but is not required to, transmit the information electronically to a Reviewing Party. A Reviewing Party may temporarily load onto a computer the information in electronic format. Once

[7] This paragraph describes the procedure for objecting to a specific individual being permitted to review Confidential and Highly Confidential Information pursuant to this Protective Order. If a party timely requests that certain information be entirely withheld from review by *any* individual under the Protective Order, we will not require that the information at issue be disclosed under the Protective Order until the Commission resolves the objection, and if a timely motion for judicial stay is filed, until the court rules upon the stay motion.

[8] An objection ordinarily will first be ruled upon by the Bureau. If the Bureau rejects the objection, the objecting party will be provided 10 business days to file an Application for Review with the Commission; if an Application for Review is not filed within that time, the Confidential or Highly Confidential Information shall be made available to the Reviewing Party. If an Application for Review is timely filed and is denied by the Commission, the objecting party will be provided 10 business days to seek a judicial stay of the Commission's Order; if a motion for stay is not filed within that time, the Confidential or Highly Confidential Information shall be made available to the Reviewing Party.

loaded onto a computer, any files containing Highly Confidential Information shall be password protected immediately. The Highly Confidential Information may be stored on a computer for the duration of the proceeding. All files containing Highly Confidential Information shall be deleted from the computer no later than when proceedings at the Commission are complete. The original disk or other storage medium shall be stored securely and a record kept of any persons given access to it.

11. *Use of Confidential and Highly Confidential Information*. Persons obtaining access to Confidential and Highly Confidential Information under this Protective Order shall use the information solely for the preparation and conduct of this proceeding before the Commission and any subsequent judicial proceeding arising directly from this proceeding and, except as provided herein, shall not use such documents or information for any other purpose, including without limitation business, governmental, or commercial purposes, or in any other administrative, regulatory, or judicial proceedings. Should the Commission reveal any Confidential or Highly Confidential Information in its orders in this proceeding, it will do so either by redacting any such Confidential or Highly Confidential Information from the public version of the order and by making the unredacted version of the order available only to a court and to those persons entitled to access to Confidential or Highly Confidential Information under this Protective Order, as appropriate, or as otherwise permitted by law.

12. *Permissible Disclosure*. A Reviewing Party may discuss and share the contents of Confidential Information and Highly Confidential Information with another Reviewing Party, with Support Personnel, as appropriate, and with the Commission and its staff. A Submitting Party's Confidential Information and Highly Confidential Information may be disclosed to employees and Counsel of the Submitting Party, and a Third-Party Interest Holder's Confidential Information and Highly Confidential Information may be disclosed to employees and Counsel of the Third-Party Interest Holder. Information derived from Confidential Information or Highly Confidential Information shall be treated as Confidential Information or Highly Confidential Information, respectively, unless the Commission determines otherwise.

13. *Filings with the Commission*. A party making a filing in this proceeding that contains Confidential or Highly Confidential Information shall submit to the Secretary's Office one copy of the filing containing the Confidential or Highly Confidential Information (the "Confidential Filing") and an accompanying cover letter. The cover or first page of the Confidential Filing and each page of the Confidential Filing that contains or discloses only Confidential Information shall be clearly marked "CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 25-233 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION." The cover or first page of the Confidential Filing and each page of the Confidential Filing that contains or discloses Highly Confidential Information shall be clearly marked "HIGHLY CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 25-233 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION." The accompanying cover letter shall also contain the appropriate legend. The Confidential Filing shall be made under seal and will not be placed in the Commission's public file. The party shall submit a copy of the filing in redacted form, i.e., containing no Confidential or Highly Confidential Information (the "Redacted Confidential Filing"), to the Commission via ECFS.[9] The Redacted Confidential Filing and the accompanying cover letter shall be stamped "REDACTED – FOR PUBLIC INSPECTION." The cover letter accompanying the Redacted Confidential Filing shall state that the party is filing a redacted version of the filing. Each Redacted Confidential Filing shall have the same pagination as the Confidential Filing from which it is derived. To the extent that any page of the Confidential Filing contains any Confidential Information or Highly Confidential Information, only the Confidential Information or Highly Confidential Information may be redacted and the page of the unredacted Confidential Filing shall clearly distinguish among the Confidential Information, the Highly Confidential Information and the non-confidential information.

[9] If a party is not able to submit a copy of the Redacted Confidential Filing via ECFS, it must file two copies of the Redacted Confidential Filing with the Secretary's Office along with the appropriately stamped cover letter, as described in this paragraph.

Copies of each Confidential Filing and the accompanying cover letter must be delivered, as directed by Commission staff, to Emily Caditz, Emily.Caditz@fcc.gov, Wireline Competition Bureau, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554. Parties should not provide courtesy copies of pleadings containing Highly Confidential Information to Commission staff unless the Bureau so requests, and any such courtesy copies shall be submitted under seal.

14. *Non-Disclosure of Confidential Information, and Highly Confidential Information.* Except with the prior written consent of the Submitting Party or as provided under this Protective Order, Confidential Information and Highly Confidential Information shall not be disclosed further.

15. *Protection of Stamped Confidential Documents, Stamped Highly Confidential Documents, Confidential Information, and Highly Confidential Information.* A Reviewing Party shall have the obligation to ensure that access to Confidential Information and Highly Confidential Information (including Stamped Confidential Documents and Stamped Highly Confidential Documents) is strictly limited as prescribed in this Protective Order. A Reviewing Party shall have the further obligation to ensure that Confidential Information and Highly Confidential Information are used only as provided in this Protective Order.

16. *Requests for Additional Disclosure*. If any person requests disclosure of Confidential or Highly Confidential Information outside the terms of this Protective Order, such a request will be treated in accordance with Sections 0.442 and 0.461 of the Commission's rules.[10]

17. *Client Consultation*. Nothing in this Protective Order shall prevent or otherwise restrict Counsel from rendering advice to their clients relating to the conduct of this proceeding and any subsequent judicial proceeding arising therefrom and, in the course thereof, relying generally on examination of Confidential Information or Highly Confidential Information to which they have access under this Protective Order; *provided, however*, that in rendering such advice and otherwise communicating with such clients, Counsel shall not disclose Confidential Information or Highly Confidential Information.

18. *No Waiver of Confidentiality*. Disclosure of Confidential or Highly Confidential Information as provided herein by any person shall not be deemed a waiver by any Submitting Party of any privilege or entitlement to confidential treatment of such Confidential or Highly Confidential Information. Reviewing Parties, by viewing this material, agree: (1) not to assert any such waiver; (2) not to use Confidential or Highly Confidential Information to seek disclosure in any other proceeding; and (3) that accidental disclosure of Confidential or Highly Confidential Information by a Submitting Party to a Reviewing Party shall not be deemed a waiver of any privilege or entitlement provided that the Submitting Party takes prompt remedial action.

19. *Subpoena by Courts, Departments, or Agencies*. If a court, or a federal or state department or agency, issues a subpoena for or orders the production of Stamped Confidential Documents, Stamped Highly Confidential Documents, Confidential Information, or Highly Confidential Information that a party has obtained under the terms of this Protective Order, such party shall promptly notify each relevant Submitting Party and each known Third-Party Interest Holder of the pendency of such subpoena or order. Consistent with the independent authority of any court, department, or agency, such notification must be accomplished such that each Submitting Party and Third-Party Interest Holder has sufficient opportunity to oppose such production prior to the production or disclosure of any Stamped Confidential Document, Stamped Highly Confidential Document, Confidential Information, or Highly Confidential Information.

20. *Violations of the Protective Order.* Should a Reviewing Party violate any of the terms of this Protective Order, such Reviewing Party shall immediately convey that fact to the Commission and to the relevant Submitting Parties and known Third-Party Interest Holders. Further, should such violation consist of improper disclosure of Confidential or Highly Confidential Information, the violating person

[10] 47 CFR §§ 0.442, 0.461.

shall take all necessary steps to remedy the improper disclosure. The Commission retains its full authority to fashion appropriate sanctions for violations of this Protective Order, including but not limited to suspension or disbarment of Counsel or Consultants from practice before the Commission, forfeitures, cease and desist orders, and denial of further access to Confidential or Highly Confidential Information in this or any other Commission proceeding. Nothing in this Protective Order shall limit any other rights and remedies available to the Submitting Party or any Third-Party Interest Holder at law or in equity against any person using Confidential or Highly Confidential Information in a manner not authorized by this Protective Order.

21. *Termination of Proceeding*. The provisions of this Protective Order shall not terminate at the conclusion of this proceeding. Within two weeks after conclusion of this proceeding and any administrative or judicial review, Reviewing Parties shall destroy or return to the Submitting Party Stamped Confidential Documents and Stamped Highly Confidential Documents and all copies of the same. No material whatsoever containing or derived from Confidential and Highly Confidential Information may be retained by any person having access thereto, except Outside Counsel and Outside Consultants may retain, under the continuing strictures of this Protective Order, two copies of pleadings (one of which may be in electronic format) prepared in whole or in part by that party that contain Confidential or Highly Confidential Information, and one copy of orders issued by the Commission or Bureau that contain Confidential or Highly Confidential Information. All Reviewing Parties shall certify compliance with these terms and shall deliver such certification to Counsel for the Submitting Party and file such certification with the Commission not more than three weeks after conclusion of this proceeding. Such certification shall be made pursuant to 28 U.S.C. § 1746 and is subject to 18 U.S.C. § 1001. The provisions of this paragraph regarding retention of Stamped Confidential Documents and Stamped Highly Confidential Documents and copies of the same and Confidential and Highly Confidential Information shall not be construed to apply to the Commission or its staff.

22. *Questions*. Questions concerning this Protective Order should be addressed to Randy Sifers, Randall.Sifers@fcc.gov, (202) 418-2325, Wireline Competition Bureau, Federal Communications Commission, or to Joel Rabinovitz, Joel.Rabinovitz@fcc.gov, (202) 418-0689, Transaction Team, Office of General Counsel.

23. *Authority*. This Order is issued pursuant to Sections 4(j), 214 and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(j), 214 and 310(d), and authority delegated under Sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and is effective upon its adoption.

FEDERAL COMMUNICATIONS COMMISSION

Joseph S. Calascione
Chief, Wireline Competition Bureau

APPENDIX A

Highly Confidential Information and Documents

As specified in paragraphs 2 and 3 of the Protective Order, only information and documents set forth in this Appendix and that otherwise meet the definition of Highly Confidential Information or Stamped Highly Confidential Documents may be designated as Highly Confidential. This Appendix will be updated as necessary.

1. Information that details the terms and conditions of or strategy related to a Submitting Party's most sensitive business negotiations or contracts (e.g., marketing, service or product agreements, agreements relating to potential mergers and acquisitions, and comparably sensitive contracts).
2. Information that discusses specific steps that will be taken to integrate companies or discussions of specific detail or disaggregated quantification of merger integration benefits or efficiencies (including costs, benefits, timeline, and risks of the integration).
3. Information that discusses in detail current or future plans to compete for a customer or specific groups or types of customers (e.g., business or wholesale customers), including specific pricing or contract proposals, pricing strategies, product strategies, advertising or marketing strategies, future business plans, procurement strategies, technology implementation or deployment plans and strategies (e.g., engineering capacity planning documents), plans for handling acquired customers, and human resources and staffing strategies.
4. Information that discloses the identity or characteristics of specific customers or of those a company is targeting or with whom a company is negotiating (including identifying information about specific customer facilities, information about customers' levels of demand, and information regarding pricing proposals).
5. Information that provides granular information about a Submitting Party's current or future costs, revenues, marginal revenues, market share, or customers.
6. Detailed information describing or illustrating how a Submitting Party analyzes its competitors, including sources and methods used in these analyses, any limits on use of these analyses or data, and how such analyses or data are used.
7. Information that provides numbers of customers and revenues broken down by customer type (e.g., business) and zip code or market area (e.g., CMA/MSA/RSA, DMA, state, regional cluster).
8. Information that discusses in detail the number or anticipated changes in the number of customers or amount of traffic, including churn rate data, broken down by zip code or market, and detailed information about why customers discontinue service.
9. Information that provides detailed or granular engineering capacity information or information about specific facilities, including collocation sites, cell sites, or maps of network facilities.
10. Information that provides detailed technical performance data and test results.

APPENDIX B

Acknowledgment of Confidentiality

WC Docket No. 25-233

I am seeking access to [ ] only Confidential Information or [ ] Confidential and Highly Confidential Information.

I hereby acknowledge that I have received and read a copy of the foregoing Protective Order in the above-captioned proceeding, and I understand it.

I agree that I am bound by the Protective Order and that I shall not disclose or use Stamped Confidential Documents, Stamped Highly Confidential Documents, Confidential Information, or Highly Confidential Information except as allowed by the Protective Order.

I acknowledge that a violation of the Protective Order is a violation of an order of the Federal Communications Commission (Commission). I further acknowledge that the Commission retains its full authority to fashion appropriate sanctions for violations of this Protective Order, including but not limited to suspension or disbarment of Counsel or Consultants from practice before the Commission, forfeitures, cease and desist orders, and denial of further access to Confidential or Highly Confidential Information in this or any other Commission proceeding.

I acknowledge that nothing in the Protective Order limits any other rights and remedies available to a Submitting Party at law or in equity against me if I use Confidential or Highly Confidential Information in a manner not authorized by this Protective Order.

I certify that I am not involved in Competitive Decision-Making.

Without limiting the foregoing, to the extent that I have any employment, affiliation, or role with any person or entity other than a conventional private law firm (such as, but not limited to, a lobbying or advocacy organization), I acknowledge specifically that my access to any information obtained as a result of the Protective Order is due solely to my capacity as Counsel or Outside Consultant to a party or as an employee of Counsel, Outside Consultant, or Outside Firm, and I agree that I will not use such information in any other capacity.

I acknowledge that it is my obligation to ensure that Stamped Confidential Documents and Stamped Highly Confidential Documents are not duplicated except as specifically permitted by the terms of the Protective Order and to ensure that there is no disclosure of Confidential Information or Highly Confidential Information in my possession, in the possession of those who work for me, or in the possession of other Support Personnel, except as provided in the Protective Order.

I certify that I have verified that there are in place procedures at my firm or office to prevent unauthorized disclosure of Confidential Information and Highly Confidential Information.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Protective Order.

Executed this ___ day of _____, 20__.

_____

[Name]
[Position]
[Firm]
[Telephone]

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-639
Released: July 17, 2025

WIRELINE COMPETITION BUREAU ANNOUNCES THE PROPOSED NORTH AMERICAN NUMBERING PLAN ADMINISTRATION FUND SIZE ESTIMATE AND CONTRIBUTION FACTOR FOR OCTOBER 2025 THROUGH SEPTEMBER 2026

CC Docket No. 92-237

In this Public Notice, the Wireline Competition Bureau announces the proposed North American Numbering Plan (NANP) administration fund size estimate and contribution factor for the fiscal year October 1, 2025 through September 30, 2026 (Fiscal Year 2026). Proper funding of NANP administration ensures that consumers will continue to have access to the numbering resources essential to the provision of new services and technologies.

A. Calculating the NANP Administration Fund Size Estimate and Contribution Factor

Pursuant to its contract with the Commission and section 52.16(a) of the Commission's rules, the NANP Billing and Collection Agent, Welch LLP (the B&C Agent), is responsible for calculating, assessing, billing, and collecting payments for numbering administration functions, and for distributing funds to the entities that support these functions (for example, the North American Numbering Plan Administrator (NANPA)).[1] Consistent with this function, the B&C Agent annually develops the projected numbering administration costs and fund size estimate for the upcoming fiscal year.

The B&C Agent allocates a portion of the funding requirement to all NANP member countries[2] for overall administration of the NANP, and also accounts for additional numbering administration services provided by the NANPA to certain member countries, such as the United States,[3] and recovers the costs for such additional services from those countries.

For the funding required from the United States, section 52.17 of the Commission's rules requires that all telecommunications carriers in the United States contribute on a competitively neutral basis to pay

[1] 47 CFR § 52.16(a).

[2] The NANP member countries are Anguilla, Antigua and Barbuda, Bahamas, Barbados, Bermuda, British Virgin Islands, Canada, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, Sint Maarten, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and the United States (including American Samoa, Puerto Rico, U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands). 47 CFR § 52.5(d).

[3] For the United States, such additional services include administration of central office codes, thousands-block number pooling, and routing numbers (pseudo-Automatic Numbering Identification numbers). *See* 47 CFR §§ 52.15, 52.20.

such costs,[4] and the B&C Agent collects such payments directly from U.S. carriers.[5] Each year the B&C Agent develops a contribution factor for U.S. telecommunications carriers designed to collect the projected United States contribution for the upcoming fiscal year. The Commission's rules provide that contributions shall be the product of the carriers' end-user telecommunications revenues for the prior calendar year and the contribution factor, and such contributions shall be no less than $25.[6]

B. Billing and Collection Agent Projection of the Fund Size Estimate and Contribution Factor

1. On June 26, 2025, the B&C Agent filed a fund size estimate and contribution factor for recovering the total cost of NANP Administration for Fiscal Year 2026, in accordance with section 52.16(a) of the Commission's rules.[7] The B&C Agent proposes a funding requirement of $9,138,106 for Fiscal Year 2026, consisting of a contribution from U.S. carriers totaling $7,719,853, a contribution from Canada of $157,266, contributions from the other member countries totaling $30,527, and application of a $1,230,460 accumulated surplus anticipated from last year.[8] This contribution requirement results in a contribution factor of 0.0001091 for the collection from U.S. carriers.[9] As detailed in the Filing, the proposed contribution factor is higher than the contribution factor for the prior fiscal year (0.0000896) due to higher costs, an increase in the contingency allowance, a lower projected revenue contribution base, and a lower surplus carried over from the prior year.[10] This year's contingency allowance is $1,250,000, an increase from the $1,000,000 contingency amount last year.[11] Additional detail about the factors considered by the B&C Agent in establishing the fund size estimate, contribution factor, and contingency allowance may be found in the B&C Agent's monthly fund reports.[12]

C. Effective Date of the Fund Size Estimate and Contribution Factor

If the Commission takes no action regarding the proposed fund size estimate and contribution factor within the 14-day period following release of this Public Notice, the fund size estimate and the contribution factor are considered approved by the Commission and become effective for Fiscal Year 2026.[13]

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[4] 47 CFR § 52.17. For purposes of this rule, the term "telecommunications carrier" or "carrier" includes interconnected Voice over Internet Protocol (VoIP) providers as that term is defined in section 52.5(b) of the Commission's rules. 47 CFR § 52.5(b), (i).

[5] 47 CFR §§ 52.16(a), 52.17.

[6] 47 CFR § 52.17(a).

[7] Letter from Mark Jackson, Partner, Welch LLP, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 92-237 (filed June 26, 2025) (Filing).

[8] Filing at 4-5.

[9] *Id.* at 4.

[10] *Id*.

[11] *Compare id.* with Letter from Mark Jackson, Partner, Welch LLP, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 92-237, WC Docket No. 23-1, at 4 (filed June 27, 2024).

[12] *See* North American Numbering Plan Fund, Monthly Fund Reports, https://nanpfund.com/monthly-fund-reports/ (last visited July 11, 2025).

[13] *See, e.g.*, *Wireline Competition Bureau Announces the Proposed North American Numbering Plan Administration Fund Size Estimate and Contribution Factor for October 2024 Through September 2025*, CC Docket No. 92-237, Public Notice, 3 9 FCC Rcd 9675, 9676 (WCB 2024); *Wireline Competition Bureau Announces the Proposed North American Numbering Plan Administration Fund Size Estimate and Contribution Factor for October 2023 Through September 2024*, CC Docket No. 92-237, Public Notice, 38 FCC Rcd 7271, 7272 (WCB 2023).

For further information, contact William Andrle, Competition Policy Division, Wireline Competition Bureau at william.andrle@fcc.gov.

-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 Number: 25-640
Report No. SAT-01935 **Friday July 18, 2025**

Satellite Licensing Division and Satellite Programs and Policy Division Information

RE: Actions Taken

The Commission, by its Space Bureau, took the following actions pursuant to delegated authority. The effective date of these actions is the release date of this Notice, except where an effective date is specified.

SAT-STA-20250609-00141 S2423 Intelsat License LLC
Date filed: 2025-06-09
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-11

SAT-STA-20250701-00128 S2408 Intelsat License LLC
Date filed: 2025-07-01
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-15

Granted, With Conditions

SAT-STA-20250630-00124 S2972 Intelsat License LLC
Date filed: 2025-07-01
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-11

Granted, With Conditions

SAT-STA-20250630-00126 S3087 Lynk Global, Inc.
Date filed: 2025-07-02
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-17

SAT-MOD-20250109-00007 S2423 Intelsat License LLC
Date filed: 2025-01-09
Modification
Grant of Authority Date of Action: 2025-07-11

Granted, With Conditions

SAT-MPL-20230630-00157 S2963 WorldVu Satellites Limited
Date filed: 2023-06-30
Modification to PDR/PPL
Grant of Authority Date of Action: 2025-03-14

SAT-STA-20250701-00130 S3069/2992 Space Exploration Holdings, LLC
Date filed: 2025-07-01
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-17

Granted, With Conditions

SAT-STA-20250424-00107 S2617 XM Radio LLC
Date filed: 2025-04-24
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-16

Granted, With Conditions

SAT-STA-20250411-00099 S2617 XM Radio LLC
Date filed: 2025-04-11
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-17

Granted, With Conditions

SAT-MOD-20250430-00114 S2935 O3b Limited
Date filed: 2025-04-30
Modification
Grant of Authority Date of Action: 2025-07-17

SAT-APL-20240220-00036 S2963 WorldVu Satellites Limited
Date filed: 2024-02-20
Amendment to PDR/PPL
Grant of Authority Date of Action: 2025-03-14

SAT-STA-20250610-00142 S3087 Lynk Global, Inc.
Date filed: 2025-06-10
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-17

Granted, With Conditions

For more information concerning this Notice, contact the Satellite Licensing Division and Satellite Programs and Policy Division at (202) 418-0719.

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

In the Matter of	)	
	)	
Mercury Broadcasting Company, Inc., Licensee of	)	FRN: 0004995882
Full Power Television Station KMTW, Hutchinson,	)	Facility ID No. 77063
Kansas	)	LMS File No. 0000183206
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

ORDER

Adopted: July 22, 2025 **Released: July 22, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Mercury Broadcasting Company, Inc. (Licensee), the licensee of full power broadcast television station KMTW, Hutchinson, Kansas (Station). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensee's compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2] We find that through adoption of this Consent Decree, grant of the above-captioned application for renewal of license (Renewal Application) is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensee agrees, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[3] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Station and described in paragraph 1,[4] and granting the Renewal Application.[5] The Bureau finds that the Station has served the public interest, convenience, and necessity during the subject license term and that grant of the Renewal Application is

[1] The only station licensed to Mercury Broadcasting Company, Inc. that is subject to the above-captioned forfeiture proceeding is KMTW, Hutchinson, Kansas. The Commission also found that multiple other stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.1; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] 47 CFR §§ 73.670(a).

[4] *See also* Consent Decree at paras. 4-5.

[5] 47 CFR §§ 73.670(a).

warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[6] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to hold or remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[7] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[8] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to full power television station KMTW, Hutchinson, Kansas, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[9] the application for renewal of license for full power television station KMTW, Hutchinson, Kansas (LMS File No. 0000183206) **IS GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to Mercury Broadcasting Company, Inc., 4040 Broadway Suite 518, San Antonio, TX 78209 and by e-mail to chiparcher@att.net. A copy shall also be sent to counsel for the licensee at Daniel Kirkpatrick, Esq., Baker & Hostetler LLP, 1050 Connecticut Avenue, NW, Suite 1100, Washington D.C. 20036 and by e-mail to dkirkpatrick@bakerlaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[6] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[7] 47 U.S.C. § 154(i).

[8] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[9] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
Mercury Broadcasting Company, Inc., Licensee of	)	FRN: 0004995882
Full Power Television Station KMTW, Hutchinson,	)	Facility ID No. 77063
Kansas	)	LMS File No. 0000183206
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and Mercury Broadcasting Company, Inc. (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending Renewal Application (as defined below) involving full-power television station KMTW, Hutchinson, Kansas (hereafter Station, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Station and the Licensee's compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2]

2. To resolve these matters, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.670(a) of the Rules.[3] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order* in accordance with the terms herein, and grant the Renewal Application in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq*.

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

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

[1] The only station licensed to the Mercury Broadcasting Company, Inc. that is subject to the above-captioned forfeiture proceeding is KMTW, Hutchinson, Kansas. The Commission also found that multiple other stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.1; *infra* note 11; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. § 303a(b).

[3] *Id.*

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification" means the records placed in a station's OPIF, as required by 47 CFR § 73.3526(e)(11)(ii), sufficient to permit substantiation of the station's certification in its license renewal application of compliance with 47 CFR § 73.670.

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the Licensee receives, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensee, or the Station concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensee to 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, as described in paragraph 15.

(l) "Compliance Plan" means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Station who materially participate in scheduling Programming and monitoring such programing to ensure it is broadcast, each of which is a "Covered Employee."

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensee's compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensee" means Mercury Broadcasting Company, Inc., the licensee of full power broadcast television station KMTW, Hutchinson, Kansas (Facility ID No. 77063), as

well as its parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest.

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of KMTW to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Application" means the application for renewal of license of KMTW, Hutchinson, Kansas (Facility ID No. 77063), LMS File No. 0000183206, as amended.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Station" or "KMTW" means KMTW, Hutchinson, Kansas (Facility ID No. 77063).

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during Children's Programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[4] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[5] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF an annual Commercial Limits Certification.[6] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[7]

[4] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[5] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[6] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

[7] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

5. Between November 10, 2018, and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired by the Station on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[8] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[9] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[10] The Commission subsequently released the *NAL* finding that the Station was apparently liable for forfeiture in the amount of $20,000 in total, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[11] On October 7, 2024, the Licensee and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensee have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order*, and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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

11. **Admission of Facts**. The Licensee 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. In express reliance on the covenants and representations in this Consent Decree and to avoid further

[8] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[9] The "KidsClick" program block contained animated and short form programming targeted at children viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[10] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[11] The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations, violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only the Station is subject to the actions that we undertake herein. The Bureau will address all non-Licensee stations subject to the forfeiture proceeding by separate action. *See* Adopting Order at n.1; *supra* note 1.

expenditure of public resources, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order*, and to take the action specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensee concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensee in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding (formal or informal) to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.[12]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission 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 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 Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Application**. In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Application for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. 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 Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws and this Consent Decree, prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station and shall contain, at a minimum, the following elements:

[12] *See* 47 CFR § 1.93(b).

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensee shall develop and distribute a "Compliance Manual" to all Covered Employees. The Compliance Officer shall distribute a Compliance Manual that it has personally prepared or one that has been prepared by the Licensee's in-house legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Station's compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensee will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensee shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Station in coordination with the Compliance Officer. The Licensee shall maintain on the Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted to VideoCompliance@fcc.gov.

The Licensee must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 17.[13]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensee agrees to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Station within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grant of the Renewal Application. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensee understands that it is fully responsible for the programming that it transmits over the Station, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve a licensee from its obligations and noncompliance can independently subject the Licensee to enforcement action.

22. **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 any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, 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*

[13] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

novo. The Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act[14] 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 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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Station, as applicable, unless otherwise agreed to by the Commission.

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 each Party.

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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

Mercury Broadcasting Company, Inc.

By:

_____
Van H. Archer, III
President

_____
Date

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-642
Released: July 18, 2025

WIRELINE COMPETITION BUREAU OPENS GN DOCKET NO. 25-223

GN Docket No. 25-223

By this Public Notice, the Wireline Competition Bureau opens GN Docket No. 25-223, which is captioned "Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion."

Presentations are subject to "permit-but-disclose" *ex parte* rules. *See* 47 CFR §§ 1.1206, 1.1200(a). Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

Accessibility Information. 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.

Action by Chief, Wireline Competition Bureau.

– FCC –

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

In the Matter of	)	
	)	
MPS Media of Tennessee License, LLC, Licensee	)	FRN: 0017130642
of Full Power Television Station WFLI-TV,	)	Facility ID No. 72060
Cleveland, Tennessee	)	LMS File No. 0000142526
	)	
MPS Media of Tallahassee License, LLC, Licensee	)	FRN: 0015431570
of Full Power Television Station WTLF,	)	Facility ID No. 82735
Tallahassee, Florida	)	LMS File No. 0000123433
	)	
	)	Cunningham Broadcasting Corp., et al.,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

ORDER

Adopted: July 22, 2025 **Released: July 22, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and both MPS Media of Tennessee License, LLC and MPS Media of Tallahassee License, LLC (Licensees), the licensees of full power broadcast television stations WFLI-TV, Cleveland, Tennessee, and WTFL, Tallahassee, Florida, respectively (Stations). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensees' compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2] We find that through adoption of this Consent Decree, grant of the above-captioned applications for renewal of license (Renewal Applications) is in the public interest.

2. The Bureau and the Licensees have negotiated the terms of the attached Consent Decree in which the Licensees agree, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[3] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Stations and described in paragraph 1,[4] and

[1] All the stations licensed to MPS Media of Tennessee License, LLC and MPS Media of Tallahassee License, LLC, that are subject to the above-captioned forfeiture proceeding are listed in the caption. The Commission also found that multiple other third-party stations not licensed to the above-captioned licensees violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.1; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] 47 CFR §§ 73.670(a).

[4] *See also* Consent Decree at paras. 4-5.

granting the Renewal Applications.[5] The Bureau finds that the Stations have served the public interest, convenience, and necessity during the subject license terms and that grant of the Renewal Applications is warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[6] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensees possess the basic qualifications to hold or remain Commission licensees.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[7] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[8] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to full power television stations WFLI-TV, Cleveland, Tennessee, and WTLF, Tallahassee, Florida, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[9] the applications for renewal of license for full power television stations WFLI-TV, Cleveland, Tennessee, and WTLF, Tallahassee, Florida (LMS File Nos. 0000142526 and 0000123433, respectively) **ARE GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to MPS Media of Tennessee License, LLC and MPS Media of Tallahassee License, LLC, 1575 Wyoming Avenue, Forty Fort, PA 18704 and by e-mail to genebrownsc@gmail.com. A copy shall also be sent to counsel for the licensees at Daniel Kirkpatrick, Esq., Baker & Hostetler LLP, 1050 Connecticut Avenue, NW, Suite 1100, Washington D.C. 20036 and by e-mail to dkirkpatrick@bakerlaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[5] 47 CFR §§ 73.670(a).

[6] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[7] 47 U.S.C. § 154(i).

[8] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[9] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
MPS Media of Tennessee License, LLC, Licensee of Full Power Television Station WFLI-TV, Cleveland, Tennessee	)	FRN: 0017130642
	)	Facility ID No. 72060
	)	LMS File No. 0000142526
	)	
MPS Media of Tallahassee License, LLC, Licensee of Full Power Television Station WTLF, Tallahassee, Florida	)	FRN: 0015431570
	)	Facility ID No. 82735
	)	LMS File No. 0000123433
	)	
	)	Cunningham Broadcasting Corp., et al.,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and both MPS Media of Tennessee License, LLC and MPS Media of Tallahassee License, LLC (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending Renewal Applications (as defined below) of the full power television stations listed in the Appendix (hereafter Stations, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Stations and the Licensees' compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2]

2. To resolve these matters, the Licensees agree to implement a comprehensive Compliance Plan to ensure their future compliance with section 73.670(a) of the Rules.[3] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order* in accordance with the terms herein, and grant the Renewal Applications in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq*.

[1] All the stations licensed to MPS Media of Tennessee License, LLC and MPS Media of Tallahassee License, LLC, that are subject to the above-captioned forfeiture proceeding are listed in the caption. The Commission also found that multiple other third-party stations not licensed to the above-captioned licensees violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.1; *infra* note 11; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the *NAL* and *Forfeiture Order* with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. § 303a(b).

[3] *Id.*

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

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

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification" means the records placed in a station's OPIF, as required by 47 CFR § 73.3526(e)(11)(ii), sufficient to permit substantiation of the station's certification in its license renewal application of compliance with 47 CFR § 73.670.

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensees are subject by virtue of their being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the Licensees receive, whether written or oral, resulting from a person or entity contacting either the Commission, either or both of the Licensees, or the Stations concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensees to be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensees comply with the terms and conditions of the Compliance Plan and this Consent Decree, as described in paragraph 15.

(l) "Compliance Plan" means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Stations who materially participate in scheduling Programming and monitoring such programing to ensure it is broadcast, each of which is a "Covered Employee."

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensees' compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensees" or "MPS" means MPS Media of Tennessee License, LLC and MPS Media of Tallahassee License, LLC, the licensees of the broadcast television stations listed in the Appendix, as well as their parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest, each of which is a "Licensee."

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of the Stations to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Application" means the applications for renewal of license listed in the Appendix.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Stations" means the broadcast television stations listed in the Appendix, except as otherwise provided, each of which is a "Station."

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during Children's Programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[4] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[5] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF an annual Commercial Limits Certification.[6] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it

[4] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[5] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[6] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[7]

5. Between November 10, 2018, and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired by the Stations on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[8] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[9] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[10] The Commission subsequently released the *NAL* finding that each Station was apparently liable for forfeiture in the amount of $20,000, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[11] On October 7, 2024, the Licensees and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration asking the Commission to vacate or rescind the *Forfeiture Order*, and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensees have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Application. In consideration, the Licensees agree to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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 Licensees agree that the Bureau has jurisdiction over them 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. **Violations**. The Parties agree that any violation of the Adopting Order or the terms of this Consent Decree, in whole or in part, by the Licensees shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. **Admission of Facts**. The Licensees admit for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 12 herein,

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[7] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

[8] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[9] The "KidsClick" program block contained animated and short form programming targeted at children viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[10] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[11] The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only the Stations are subject to the actions that we undertake herein. The Bureau will address all non-Licensee stations subject to the forfeiture proceeding by separate action. *See* Adopting Ordre at n.1; *supra* note 1.

that paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensees make no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL* and *Forfeiture Order*, and to take the action specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensees agree to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensees concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensees in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding (formal or informal) to set for hearing the question of the Licensees' basic qualifications to be Commission licensees or to hold Commission licenses or authorizations.[12]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Licensees with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against the Licensees 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 Licensees acknowledge that the Commission retains the discretion and authority to propose sanctions against the Licensees, including the issuance of notices of apparent liability for forfeiture, for any apparent willful and/or repeated violation by the Licensees of the Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Applications**. In the Adopting Order, the Bureau has determined that grant of the Renewal Applications is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Applications for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensees shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. 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 Licensees' Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws and this Consent Decree prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date.

[12] *See* 47 CFR § 1.93(b).

The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensees agree that they shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Stations in the Appendix and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensees 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 the Licensees' in-house legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Stations' compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that each Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensees' legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensees will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensees' legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensees shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Stations in coordination with the Compliance Officer. The Licensees shall maintain on each Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensees shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this

Consent Decree within ten (10) business 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 relevant Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the relevant Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted by e-mail to VideoCompliance@fcc.gov. The Licensees must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensees are subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensees shall place in each Station's OPIF that is subject to the Compliance Plan, a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in each Station's OPIF until the date specified in paragraph 17.[13]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensees agree to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Stations within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grants of the Renewal Applications. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensees acknowledge that the Bureau retains the discretion and authority to propose sanctions against the Licensees, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensees understand that they are fully responsible for the programming that they transmit over the Stations, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies,

[13] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

except where otherwise permitted or required, does not relieve the Licensees from their obligations and noncompliance can independently subject the Licensees to enforcement action.

22. **Waivers**. As of the Effective Date, the Licensees waive any and all rights they 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 Licensees shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither the Licensees nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensees shall waive any statutory right to a trial *de novo*. The Licensees hereby agree to waive any claims they may have under the Equal Access to Justice Act[14] 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 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 Licensees do not expressly consent) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensees agree that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Stations, as applicable, unless otherwise agreed to by the Commission.

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 all 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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

MPS Media of Tennessee License, LLC and
MPS Media of Tallahassee License, LLC

By:

_____
Eugene Brown
Sole Managing Member

_____
Date

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-644
Released: July 23, 2025

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES STATUS OF THE LIST OF EQUIPMENT AND SERVICES COVERED BY SECTION 2 OF THE SECURE AND TRUSTED COMMUNICATIONS NETWORKS ACT

WC Docket No. 18-89, ET Docket No. 21-232, EA Docket No. 21-233

Pursuant to section 2 of the Secure and Trusted Communications Networks Act of 2019[1] (Secure Networks Act), and sections 1.50002 and 1.50003 of the Commission's rules,[2] the Federal Communications Commission's Public Safety and Homeland Security Bureau (Bureau) announces that no updates have been made in the last 12 months to the list of communications equipment and services that have been determined to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons (Covered List).[3]

Consistent with section 2 of the Secure Networks Act, the Commission adopted rules in the *Supply Chain Second Report and Order* governing the publication and update of the Covered List and tasked the Bureau with publishing and maintaining the Covered List on the Commission's website.[4] The Commission's rules require the Bureau to place on the Covered List any communications equipment or service if a source enumerated in the Secure Networks Act determines that the equipment or service poses an unacceptable risk to the national security of the United States,[5] and if the communications equipment or service is capable of posing an unacceptable risk to the national security of the United States.[6]

Section 2(d)(3) of the Secure Networks Act and section 1.50003(c) of the Commission's rules require that, for each 12-month period during which the Covered List is not updated, the Commission shall notify the public that no updates were necessary for such period.[7] The Covered List was last

[1] Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601–1609) (Secure Networks Act).

[2] 47 CFR §§ 1.50002, 1.50003.

[3] *See* https://www.fcc.gov/supplychain/coveredlist.

[4] *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284, 14311-25, paras. 57-92 (2020) (*Supply Chain Second Report and Order*).

[5] 47 U.S.C. § 1601(b)(1); 47 CFR § 1.50002(b)(1). The Secure Networks Act does not give the Commission discretion to make any updates to the Covered List outside of determinations made by the sources enumerated in section 2(c). *See Supply Chain Second Report and Order*, 35 FCC Rcd at 14324-25, para. 91.

[6] 47 U.S.C. § 1601(b)(2); 47 CFR § 1.50002(b)(2).

[7] *See* 47 U.S.C. § 1603(d)(3) ("For each 12-month period during which the list published under subsection (a) is not updated, the Commission shall notify the public that no updates were necessary during such period to protect national security or to address changes in the determinations described in paragraphs (1) through (4) of subsection (c)."); 47 CFR § 1.50003(c).

updated on July 23, 2024.[8]

Although no updates have been made in the last 12 months, we note that in May 2025, the Bureau and the Office of Engineering and Technology sought public input on whether the Covered List should be updated to include certain communications equipment and services on the basis of a recent determination made by the Commerce Department pursuant to Executive Order No. 13873—an enumerated source under the Secure Networks Act—relating to connected vehicles.[9] The period for public input has closed[10] and the Commission is carefully considering the input received.

For further information, please contact Michael E. Connelly, Deputy Chief, Policy and Legal Affairs, Operations and Emergency Management Division, Public Safety and Homeland Security Bureau at Michael.Connelly@fcc.gov.

[8] *See Public Safety and Homeland Security Bureau Announces Update to List of Covered Equipment and Services Pursuant to Section 2 of the Secure Networks Act*, WC Docket No. 18-89, ET Docket No. 21-232, EA Docket No. 21-233, Public Notice, 39 FCC Rcd 8395 (PSHSB 2024) (adding cybersecurity and anti-virus software produced or provided by Kaspersky Lab, Inc. or any of its successors and assignees, including equipment that integrates such software, to the Covered List).

[9] *See The Public Safety and Homeland Security Bureau and the Office of Engineering and Technology Seek Public Input on Commerce Department Determination Regarding Certain Connected Vehicle Technologies*, WC Docket No. 18-89, ET Docket No. 21-232, EA Docket No. 21-233, Public Notice, DA 25-418 (PSHSB/OET May 23, 2025) (seeking public input on, among other things, whether the Covered List should be updated, and if so, whether to do so at this time).

[10] *See The Public Safety and Homeland Security Bureau and the Office of Engineering and Technology Grant Extension of Public Input Deadline*, WC Docket No. 18-89, ET Docket No. 21-232, EA Docket No. 21-233, Public Notice, DA 25-483 (PSHSB/OET June 5, 2025) (finding good cause to grant the petitioners' motion for extension of time for providing public input to June 27, 2025).

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

In the Matter of	)	
	)	
Rod Radar, Ltd	)	ET Docket No. 24-222
	)	
	)	
Request for Waiver of Sections 15.503(d), and15.521(d) of the Commission's Rules	)	
	)	
	)	

ORDER

Adopted: July 21, 2025 **Released: July 21, 2025**

By the Acting Chief, Office of Engineering and Technology:

I. INTRODUCTION

1. By this Order, we grant a request by Rod Radar Ltd. (Rod Radar), for a waiver of our rules governing unlicensed ultra-wideband (UWB) devices to permit the newest version of its UWB Ground Penetrating Radar (GPR) to obtain certification and conduct marketing activities. We find that permitting Rod Radar to sell and operate its equipment will provide construction and utility professionals with enhanced live radar data capabilities in furtherance of the public interest. We also find that operating Rod Radar's device under the specified waiver conditions poses no greater risk of causing harmful interference to communication services than those devices already permitted under the existing rules.

II. BACKGROUND

2. Rod Radar is requesting the Commission to waive two part 15 Commission rules to obtain FCC equipment authorization for its device, the Live Dig Radar (LDR).[1] Rod Radar describes the LDR as the first-ever GPR integrated in an excavator digging bucket capable of informing bucket operators in real-time of underground utilities.[2] Rod Radar states that its LDR is designed to operate between 300.51 and 1103.51 MHz in 5.5 megahertz steps with a frequency step duration of 58 microseconds.[3]

3. Specifically, Rod Radar seeks waiver of Section 15.503(d) of the Commission's rules, which defines an ultra-wideband transmitter as an intentional radiator that, at any point in time, has a fractional bandwidth equal to or greater than 0.20 or has a UWB bandwidth equal to or greater than 500

[1] Rod Radar Ltd. Request for Waiver, filed Sept 21, 2022 (Waiver Request). It subsequently amended its request to reflect changes that it has made to the design of the LDR while continuing to seek a rule waiver under the terms of its original request. Rod Radar Ltd. Amendment to Request for Waiver, filed July 11, 2024 (Rod Radar Amendment).

[2] Waiver Request at 3.

[3] Waiver Request at 12. Rod Radar Amendment at 3.

MHz, regardless of the fractional bandwidth.[4] Doing so, it claims, will allow its LDR to be classified as a UWB device consistent with other GPR systems already permitted to operate in accordance to a waiver of this rule.[5] It also requests a waiver of Section 15.521(d) of the Commission's rules, which requires that radiated emission levels above 960 MHz are based on the RMS average measurement over a 1 megahertz resolution bandwidth.[6] Such a grant, it claims, would be consistent with stepped frequency device waivers that the Commission has granted in the past.[7]

4. In response to a Public Notice seeking comment on Rod Radar's request,[8] the Commission received one filing from the Department of Transportation (DOT), which was transmitted in conjunction with a cover letter from the National Telecommunications and Information Administration (NTIA).[9] While DOT does not oppose the specific waiver request, it seeks assurances that the Rod Radar system will not interfere with incumbent safety technologies in the band, which include aviation radionavigation radars and communications, and asks that Rod Radar exclude its devices from operating in the 328.6-335.4 MHz and 960-1103.51 MHz bands.[10] DOT further requests that the Live Dig GPR only be installed and operated as shown in the Waiver Request (i.e., transmitting only when the antenna aperture is touching the ground),[11] and, more generally, that the LDR continues to meet the previously established Section 15.205 rules, FCC part 15 UWB limits including minimum bandwidth requirements and low EIRP limits, and conditions agreed to by NTIA and the FCC.[12]

5. Initially, Rod Radar filed a document titled "Request for Extension of Time and Reply," objecting to DOT's request to refrain from operating in the 328.6-335.4 MHz and 960-1103.51 MHz bands claiming, inter alia, that DOT failed to justify its request and that the bands in question are already protected by the Commission's rules as evidenced by existing GPR operations in similar construction environments.[13] More recently, Rod Radar amended its waiver request and agreed to meet the DOT band emission requirements for its waivered devices.[14]

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[4] 47 C.F.R. § 15.503(d).

[5] Waiver Request at 5 n.12-14 (citing previously granted section 15.503(d) waivers).

[6] 47 C.F.R. § 15.521(d).

[7] Waiver Request at 10 n. 30 (citing previously granted section 15.521(d) waiver orders).

[8] *Office of Engineering and Technology Seeks Comment on Rod Radar Ltd. Request for Waiver of Sections 15.503(D) and 15.521(D) of the Commission's Rules*, ET Docket No. 24-222, Public Notice, DA 24-713 (OET 2024).

[9] Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Marlene H. Dortch, Secretary, FCC, ET Docket No. 24-222. Letter from Wanda Lynn Covington-Ragsdale, DOT Spectrum Lead, Office of the Secretary of Transportation, U.S. Department of Transportation, to Alan Frable, Acting Chairman/Executive Secretary, IRAC, ET Docket No. 24-222 (DOT filing).

[10] DOT filing at 1.

[11] *Id. See also* Waiver Request at Figure 1 (depicting the antenna aperture installed in the digging surface of the excavator bucket with the associated electronics and wiring routed into the surface of the bucket facing the boom (actuator arms)).

[12] DOT filing at 1. Section 15.205 ("Restricted bands of operation") sets forth operational limitations for unlicensed devices.

[13] Letter from Terry G. Mahn et. al., Counsel, Fish & Richardson P.C. to Marlene H Dortch, Secretary, FCC, ET Docket No. 24-222, (filed Oct. 14, 2024) (Rod Radar 2024 *Ex Parte*).

[14] Letter from Terry G. Mahn, Counsel, Fish & Richardson P.C. to Marlene H Dortch, Secretary, FCC, ET Docket No. 24-222, (filed Apr. 1, 2025) (Rod Radar 2025 *Ex Parte*).

III. DISCUSSION

6. We are authorized to grant a waiver under Section 1.3 of the Commission's rules if the petitioner demonstrates good cause for such action.[15] Good cause, in turn, may be found "where particular facts would make strict compliance inconsistent with the public interest."[16] To make this public interest determination, the waiver cannot undermine the purpose of the rule, and there must be a stronger public interest benefit in granting the waiver than in applying the rule.[17] The UWB standards in part 15 were adopted to ensure that UWB devices, including ground penetrating radar, do not cause harmful interference to authorized radio services, including those operated by the Federal Government.[18] As discussed below, we find that, with appropriate operational and technical limitations, granting Rod Radar's request for waiver and permitting the LDR to operate poses no greater risk of causing harmful interference to radio communications services than any other ground penetrating radar operating under our rules or via waiver. In addition, we find that there is a stronger public interest benefit in granting this waiver than in strictly applying the rules. A waiver of the rules will benefit the public by providing new options for locating underground utilities and infrastructure in real-time. Because the LDR is installed on the excavator bucket and can detect various types of materials, including metallic and non-metallic objects, it can increase the accuracy, reliability, and timeliness of the information provided to construction workers. This, in turn, can increase digging operation efficiency and reduce the likelihood of catastrophic underground utility strikes. For these reasons, we find that the waiver standard has been met.

A. Waiver of the UWB definition in Section 15.503(d)

7. Rod Radar requests a waiver of Section 15.503(d) of the Commission rules to allow its LDR to be classified as a UWB device consistent with other GPR systems currently permitted to operate in accordance to a waiver of this rule. Section 15.503(d) defines an ultra-wideband transmitter as an intentional radiator that, at any point in time, has a fractional bandwidth equal to or greater than 0.20 or has a UWB bandwidth equal to or greater than 500 megahertz, regardless of the fractional bandwidth.[19] Rod Radar describes the LDR as using frequency-interrupted stepped frequency continuous wave emissions. The transmitted signal steps through the frequency range from 300.621 MHz and 1098.121 MHz. The frequency step duration is 58 microseconds and the frequency increment per step is 5.5 megahertz. With a total of 145 frequencies, a 12.5 MHz interruption frequency, and a 3.5 nanosecond interruption rise/fall time, the LDR has an overall bandwidth of 803 megahertz.[20] Each individual transmissions is less than 500 megahertz in bandwidth "at any point in time" and Rod Radar's device does not have a 0.20 or greater fractional bandwidth. Thus, even though the device operates over a

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[15] 47 CFR § 1.3. *See also ICO Global Communications (Holdings) Limited v. FCC*, 428 F.3d 264 (D.C. Cir. 2005); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

[16] *Northeast Cellular*, 897 F.2d at 1166; *see also ICO Global Communications*, 428 F.3d at 269 (quoting *Northeast Cellular*); *WAIT Radio*, 418 F.2d at 1157-59.

[17] *See, e.g.*, *WAIT Radio*, 418 F.2d at 1157 (stating that even though the overall objectives of a general rule have been adjudged to be in the public interest, it is possible that application of the rule to a specific case may not serve the public interest if an applicant's proposal does not undermine the public interest policy served by the rule); *Northeast Cellular*, 897 F.2d at 1166 (stating that in granting a waiver, an agency must explain why deviation from the general rule better serves the public interest than would strict adherence to the rule).

[18] *Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems*, ET Docket No. 98-153, First Report and Order, 17 FCC Rcd 7435 (2002) (*UWB First R&O*); *see also* 47 CFR §§ 15.501-15.525.

[19] 47 C.F.R. § 15.503(d).

[20] Waiver Request at 1 and 12.

frequency range that exceeds 500 megahertz, it does not meet the definitional requirement for operation under the UWB rules.[21]

8. The UWB imaging rules were designed to accommodate devices that emit impulsive or transient-like signals that are spread across a very wide bandwidth to produce an image of objects within the ground or other materials.[22] The main difference between the Rod Radar LDR and other UWB ground penetrating radars provided for in the rules is that the LDR does not transmit a single impulsive signal but instead transmits progressively in steps over a large swath of spectrum to gather all needed data. In the past, the Commission determined that frequency agile UWB devices may perform in a manner that is equivalent to non-frequency agile devices.[23] For example, in the CWCI Waiver, the Proceq Waiver, and the MIT Waiver, the Commission recognized that stepped frequency UWB devices are functionally equivalent to other UWB devices and that the interference risk from the associated devices would be no greater than from other UWB devices. Here, we find that the LDR device, operating in full contact with the ground, is functionally equivalent to other types of UWB ground penetrating radars in that it uses transient-like signals spread across a wide bandwidth to detect objects underground, or covered by concrete, asphalt and other construction materials.[24] The risk of interference, when so deployed, is comparable to that from other such UWB ground penetrating radars such that a waiver in this case will not undermine the intent of our rule.

B. Waiver of the measurement procedures in Sections 15.521(d) and 15.31(c)

9. Rod Radar also requests a waiver of Section 15.521(d) of the Commission's rules consistent with the other stepped frequency device waivers we have granted in the past.[25] Section 15.521(d) requires that radiated emission levels above 960 MHz are based on the RMS average measurement over a 1 megahertz resolution bandwidth. It also requires that "if pulse gating is employed where the transmitter is quiescent for intervals that are long compared to the nominal pulse repetition interval, measurements shall be made with the pulse train gated on. Alternate measurement procedures may be considered by the Commission."[26] Rod Radar requests a waiver of this rule to allow the RMS measurements to be performed with the stepping function active, i.e. in the device's normal mode of

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[21] Stepped frequency, swept frequency, and frequency hopped devices like Rod Radar's LDR have a difficult time meeting the rule's technical specifications because the large bandwidth is achieved by stepping or sweeping a narrow signal through the broader frequency range, and therefore is not instantaneously wide enough to meet the rule's specific requirements. *See also* Waiver Request at 9 (describing how Rod Radar believes that the rule creates uncertainty for a stepped frequency device such as the LDR because it does not identify the interval that should be considered when determining the bandwidth "at any point in time.")

[22] *See UWB First R&O*, 17 FCC Rcd at 7437-7440, 7450, 7476 and 7494.

[23] *See, e.g., Petition for Waiver of the Part 15 UWB Regulations Filed by the Multi-band OFDM Alliance Special Interest Group,* ET Docket No. 04-352, Order, 20 FCC Rcd 5528 (2005) (MBOA-SIG Waiver); *Curtiss-Wright Controls Inc. Request for Waiver of Part 15 of the Commission's Rules Applicable to Ultra-Wideband Devices,* ET Docket No. 10-167, Order, 27 FCC Rcd 234 (OET 2012) (CWCI Waiver), *Kyma Medical Technologies Ltd., Request for Waiver of Part 15 of the Commission's Rules Applicable to Ultra-Wideband Devices*, ET Docket No. 15-119, Order, 31 FCC Rcd 9705 (OET 2016) (Kyma Waiver), *Proceq USA Inc. Request for Waiver of Part 15 of the Commission's Rules Applicable to Ultra-Wideband Devices*, DA 18-251, Order, 33 FCC Rcd 2258, (OET 2018) (Proceq Waiver), *Massachusetts Institute of Technology Request for Waiver of Part 15 of the Commission's Rules Applicable to Ultra-Wideband Devices*, ET Docket No. 19-89, Order, 35 FCC Rcd 4389 (OET 2020) (MIT Waiver).

[24] The LDR is designed to operate while the bucket is being pulled across the ground as opposed to during any excavating or other types of movements. Waiver Request at 13 (stating that "transmission only occurs with the bucket bottom surface and hence antenna aperture touching the ground, so that emitted energy is always ground directed.")

[25] *Id.* at 10 n. 30 (citing previously granted section 15.521(d) waiver orders).

[26] 47 C.F.R. § 15.521(d).

operation.[27] Without a waiver of this requirement, the measurements would be concentrated in a smaller portion of the spectrum, and therefore, emissions would need to be reduced to achieve compliance with the Commission's rules.

10. Rod Radar states that the Commission previously acknowledged that the UWB rules do not address stepped frequency transmitters and has waived the rule to permit measurements to take place under the normal transmission mode for other stepped frequency devices.[28] It claims that the LDR will meet all other emission limits and technical requirements under the UWB rules when measured with the stepping function active, and asserts that waiving the Section 15.521(d) measurement requirement will not increase the potential for harmful interference to authorized devices and would be consistent with past waiver decisions.[29] Additionally, we recognize from Rod Radar's filing that the LDR will also require a waiver of Section 15.31(c) of the Commission's rules,[30] which sets forth the measurement standards for unlicensed devices to demonstrate compliance with applicable emission limits. This rule requires that swept frequency equipment be made with the frequency sweep stopped and this requirement has been traditionally interpreted to also be applicable to stepped, hopped, and other frequency diverse modulations schemes. However, applying the requirement to stop the frequency step when performing compliance measurements results in a fundamental emission bandwidth measurement that does not comply with the UWB bandwidth requirements. We therefore consider waiver of this rule on our own motion.

11. We recognized in prior UWB transmitter measurement procedures waiver orders, where we permitted emissions to be measured with the transmitter operating in its normal transmission mode, that the interference aspects of a transmitter employing frequency hopping, frequency stepping, or gating are quite similar as viewed by a receiver.[31] That is because transmitters using these burst formats appear to the receiver to emit for a short period of time followed by a quiet period.[32] In these previous decisions, we concluded that "any requirement to stop the frequency hopping, band sequencing, or system gating serves only to add another unnecessary level of conservatism to already stringent UWB standards."[33] In conjunction with NTIA, we further determined that allowing stepped frequency devices to be measured with the stepping function on would not increase the device's interference potential above that of impulse UWB devices if all other emission limits and technical requirements are met.[34]

12. Rod Radar's request represents an analogous situation. Because waiving the measurement procedures in Sections 15.31(c) and 15.521(d) will not increase the potential for harmful interference to authorized services, permitting Rod Radar to demonstrate compliance with the UWB emission limits with the stepping function active will not undermine the purpose of the rule.[35] To ensure that the LDR device does not emit in any individual 5.5 megahertz step or narrow band continuously, we are conditioning this waiver so that the frequency step duration on any one step shall not exceed 58 microseconds, the interruption rise/fall time on any one step shall not exceed 3.5 nanoseconds, and the

[27] Waiver Request at 10.

[28] *Id.* at 11-12.

[29] *Id*.

[30] 47 C.F.R. § 15.31(c).

[31] *See, e.g.,* MBOA-SIG Waiver, Kyma Waiver and, Proceq Waiver, MIT Waiver.

[32] *See*, *e.g.*, CWCI Waiver, 27 FCC Rcd at 241.

[33] *Id*.

[34] *See* CWCI Waiver, 27 FCC Rcd at 242. *See also* MBOA-SIG Waiver, 20 FCC Rcd at 5533-5536.

[35] Our reliance on the MBOA-SIG Waiver and the CWCI Waiver decision in this instance is only relative to the measurement procedure in Section 15.521(d).

interruption frequency shall not exceed 12.5 megahertz.[36] In sum, we find that permitting Rod Radar to demonstrate compliance with the UWB wall imaging system emission limits under a waiver of the measurement procedures consistent with the conditions specified below poses no greater risk of causing harmful interference to radio communications services than any other UWB ground penetrating radar system operating under our rules or via waiver, and therefore will not undermine the purpose of these rules.

C. Positional Limitations and Frequency Notch

13. As previously mentioned, NTIA and DOT were the only parties (besides Rod Radar) that submitted filings in the docket. While NTIA and DOT do not oppose a waiver for Rod Radar, they make several requests in regard to the conditions that should be applied to LDR operations. This includes complying with all other provisions that other unlicensed UWB devices are required to meet, as well as including a "lockout" for the 328.6-335.4 MHz and 960-1103.51 MHz bands which are currently allocated for safety of life aviation radionavigation radars and communications.[37] Initially, Rod Radar objected to the NTIA DOT frequency "lockout" position, but subsequently agreed to operate under the same type of frequency use limitations that we previously required as a condition in the waiver grant to GPR, Inc.[38] There, we prescribed notching requirements for a vehicular-mounted ground penetrating radar in certain aviation bands to suppress emissions to 10 dB below the Section 15.209 limit.[39]

14. In keeping with previous precedent, and in recognition of Rod Radar's most recent filing, we grant a waiver on the condition that emissions from the LDR devices are suppressed by 10 dB below the Section 15.209 limit in the identified bands.[40] That is, emissions from within the associated bands that DOT and NTIA identified shall be limited to the following: In the 328-335.4 MHz band, emissions will be limited to 10 dB below the Section 15.209(a) limit. For the 960-1103.51 MHz band, emissions shall be 10 dB below the Section 15.209(a) limit.

15. We agree with DOT that Rod Radar should provide assurance that the LDR system will only be installed and deployed in a manner that it has depicted in its waiver request. That is, Rod Radar must ensure that the antenna aperture is designed to fit into the bottom of the bucket where it would face the ground that is to be measured, and that it only transmits when the antenna aperture in the bucket is

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[36] Additional GPR functional constraints beyond those already designed into the system do not appear to be warranted. Rod Radar provides the frequency step duration transmission time for its GPR system on any one frequency (step) as 58 microseconds. Rod Radar also demonstrates that the other LDR signal parameters utilize 145 discrete frequency steps, a 3.5 nanosecond rise/fall time, a 12.5 megahertz interruption frequency, and a frequency range spanning 803 megahertz. *See* Rod Radar 2024 *Ex Parte*.

[37] A frequency "lockout" prevents full power operations within the specified exclusion bands and can be accomplished by incorporating a filter or "notching" the bands to sufficiently suppress emissions within the band by a predetermined amount.

[38] Rod Radar 2024 *Ex Parte*; Rod Radar 2025 *Ex Parte.*

[39] *GPR, Inc. Request for Waive of the Commission's Part 15 Rules Applicable to Ultra-Wideband Devices*, ET Docket No. 19-241, Order, 38 FCC Rcd 10376 at 10378 and 10382 (2023); Letter from Michele C. Farquhar, Counsel to GPR,Inc., Hogan Lovells US LLP, to Marlene H. Dortch, Secretary, FCC, ET Docket No. 19-241, (filed July 28, 2023) (describing discussions with NTIA and modifying its pending request accordingly).

[40] If Rod Radar had not filled the Rod Radar 2025 *Ex Parte* agreeing to the DOT request, we nevertheless would have had good reason based on the GPR precedent to conclude that we should protect the critical federal frequency bands identified by the DOT through a notching requirement. Also, to the extent that the NTIA and DOT submissions were filed outside the window to be considered timely filed comments (an additional issue previously raised by Rod Radar that appears to have been overcome by events), we note that they still would meet the requirements for valid *ex parte* communications and, because there is no reason to believe that Rod Radar or any other interested party was harmed, would treat them as such.

touching the ground. In addition, the radar transmission may only proceed after the equipment operator initiates the scan of the ground being measured. Based on the information Rod Radar provided about its system design, we are confident that it can successfully operate under these conditions.[41]

D. Waiver conditions

16. Based on the foregoing discussion, we find good cause to waive 1) the instantaneous bandwidth requirement in 47 CFR § 15.503(d) to permit the frequency-stepped UWB ground penetrating radar system to operate; and 2) the measurement requirements in 47 CFR §§ 15.31(c) and 15.521(d) to permit the LDR system to be tested with the frequency sweep, stepping, or frequency hopping function active, rather than stopped, to demonstrate compliance with the maximum permitted average power in 47 CFR § 15.509, subject to the following conditions:

1) The Rod Radar LDR system, for a single step, shall have a frequency increment per step of 5.5 megahertz.
2) The Rod Radar LDR shall operate with interrupted stepped frequency continuous wave modulation on 145 frequencies between 300.621 and 1098.121 MHz.
3) The LDR maximum frequency step duration shall be 58 microseconds, the interruption rise/fall time shall be 3.5 nanoseconds, and the interruption frequency of 12.5 megahertz.
4) The device shall include a feature to ensure that it will only transmit when placed in full contact with the ground being measured and/or evaluated.
5) For certification testing, the Rod Radar LDR emission measurements shall be conducted with the stepping function active.
6) The Rod Radar LDR system shall comply with all other technical and operational requirements applicable to UWB ground penetrating radar systems under Part 15, Subpart F of the Commission's rules.
7) Emissions from the Rod Radar LDR in the following bands shall not exceed the following limits, measured using CISPR quasi-peak detector as specified in Section 15.209(d):
    a. 328.6-335.4 MHz: 10 dB below the Section 15.209(a) limit.
    b. 960-1103.51 MHz: 10 dB below the Section 15.209(a) limit.
8) The waiver conditions granted herein are not transferable to any third party via § 2.933 or any other means of technology transfer.
9) This waiver and its conditions shall apply only to the UWB devices described herein and are not to be considered to apply generally to any other UWB operations where further analysis would be necessary to assess the potential for impact to other authorized users.
10) A copy of this Order shall be provided with the device's application for equipment certification.

IV. ORDERING CLAUSES

17. Accordingly, pursuant to authority delegated in Sections 0.31 and 0.241 of the Commission's rules, 47 CFR §§ 0.31, 0.241, and Section 1.3 of the Commission's rules, 47 CFR § 1.3, IT IS ORDERED that the Request for Waiver filed by Rod Radar, Ltd. on September 21, 2022, later amended on July 11, 2024, and supplemented by April 1, 2025 letter IS GRANTED consistent with the terms of this Order. This action is taken pursuant to Sections 4(i), 302, 303(e), and 303(r) of the

[41] *See Waiver Request* at 3-4 and 12-13.

Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 302, 303(e), and 303(r). This action is effective upon release of this Order.

18. IT IS FURTHER ORDERED that, if no applications for review are timely filed, this proceeding SHALL BE TERMINATED and the docket CLOSED.

FEDERAL COMMUNICATIONS COMMISSION

Ira Keltz
Acting Chief
Office of Engineering and Technology

PUBLIC NOTICE

Federal Communications Commission
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DA 25-646
Released: July 21, 2025

WIRELESS TELECOMMUNICATIONS BUREAU APPROVES CELLBLOX ACQUISITIONS, LLC'S SECOND CONTRABAND INTERDICTION SYSTEM CERTIFICATION APPLICATION UNDER PHASE ONE OF THE AUTHORIZATION PROCESS

GN Docket No. 13-111

I. INTRODUCTION

1. With this Public Notice, the Wireless Telecommunications Bureau (WTB or Bureau) approves the Contraband Interdiction System (CIS) certification application filed by CellBlox Acquisitions, LLC (CellBlox),[1] subject to the conditions described below. CellBlox's CIS Application was filed under phase one of the Commission's two-phase process for certifying CIS for use in the submission of qualifying requests to disable contraband wireless devices in correctional facilities. Approval of CellBlox's CIS Application allows it to market and sell its CIS as described in its application, and begin phase two testing. CellBlox may begin using its CIS in conjunction with any Designated Correctional Facility Official's (DCFO's)[2] submission of qualifying requests for contraband wireless device disabling only after successful completion of the phase two testing and self-certification process.

II. BACKGROUND

2. In the *Second Report and Order*, the Commission adopted a framework requiring the disabling of contraband wireless devices detected in correctional facilities upon satisfaction of certain criteria.[3] The process of certifying CIS for this purpose consists of two phases: (1) CIS applicants submit certification applications to the Bureau describing the legal and technical qualifications of the systems; and (2) CIS applicants perform on-site testing of certified CISs at individual correctional facilities and file

[1] Application of CellBlox Acquisitions, LLC for Certification of Contraband Interdiction System Under 47 CFR Section 20.23, GN Docket No. 13-111 (filed Feb. 20, 2025) (CellBlox CIS Application); *see also* Supplement to Application of CellBlox Acquisitions, LLC for Certification of Contraband Interdiction System Under 47 CFR Section 20.23, GN Docket No. 13-111 (filed Apr. 18, 2025) (CellBlox CIS Supplement). CellBlox's application is for a portable system that it intends to operate at correctional facilities in addition to the fixed system previously approved by the Commission in 2023. *See Wireless Telecommunications Bureau Approves Five Contraband Interdiction System Certification Applications Under Phase One of the Authorization Process*, GN Docket No. 13-111, Public Notice, DA 23-547 (WTB 2023) (approving applications filed, respectively, by: CellBlox Acquisitions, LLC; ShawnTech Communications, Inc.; Tecore Networks; SOC, LLC; and OmniProphis Corporation).

[2] *See* 47 CFR § 20.3 (defining a Designated Correctional Facility Official); *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, 11818–21, paras. 12–20 (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).

[3] *See Second Report and Order*, 36 FCC Rcd at 11814, para. 2.

self-certifications with the Bureau confirming that the testing at a specific correctional facility was completed successfully.[4] Following WTB review and approval of the phase one CIS certification applications that meet applicable requirements, stakeholders using certified CISs may begin phase two on-site testing at individual correctional facilities. After both phases are complete, and the period for filing objections has lapsed,[5] DCFOs are authorized to submit qualifying requests to wireless providers to disable contraband devices located at a CIS approved/tested correctional facility. The Bureau began accepting CIS certification applications on May 3, 2022.[6] The Bureau has approved seven CIS applications under phase one of the two-phase CIS certification process to date.[7]

3. *CellBlox's CIS Application.* CellBlox filed its second Phase 1 CIS Application on February 20, 2025, and has since filed one supplement to that application on April 18, 2025.[8] On June 5, 2025, the Bureau issued a Public Notice announcing that CellBlox's second CIS Application had been found complete and inviting stakeholders to review and file comments on the application.[9] No comments were received in response.

III. APPROVAL OF PHASE ONE CIS APPLICATION

4. After careful review of the application, we find that the CIS application filed by CellBlox, as amended, satisfies the eligibility criteria and application requirements, as specified in section 20.23 of the Commission's rules, the *Second Report and Order*, and the *Guidance Public Notice*.[10] As directed by the Commission in the *Second Report and Order*, the Bureau issued the *Guidance Public Notice* to provide guidance on the information required for inclusion in a CIS certification application and

[4] *See Second Report and Order*, 36 FCC Rcd at 11821–23, paras. 22–38.

[5] *See* 47 CFR § 20.3(c) (absent objections from a wireless provider . . . the DCFO may submit a qualifying request to a wireless provider beginning on the sixth business day after the later of the self-certification filing or actual service . . .).

[6] *Wireless Telecommunications Bureau Begins Accepting Contraband Interdiction System Certification Applications and Designated Correctional Facility Official Requests*, GN Docket No. 13-111, Public Notice, DA 22-475 (WTB 2022).

[7] *Wireless Telecommunications Bureau Approves Five Contraband Interdiction System Certification Applications Under Phase One of the Authorization Process*, GN Docket No. 13-111, Public Notice, DA 23-547 (WTB 2023) (approving applications filed, respectively, by: CellBlox Acquisitions, LLC; ShawnTech Communications, Inc.; Tecore Networks; SOC, LLC; and OmniProphis Corporation); *see also Wireless Telecommunications Bureau Approves Trace-Tek, LLC's Contraband Interdiction System Certification Application Under Phase One of the Authorization Process*, GN Docket No. 13-111, Public Notice, DA 24-242 (WTB 2024) (approving an application filed by Trace-Tek, LLC); *Wireless Telecommunications Bureau Approves SDF, Inc.'s Contraband Interdiction System Certification Application Under Phase One of the Authorization Process*, GN Docket No. 13-111, Public Notice, DA 24-1033 (WTB 2024) (approving an application filed by SDF, Inc.); *Wireless Telecommunications Bureau Approves Hawks Ear Communications LLC's Contraband Interdiction System Certification Application Under Phase One of the Authorization Process*, GN Docket No. 13-111, Public Notice, DA 25-234 (WTB 2025) (approving an application filed by Hawks Ear Communications, LLC).

[8] *See generally supra* note 1.

[9] *Wireless Telecommunications Bureau Seeks Comment on CellBlox Acquisitions, LLC's Second Contraband Interdiction System Certification Application*, GN Docket No. 13-111, Public Notice, DA 25-482 (WTB 2025); *see also Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, GN Docket No. 13-111, Protective Order, DA 23-223 (WTB 2023).

[10] *See* 47 CFR § 20.23; *Second Report and Order*, 36 FCC Rcd at 11821–23, paras. 22–38; *Wireless Telecommunications Bureau Provides Guidance for Filing Contraband Interdiction System Certification Applications and Self-Certifications*, GN Docket No. 13-111, DA 21-1572, 2–3, paras. 6–8 (WTB 2021) (*Guidance Public Notice*).

on the procedures for the submission of an application.[11] 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.[12] We briefly discuss each of the phase one application requirements in turn below.

5. *CIS Certification Application Description*.[13] We find that CellBlox's CIS Application sufficiently described the legal and technical qualifications of its CIS. Further, in accordance with Commission rules, CellBlox demonstrated that:

(1) *Equipment Authorization*: all radio transmitters used as part of the CIS have appropriate equipment authorizations pursuant to Commission rules, by providing a certification to that effect;[14]

(2) *CIS Design/Methodology*: the CIS is designed and will be configured to locate devices solely within a correctional facility, and that the methodology to be used in analyzing data collected by the CIS is adequately robust to ensure that a particular wireless device is in fact located within a correctional facility. In this regard, CellBlox also provided:

- a description of the scope and overall function of the system;
- a description of the system architecture and configuration with diagrams;
- a description of the hardware and its functions;
- a description of the software and its functions;
- a description of the steps required and preparations needed to implement the CIS at any correctional facility (e.g., site surveys, engineering design, installation, and optimization);
- a description of how the CIS, if so required, interacts with a wireless provider network;
- a description of data analysis techniques; and
- a description of the key performance factors that indicate successful operation, including the expected level of percentage accuracy in the rate of detection of contraband devices vs. non-contraband devices using a relevant sample size (*e.g.*, number of devices to be observed and the length of observation period) and the rationale for the expectation;[15]

(3) *Data Security*: the CIS will secure and protect all data collected and/or information produced as part of its intended use, including a description of the types of data the CIS

[11] *Guidance Public Notice* at 2–4, paras. 5–6, 9–10.

[12] *Guidance Public Notice* at 2–4, paras. 5–10.

[13] *See* 47 CFR § 20.23(b)(1)(i)–(vi) (application requirements); *Second Report and Order*, 36 FCC Rcd at 11821, para. 23; *Guidance Public Notice* at 2–3, para. 6.

[14] CellBlox CIS Application at 4. CellBlox provided information regarding its equipment authorization for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[15] CellBlox CIS Application at 4-15; CellBlox CIS Supplement at 2–8. CellBlox provided information regarding its CIS design and methodology for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

collects, whether the data is retained and for how long, and how the data is stored and protected;[16]

(4) *911 Calls*: the CIS will not interfere with emergency 911 calls, including a description of the methodology used for allowing emergency 911 calls to be permitted;[17] and

(5) *Spectrum/Network Access Agreement*: the applicant is aware that a CIS may require a spectrum or network access agreement (*e.g.*, a spectrum leasing arrangement or roaming agreement) to be authorized to operate by stating and describing whether the CIS requires such an agreement to operate.[18]

6. *CIS Certification Application Test Plan.* We also find that CellBlox's CIS Application included a test plan that can be adapted to the circumstances of each planned deployment at a specific correctional facility, and adequately demonstrated that the CIS's overall methodology for system design and data analysis ensures, to the greatest extent possible, that only devices that are in fact contraband will be identified for disabling.[19] Specifically, CellBlox included:

(1) a proposed evaluation of the functions that the CIS will perform;[20]

(2) a description of the testing device(s) placement and the number of testing devices that will be used at the correctional facility(ies);[21]

(3) a demonstration of how the placement and number of testing devices are sufficient to evaluate the CIS as the applicant intends to market and operate the system;[22]

(4) a demonstration that the testing will be randomized, and an explanation of why the number of devices and trials are statistically significant;[23]

[16] CellBlox CIS Application at 13–15. CellBlox provided information regarding its CIS data security for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[17] CellBlox CIS Application at 15, 18, 20–21. CellBlox provided information regarding its routing of 911 calls for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[18] CellBlox CIS Application at 15–16. CellBlox provided information regarding its spectrum/network access agreements for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[19] *See* 47 CFR § 20.23(b)(1)(vii) (application requirements); *Second Report and Order*, 36 FCC Rcd at 11822–23, paras. 26–27; *Guidance Public Notice* at 2–3, paras. 7–8.

[20] CellBlox CIS Application at 16–18; CellBlox CIS Supplement at 2–5. CellBlox provided information regarding its CIS proposed functions for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[21] CellBlox CIS Application at 18–20; CellBlox CIS Supplement at 6–7. CellBlox provided information regarding its CIS testing placement and number of testing devices for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[22] CellBlox CIS Application at 18–21; CellBlox CIS Supplement at 6–7. CellBlox provided information regarding how the placement and number of testing devices are sufficient to evaluate the CIS for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[23] CellBlox CIS Application at 18–21; CellBlox CIS Supplement at 6–7. CellBlox provided information regarding its data validation methodology for which it sought, in part, confidential treatment pursuant to Commission rule 0.459, 47 CFR § 0.459.

(5) a description of the data to be collected, including the number of devices correctly and incorrectly identified and/or intercepted as contraband, and the number of emergency 911 calls made and impacted;[24] and

(6) the precise method to be used for calculating the accuracy of the CIS and verifying that emergency 911 calls are unaffected.[25]

IV. CONCLUSION

7. Based on our review, we approve, subject to the conditions below, CellBlox's CIS Application in the public interest. Through the issuance of this Public Notice,[26] CellBlox may market and sell its certified CIS as described in its application for ultimate use, following phase two testing, in obtaining information for the submission of qualifying requests for the disabling of contraband wireless devices.[27] CellBlox may begin the phase two on-site testing of its CIS at individual correctional facilities where CellBlox is authorized to operate—generally through a spectrum manager or *de facto* transfer leasing arrangement—as outlined in the *Second Report and Order* and more specifically in section 20.23 of the Commission's rules.[28] We remind CellBlox that it must file a self-certification following completion of successful CIS testing.[29] The self-certifications must be filed using the Commission's Electronic Comment Filing System (ECFS) and must reference **GN Docket No. 13-111**.[30]

8. *Conditions.* This CIS certification application approval and CellBlox use of its certified CIS for the ultimate submission of qualifying requests is conditioned on the following:

1) Testing of the certified CIS and its subsequent operation and use to support qualifying requests must be as specifically described in CellBlox's application as approved through this Public Notice;

2) A phase two testing self-certification, and a subsequently filed qualifying request, must be based upon information received from a certified CIS in deployed areas of each individual correctional facility where the CIS has been fully tested in real-time, live conditions consistent with the approved test plan;

3) The certified CIS must remain highly accurate regarding its:

   a) capability to identify only those devices physically located within the perimeter of operation; and

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[24] CellBlox CIS Application at 20-21; CellBlox CIS Supplement at 6–7. CellBlox provided information regarding the description of the data to be collected by its CIS for which it sought, in part, confidential treatment pursuant to Commission rule section 0.459, 47 CFR § 0.459.

[25] CellBlox CIS Application at 20-21; CellBlox CIS Supplement at 6–7. CellBlox provided information regarding its method for calculating CIS accuracy for which it sought, in part, confidential treatment pursuant to Commission rule 0.459, 47 CFR § 0.459.

[26] Bureau staff will also update the CIS/Correctional Facility Approval Status Tracker on the Commission's website to reflect this Phase I approval at https://www.fcc.gov/wireless/bureau-divisions/mobility-division/contraband-wireless-devices/disabling-process.

[27] *See* 47 CFR § 20.23(b)(2) (marketing and sales); *Second Report and Order*, 36 FCC Rcd at 11822, para. 25.

[28] *See* 47 CFR § 20.23(b)(3) (site-based testing and self-certification requirements); *see also Second Report and Order*, 36 FCC Rcd at 11821–23, paras. 22–38; *Guidance Public Notice* at 4–6, paras. 12–19. The spectrum leasing rules are outlined in part 1, subpart X of the Commission's rules. *See* 47 CFR pt. 1, subpt. X.

[29] *See* 47 CFR § 20.23(b)(3) (site-based testing and self-certification requirements); *see also Guidance Public Notice* at 5, para. 14.

[30] *See Guidance Public Notice* at 5, para. 15; *see also Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

b) ability to distinguish between contraband and non-contraband devices;

4) Approved CIS may be marketed and sold only to correctional facilities or entities that will provide contraband interdiction services to such facilities.

9. *Contact Information.* For further information regarding this Public Notice, please contact Taylor Reinecker, Management Analyst, WTB, Mobility Division at (717) 338-2746 or taylor.reinecker@fcc.gov.

-FCC-

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

In the Matter of	)	
	)	
Univision Communications Inc.,	)	Acct. No. 202541420010
Applications for Renewal of Licenses[1]	)	FRNs: 0017777145 et al.
	)	Facility ID Nos. 18747 et al.
	)	LMS File Nos. 0000196299 et al.

ORDER

Adopted: July 24, 2025 **Released: July 24, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Univision Communications Inc. (Univision),[2] the ultimate parent of the licensees of the broadcast television stations (Stations) listed in the Appendix. The Consent Decree resolves the Bureau's investigations arising from its review of the pending license renewal applications (Renewal Applications) listed in the Appendix. In particular, the Consent Decree resolves the Bureau's investigations into Univision's compliance with section 73.670 of the Commission's rules (Rules), which limits the amount of commercial matter that full power and Class A television stations may air during children's programming to no more than to no more than 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.[3] Section 73.670 of the Rules also places restrictions on the display of website addresses during children's programming.[4] We find that through adoption of this Consent Decree, grant of the Renewal Applications are in the public interest.

2. The Bureau and Univision have negotiated the terms of the attached Consent Decree in which Univision agrees, among other things, to make a voluntary contribution to the United States Treasury in the amount of Three Hundred Thousand Dollars ($300,000) and implement a compliance plan to ensure future compliance with section 73.670 of the Rules.[5] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and terminating all pending investigations, as described in paragraph 1, and granting the Renewal Applications. The Bureau finds that during their subject license terms the Stations have served the public interest, convenience, and necessity, and that grant of the Renewal Applications is warranted pursuant to Section 309(k)(1) of the Communications Act of 1934, as amended. We find nothing in the record creates a substantial and

[1] All station call signs, licensees, facility identification numbers, FRNs, and application file numbers that are subject to the Consent Decree adopted by this Order are listed in the Appendix. The Bureau is also investigating other third-party stations involving the same facts at issue in this proceeding, but not licensed to the entities listed in the Appendix. *See* Consent Decree at paras. 6 and 7. The Media Bureau will address such third-party stations by separate action, as appropriate. *See id.* at nn. 13 and 19.

[2] The term "Univision" refers to the licensees listed in the Appendix both collectively and individually. *See also id.* at para. 2(x) (defining the term "Univision").

[3] 47 CFR § 73.670(a); *see* 47 U.S.C. § 303a(b).

[4] *See* 47 CFR § 73.670(b), (c), and (d).

[5] 47 CFR § 73.670.

material question of fact as to whether Univision possess the basic qualifications to hold or remain a Commission licensee.[6]

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to sections 4(i) of the Communications Act of 1934, as amended,[7] and by the authority delegated by section 0.61, 0.204, 0.283, and 1.93(b) of the Rules,[8] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that the investigations by the Media Bureau discussed above **ARE TERMINATED**.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[9] the applications for renewal of the television station licenses listed in the Appendix **ARE GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Univision Communications Inc., Frank La Fontaine, SVP, Global Compliance Counsel, TelevisaUnivision, 8551 NW 30th Terrace, Miami, FL 33122, and by e-mail to regulatory@televisaunivision.com. A copy shall also be sent to Univision's counsel Matthew DelNero and Kiara Ortiz, 101 Constitution Avenue, NW, Suite 800W, Washington, DC 20001, and by e-mail to mdelnero@cov.com and kortiz@cov.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[6] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[7] 47 U.S.C. § 154(i).

[8] 47 CFR §§ 0.61, 0.204, 0.283, and 1.93(b).

[9] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
Univision Communications Inc.,	)	Acct. No. 202541420010
Applications for Renewal of Licenses[1]	)	FRNs: 0017777145 et al.
	)	Facility ID Nos. 18747 et al.
	)	LMS File Nos. 0000196299 et al.

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission and Univision Communications Inc. (hereafter Univision, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arisings from the Investigations (as defined below) and the Bureau's review of the Renewal Applications (as defined below) for the broadcast television stations listed in the Appendix. In particular, the Consent Decree resolves the Bureau's examination into Univision's compliance with section 73.670 of the Commission's rules (hereafter Rules, as defined below), which limits the amount of Commercial Matter (as defined below) that commercial television stations may air during Children's Programming (as defined below) and restricts the display of Internet website addresses during Children's Programming.[2]

2. To resolve the Investigations, Univision agrees to pay a voluntary contribution to the United States Treasury in the amount of Three Hundred Thousand Dollars ($300,000) and implement a comprehensive plan to ensure future compliance with section 73.670 of the Rules.[3] In exchange, the Bureau agrees to terminate the Investigations and grant the pending Renewal Applications listed in Appendix A in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq*

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

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

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification" means the documentation provided by Univision to substantiate compliance with 47 CFR § 73.670 and placed on an annual basis into each Station's online public inspection file as required by 47 CFR § 73.3526(e)(11)(ii).

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR §

[1] All stations, call signs, facility identification numbers, FRNs and application file numbers that are subject to this Consent Decree are listed in the Appendix.

[2] 47 CFR § 73.670; *see also* 47 U.S.C. § 303a(b).

[3] 47 CFR § 73.670.

73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the FCC to which each licensee listed in the Appendix is subject by virtue of being an FCC licensee.

(j) "Compliance Plan" means the processes and procedures developed by Univision in an effort to ensure compliance with 47 CFR § 73.670, in its entirety and as described in paragraph 20.

(k) "Complaint" means any communication that Univision receives, whether written or oral, resulting from a person or entity contacting either: (i) the Commission, Univision, or a Station concerning issues related to compliance with 47 CFR § 73.670.

(l) "Compliance Officer" means a responsible party employed by Univision to be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Univision complies with the terms and conditions of the Compliance Plan and this Consent Decree.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Stations who materially participate in scheduling Children's Programming and monitoring such programming to ensure it is broadcast.

(n) "CTA" means the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303a, 303b, and 394.

(o) "Division" means the Video Division of the Media Bureau of the FCC.

(p) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(q) "Investigations" means the Bureau's examination of Univision's compliance with 47 CFR § 73.670, in its entirety.

(r) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(t) "Point of Contact" means a Station management or supervisory level employee responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(u) "Renewal Applications" means the applications identified in the Appendix filed by Univision for renewal of license.

(v) "Rules" means the FCC regulations found in Title 47 of the Code of Federal Regulations.

(w) "Stations" means collectively the full-power and Class A television stations licensed to Univision and listed in the Appendix, or a subset of full-power and Class A television stations licensed to Univision and listed in the Appendix, as otherwise indicated, each of which is individually a "Station."

(x) "Univision" means Univision Communications Inc., the parent of the licensees of the broadcast television stations listed in the Appendix (collectively or individually), as well as its assigns, transfers, predecessors-in-interest, and successors-in-interest.

(y) "URL Rule" means the limitations regarding the display of an Internet address as specified in 47 CFR § 73.670(b), (c), and (d), which permit the display of an Internet website address (i.e., a Uniform Resource Location or URL) during children's program material or promotional material not counted as commercial time *only* if use of the URL meets the URL Rule's four-pronged test (47 CFR § 73.670(b)).

II. BACKGROUND

4. As part of the CTA, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial material that television stations may air during children's programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits. Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.[4] In furtherance of the CTA's underlying purpose, the Commission adopted the URL Rule, which limits certain broadcasts of website addresses (i.e., URLs) during Children's Programming directed at children ages 12 and under.[5] Specifically, the URL Rule permits the display of an Internet website address during program material or promotional material not counted as commercial time *only* if it meets the following four-pronged test: (1) the website offers a substantial amount of bona fide program-related or other noncommercial content; (2) the website is not primarily intended for commercial purposes, including either e-commerce or advertising; (3) the website's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and (4) the page of the website to which viewers are directed by the website address is not used for e-commerce, advertising, or other commercial purposes (e.g., contains no links labeled "store" and no links to another page with commercial material).[6] If the website address that is displayed does not meet the four-pronged test, in addition to counting against a station's commercial time limits "the promotion must be clearly separated from program material."[7]

5. In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to upload to their OPIF on an annual basis "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."[8] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[9] Between May 29, 2020, and March 31, 2023, Univision filed the Renewal Applications and answered "no" in response to the certification concerning compliance

[4] *See* 47 CFR § 73.670(a); 47 U.S.C. § 303a(b).

[5] 47 CFR §§ 73.670(b), (c), and (d).

[6] 47 CFR § 73.670(b).

[7] 47 CFR § 73.670(c). The Commission requires program material be separated from commercial material by intervening and unrelated program material (e.g., "And now it's time for a commercial break" or "And now back to the [title of the program]"). *See Policies and Rules Concerning Children's Television Programming*, Report and Order, 6 FCC Rcd 2111, 2127, n.147 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[8] 47 CFR § 73.3526(e)(11)(ii). Such records must be retained until final action has been taken on the station's next license renewal application. *Id.*

[9] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

with the Commercial Limits Rule. In attachments to the Renewal Applications, Univision disclosed that Stations had not complied with the Commercial Limits Rule and, in some cases, the URL Rule during the Stations' prior license term. As a result, the Division commenced the Investigations and suspended processing the Renewal Applications.

A. *Pokémon* Children's Commercial Limits Matter

6. Univision reported in the Renewal Applications that a total of 41 stations aired the children's program "*Pokémon*" that contained commercial matter in excess of the amount permitted by the Commercial Limits Rule.[10] All 41 stations began airing overages on November 15, 2017, with 5 doing so until December 3, 2017,[11] and the remaining 36 doing so through January 24, 2018.[12] *Pokémon* was provided to the stations by the UniMás Television Network, which is owned by Univision,[13] and consisted of two consecutive half-hour episodes of the program between 4:00 pm and 5:00 pm, Monday through Friday, for a total of 5 hours per week. During the aforementioned periods, each one-hour block of *Pokémon* that was aired by the stations contained 15 minutes and 45 seconds of commercial matter per weekday.[14] Thus, each station aired an excess 3 minutes and 45 seconds of commercial matter beyond the 12-minute per hour limit on Commercial Matter permitted during children's weekday programming, with 36 stations doing so a total of 47 occasions each and 5 stations doing so on 35 occasions each.[15] Univision states that, after it discovered the commercial overage, the program was reformatted to eliminate the Commercial Matter to no more than 12 minutes per hour. This change occurred on January 25, 2018.[16]

B. *Pocoyo* Children's Commercial Limits Matter

7. Univision reported that, on 48 occasions between June 2016 and March 2017, a combined 36 stations displayed a website address that contained commercial matter immediately following the closing credits of the Children's Program "*Pocoyo*."[17] According to Univision, the non-commercial educational material consisted of a 40-second, interstitial "educational capsule" produced by

[10] The Bureau and Univision agree that *Pokémon* meets the definition of Children's Programming.

[11] *See, e.g.*, Application for Renewal of License (FCC Form 2100, Schedule 303-S) filed by Unimas Albuquerque LLC, KLUZ-TV, Albuquerque, NM (Fac. ID No. 57220), LMS File No. 0000192293at Attach. "KLUZ-TV Children's Commercial Limits Exhibit" (filed May 31, 2022).

[12] *See, e.g.*, Application for Renewal of License (FCC Form 2100, Schedule 303-S) filed by KAKW License Partnership, L.P., KAKW-DT, Killeen, TX (Fac. ID No. 148), LMS File No. 0000188359 at Attach. "KAKW-DT Children's Programming Commercial Limits Certifications" (filed Feb. 1, 2023; amended Jan. 24, 2024) (KAKW Statement).

[13] *Id.* The Bureau understands that stations not licensed to Univision, but that are UniMás Television Network affiliates, may have aired the same program containing excess Commercial Matter. This Consent Decree solely addresses stations licensed to Univision and listed in the Appendix. Non-Univision licensed stations will be addressed by separate Bureau action, as appropriate. *See* Adopting Order at n.1.

[14] KAKW Statement.

[15] Stations with a single asterisk (*) in the Appendix aired the excess commercial matter from November 15, 2017, through December 3, 2017, and those with two asterisks (**) in the Appendix aired the commercial matter from November 15, 2017 through January 24, 2018.

[16] *See id.*

[17] *Id*. *Pocoyo* is targeted toward children between the ages of 2 and 4 years. *See, e.g.,* Children's Television Programming Report (FCC Form 398) filed by Univision Philadelphia LLC, WUVP-DT, Vineland, NJ (Fac. ID No. 60560), LMS File No. 0000023220 (filed Apr. 5, 2017). The Bureau and Univision agree that *Pocoyo* meets the definition of Children's Programming.

Mundo Lanugo that aired immediately following *Pocoyo*.[18] *Pocoyo* and the interstitial were provided to the stations by the Univision Television Network, which is owned by Univision.[19] The interstitial included a three-second display of a URL for Mundo Lanugo's website.[20] Univision stated that while the website "contained a substantial amount of bona fide noncommercial content….the landing page contained a link to the Mundo Lanugo app, which could be purchased from the site."[21] In addition, a review by Bureau staff of the archived Mundo Lanugo website revealed a tab labeled "Compra" (Spanish for "buy" or "purchase").[22] Upon discovering the commercial material contained on the website, Univision "separated the capsule from the closing credits of the program with a bumper and deleted the URL."[23] As a result, not only did the display of the website appear to not comply with the URL Rule, but each station may have exceeded the Commercial Limits Rule by as much as 40 seconds on the 48 occasions that the interstitial was aired prior to remedial action being taken.[24]

III. CONCLUSION

8. The Bureau and Univision have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau terminates the Investigations and grants the Renewal Applications. In consideration, Univision agrees implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule and the URL Rule, and has agreed to pay a voluntary contribution in the amount of Three Hundred Thousand Dollars ($300,000) to the United States Treasury.

IV. TERMS OF AGREEMENT

9. **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.

10. **Jurisdiction**. Univision agrees that the Bureau has jurisdiction over the it and the matters contained in this Consent Decree, and the Bureau 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 Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission.

12. **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 to exercise any rights and remedies attendant to the enforcement of a Commission order.

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[18] KAKW Statement (providing the URL "https://mundolanugo.com" for Mundo Lanugo).

[19] The Bureau understands that stations not licensed to Univision, but that are Univision Television Network affiliates, may have also aired the same program containing excess Commercial Matter and may not have complied with the URL Rule. This Consent Decree solely addresses stations licensed to Univision and listed in the Appendix. Non-Univision licensed stations will be addressed by separate Bureau action, as appropriate. *See* Adopting Order at n.1.

[20] KAKW Statement.

[21] *Id.*

[22] *See* https://web.archive.org/web/20160403121842/http:/www.mundolanugo.com/ (last visited June 2, 2025).

[23] KAKW Statement.

[24] These stations are designated with a plus symbol (+) in the Appendix.

13. **Admission of Facts**. Univision admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 15 herein, that paragraphs 3 through 7 are a true and accurate description of the facts underlying the Investigations. By entering into this Consent Decree, Univision makes no admission of liability of any Communications Law, and the Bureau make no finding of any liability or violation.

14. **Termination of Investigation**. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigations and take the actions specified in paragraph 22. In consideration, Univision agrees to the terms and conditions contained herein, including the actions specified in paragraphs 16, 19, 20, and 22 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigations 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 Univision concerning the matters that were the subject of the Investigations or in assessing the issuance or size of sanctions or forfeitures proposed against Univision in any future enforcement actions. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigations through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding (formal or informal) to set for hearing the question of the basic qualifications of Univision to be a Commission licensee or to hold Commission licenses or authorizations.[25]

15. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Univision with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against Univision 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, Univision acknowledges that the Commission retains the discretion and authority to propose sanctions against Univision, including the issuance of notices of apparent liability for forfeiture, for any apparent willful and/or repeated violation by Univision of the Rules or the Act. The Commission's adjudication of any complaints or potential will be based solely on the record developed in subsequent proceedings.

16. **Voluntary Contribution**. Provided the Renewal Applications have been granted in accordance with paragraph 18 herein, Univision agrees to make a voluntary contribution to the United States Treasury in the amount of Three Hundred Thousand Dollars ($300,000) within thirty (30) calendar days after the Effective Date. Univision acknowledges and agrees that upon execution of this Consent Decree, the voluntary contribution shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of the Debt Collection Improvement Act of 1996.[26] **Univision shall send electronic notification of payment to VideoCompliance@fcc.gov on the date payment is made.** Payment shall 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),[27] or by wire transfer. Payments by check or money order are no longer accepted. 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. Below are instructions that payors should follow based on the form of payment selected:

- 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

[25] *See* 47 CFR § 1.93(b).

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

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

FCC at (202) 418-2843 or emailed 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) in the Appendix (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 the Commission's Fee Filer website at https://apps.fcc.gov/FeeFiler/login.cfm. To pay by credit card, log-in using the FCC Username associated with the FRN listed in the Appendix. 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 Consent Decree. The bill number is the Acct. No. (e.g., Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678) captioned above. 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 Fee Filer website at https://apps.fcc.gov/FeeFiler/login.cfm. To pay by ACH, log in using the FCC Username associated with the FRN listed in the Appendix. 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 Consent Decree. The bill number is the Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678) captioned above. 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. **Event of Default**. The Parties agree that an Event of Default shall occur upon the failure by Univision to pay the full amount of the voluntary contribution by the due date specified in paragraph 16 of this Consent Decree. After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the voluntary contribution 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 voluntary contribution, 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 Univision.

18. **Grant of the Renewal Applications**. In the Adopting Order, the Bureau has determined that grant of the Renewal Applications are in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant each Application for a full eight (8) year term from the prior license expiration date. The Renewal Applications will be granted within two (2) business days following the Effective Date. Grant of the Renewal Applications will be conditioned on compliance with the terms set forth in paragraph 16 of this Consent Decree. The Bureau acknowledges that, as a result of this Consent Decree, all matters that would preclude grant of the Renewal Applications have now been resolved.

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

19. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, Univision shall designate a person employed (on a full-time, part-time, or contract basis) by Univision to serve as a Compliance Officer and to discharge the duties set forth in Paragraphs 20 and 22. 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 to Univision's Chief Legal Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Univision complies with the Commercial Limits Rule, URL Rule, and terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws and the terms of this Consent Decree prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau within thirty (30) calendar days after the Effective Date by e-mail at VideoCompliance@fcc.gov. The Bureau must be notified, as previously specified, of any change in the person serving as Compliance Officer within five (5) business days.

20. **Compliance Plan**. For purposes of settling the matters set forth herein, Univision agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule, URL Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Stations and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, Univision shall develop and distribute a "Compliance Manual" to all Children's Covered Employees. The Compliance Officer shall distribute a Compliance Manual that they have personally prepared or one that has been prepared by Univision's in-house legal counsel or a third party such as a trade association or a law firm. The Compliance Manual may be one that was developed by Univision as part of corrective measures implemented following the incidents discussed in paragraphs 6 and 7, or one that is developed by Univision after the Effective Date. The Compliance Manual shall:

a. thoroughly explain the requirements embodied in the Commercial Limits Rule and URL Rule;

b. establish "Operating Procedures" that Covered Employees must follow to help ensure compliance with the Commercial Limits Rule and URL Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that stations monitor Children's Programming they broadcast, addresses problems, report issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

c. be reviewed and revised by the Compliance Officer, or Univision legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. Univision will conduct formal compliance training on the Commercial Limits Rule and URL Rule for all Covered Employees. As part of the compliance training program, Covered Employees shall be advised of the Commercial Limits Rule and URL Rule and shall be instructed on how to disclose noncompliance to the Compliance Officer. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, unless they have received such training within the last 12-months. During the term of this Compliance Plan all Covered Employees must receive

compliance training at least once every 12-months from the last date they received training. Training must also be provided to every new Covered Employees within ten business (10) days after commencing employment or becoming a Covered Employee. The compliance training program may be one that has been developed by Univision (or internal or external legal counsel) as part of corrective measures implemented since the incidents described in paragraphs 6 and 7 occurred, or one that is developed after the Effective Date. The compliance training program must include instruction relating the provisions of the Commercial Limits Rule, URL Rule, and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Univision legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, Univision shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule or URL Rule at the stations subject to this Compliance Plan in coordination with the Compliance Officer. Univision shall maintain on the public website for the Stations or on the public website of the Univision Television Network[29] and UniMás Television Network[30] (as applicable), the name, e-mail, and phone number of the Point of Contact. Changes in the Point of Contact must be made within five (5) business days.

(d) **Reporting Noncompliance**. Univision shall report any instance of noncompliance with the Commercial Limits Rule, URL Rule, or with the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that Univision has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that Univision has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of noncompliance shall be submitted by e-mail to VideoCompliance@fcc.gov. Univision must also include with any Station's Commercial Limits Certification a copy of such a report.

21. **Termination Date**. The obligations to which Univision is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

22. **Placement of Consent Decree in OPIF**. Within thirty (30) days of the Effective Date, Univision shall place in the OPIF of each Station a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints."[31] The Consent Decree shall be retained in each Station's OPIF until the date specified in paragraph 21.[32]

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[29] The Univision Television Network website is available at https://tv.univision.com/ and includes this website address or any substitute website address for the network.

[30] The UniMás Television Network website is available at https://www.univision.com/unimas and includes this website or any substitute website address for the network.

[31] A station's OPIF can be found at https://publicfiles.fcc.gov/. To log-in a licensee must select "sign-in" and enter the required log-in information. More information about how to log-in to the Station's OPIF and upload documents can be found by clicking on "For Filers" or "FAQ" from the OPIF homepage.

[32] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in

(continued….)

23. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

24. **Waivers**. As of the Effective Date, Univision waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order. Univision shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, no Party will contest the validity of the Consent Decree or Adopting Order, and Univision will waive any statutory right to a trial *de novo*. Univision hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[33] relating to the Consent Decree or Adopting Order.

25. **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.

26. **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.

27. **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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

28. **Successors and Assigns**. Univision agrees that the provisions of this Consent Decree shall be binding on it and its successors, assigns, and transferees, unless otherwise agreed to by the Commission.

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

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

31. **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.

32. **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.

33. **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.

(Continued from previous page)
writing that the material may be discarded).

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief, Media Bureau

_____
Date

Univision Communications Inc.

By:

_____
Ignacio Meyer
President, Univision Television Networks Group

_____
Date

APPENDIX

Univision Communications Inc. Owned and Operated Stations

Call Sign	Community of License	Facility ID No.	Licensee	FRN	LMS License Renewal File No.
KABE-CD+	Bakersfield, CA	18747	Univision Bakersfield LLC	0017777145	0000196299
KAKW-DT+**	Kileen, TX	148	KAKW License Partnership, L.P.	0008192122	0000188359
KBTF-CD**	Bakersfield, CA	34438	Unimas, Bakersfield LLC	0008192510	0000196301
KCEC*	Boulder, CO	57219	Spanish Television of Denver, Inc.	0002531630	0000173442
KCOR-CD+**	San Antonio, TX	48837	Unimas Partnership San Antonio	0015540941	0000188379
KDTV-CD+	Santa Rosa, CA	18148	KDTV License Partnership, G.P.	0001531425	0000196232
KDTV-DT+**	San Francisco, CA	33778	KDTV License Partnership, G.P.	0001531425	0000196191
KEZT-CD+**	Sacramento, CA	52891	Unimas Sacramento LLC	0008192544	0000196228
KFPH-CD+**	Phoenix, AZ	2739	Unimas Partnership of Phoenix	0006487789	0000192339[1]
KFPH-DT+**	Flagstaff, AZ	41517	Unimas Partnership of Flagstaff	0006500383	0000192338
KFSF-DT**	Vallejo, CA	51429	Unimas San Francisco LLC	0008192569	0000196230
KFTH-DT**	Alvin, TX	60537	Unimas Houston LLC	0003771003	0000188374
KFTR-DT**	Ontario, CA	60549	Unimas Los Angeles LLC	0005825898	0000196198
KFTU-CD+**	Tucson, AZ	53004	Unimas Partnership of Tucson	0006483424	0000192295
KFTU-DT+**	Douglas, AZ	81441	Unimas Partnership of Douglas	0006495147	0000192301
KFTV-DT+	Hanford, CA	34439	KFTV License Partnership, G.P.	0001531417	0000196187
KLUZ-TV*	Albuquerque, NM	57220	Unimas Albuquerque LLC	0010308484	0000192293
KMEX-DT+**	Los Angeles, CA	35123	KMEX License Partnership, G.P.	0001531359	0000196185
KNIC-DT+**	Blanco, TX	125710	Unimas Partnership San Antonio	0015540941	0000188378
KSTR-DT**	Irving, TX	60534	Unimas Dallas LLC	0003770922	0000188369
KTFO-CD+**	Austin, TX	35882	KAKW License Partnership, L.P.	0008192122	0000188360
KTFF-DT+**	Porterville, CA	35512	Unimas Fresno LLC	0008192593	0000196224[2]

[1] Application also includes low power television (LPTV) station K18NN-D, Globe, AZ (Fac. ID No. 127930), which acts as a translator for the associated Class A station.

Call Sign	Community of License	Facility ID No.	Licensee	FRN	LMS License Renewal File No.
KTFK-DT+**	Stockton, CA	20871	Unimas Sacramento LLC	0008192544	0000196227
KTVW-CD+**	Flagstaff, AZ	29464	KTVW License Partnership, G.P.	0004516118	0000192334
KTVW-DT+**	Phoenix, AZ	35705	KTVW License Partnership, G.P.	0004516118	0000192331[3]
KUTH-DT+**	Provo, UT	81451	Univision Salt Lake City LLC	0017777152	0000192258
KUVE-CD+**	Tucson, AZ	78036	Univision Tucson LLC	0017777178	0000192316
KUVE-DT+**	Green Valley, TX	63927	Univision Tucson LLC	0017777178	0000192313
KUVI-DT+**	Bakersfield, CA	7700	KUVI License Partnership, G.P.	0001531334	0000196298
KUVN-CD+	Fort Worth, TX	5319	KUVN License Partnership, L.P.	0007997810	0000188367
KUVN-DT+	Garland, TX	35841	KUVN License Partnership, L.P.	0007997810	0000188365
KUVS-DT+**	Modesto, CA	58609	KUVS License Partnership, G.P.	0001531292	0000196188
KWEX-DT+	San Antonio, TX	35881	KWEX License Partnership, L.P.	0007997562	0000188377
KXLN-DT+**	Rosenberg, TX	53847	KXLN License Partnership, L.P.	0008192015	0000188372
WAMI-DT**	Hollywood, FL	60536	Unimas Miami LLC	0005414875	0000123265
WFDC-DT+	Arlington, VA	69532	Unimas D.C. LLC	0008194805	0000115066
WFPA-CD**	Philadelphia, PA	74216	WXTV License Partnership, G.P.	0001531243	0000213356
WFTY-DT+**	Smithtown, NY	60553	Univision New York LLC	0005414917	0000208965
WFUT-DT**	Newark, NJ	60555	Univision New York LLC	0005414917	0000208964
WGBO-DT+	Joliet, IL	12498	WGBO License Partnership, G.P.	0001531391	0000154891
WLTV-DT+	Miami, FL	73230	WLTV License Partnership, G.P.	0001531375	0000123263
WQHS-DT+**	Cleveland, OH	60556	Univision Cleveland LLC	0003771052	0000147978
WUNI*	Marlborough, MA	60551	Unimas Boston LLC	0001734987	0000204626
WUVC-DT+**	Fayetteville, NC	16517	WUVC License Partnership, G.P.	0005008305	0000119662[4]

(Continued from previous page)

[2] Application also includes low power television station KTFF-LD, Fresno, CA (Fac. ID No. 23272), which acts as a translator for the associated full power station.

[3] Application also includes low power television station KDOS-LD, Globe, AZ (Fac. ID No. 129078), which functions as a translator for the associated full power station.

Call Sign	Community of License	Facility ID No.	Licensee	FRN	LMS License Renewal File No.
WUVG-DT+**	Athens, GA	48813	Univision Atlanta LLC	0005414891	0000128215
WUVP-DT+**	Vineland, NJ	60560	Univision Philadelphia LLC	0005414867	0000209065
WVEA-TV*	Tampa, FL	60559	Unimas Tampa LLC	0003771037	0000123253
WVEN-TV*	Melbourne, FL	5802	Unimas Orlando, Inc.	0005877790	0000123251
WXFT-DT+**	Aurora, IL	60539	Unimas Chicago LLC	0003770898	0000154892
WXTV-DT+**	Paterson, NJ	74215	WXTV License Partnership, G.P.	0001531243	0000208961

(Continued from previous page)

[4] Low power television station WTNC-LD, Durham, NC (Fac. ID No. 70112), which is licensed to WUVC License Partnership, G.P., functions as a translator for WUVC-DT. Its pending license renewal application (LMS File No. 0000119661) will also be acted upon as part of the terms of this Consent Decree.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-648
Released: August 1, 2025

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

CC Docket No. 02-6
WC Docket No. 21-93
WC Docket No. 02-60
WC Docket No. 10-90
WC Docket Nos. 09-197, 11-42

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 as Moot[3]

Navajo Nation Tribal Consortium, AZ, Application No. 211019879, Request for Waiver, CC Docket No. 02-6 (filed June 20, 2025)[4]

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

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

[3] *See*, *e.g.*, *Requests for Review 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 (WCB 2012) (*Al Noor High School Order*) (dismissing as moot requests where USAC has taken the requested action).

[4] We dismiss this request because the Bureau already granted a special construction service delivery deadline waiver and extended the deadline until June 30, 2026 for Navajo Nation Tribal Consortium in the *June 2025 USF*

(continued….)

Our Community School, CA, Application No. 251043242, Request for Waiver, CC Docket No. 02-6 (filed July 2, 2025)

Varnett Public School, TX, Application No. 161038016, Request for Waiver, CC Docket No. 02-6 (filed Jan. 30, 2018)

Waltham Elementary School District 185, IL, Application No. 251019344, Request for Waiver, CC Docket No. 02-6 (filed May 29, 2025)

Dismiss – FCC Form 471 Filed Timely[5]

Harvey Public Schools, ND, Application No. 251042009, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2025)

Jefferson Parish Library, LA, Application No. 251040211, Request for Waiver, CC Docket No. 02-6 (filed Mar. 26, 2025)

Rosendale Library, NY, Application No. 251042279, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2025)

Dismiss – Invoice Fully Paid[6]

Vanguard Classical – Consortia, CO, Application No. 231036320, Request for Waiver, CC Docket No. 02-6 (filed Feb. 2, 2025)

Dismissing Petitions for Reconsideration[7]

Streamlined Public Notice. *See Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 02-60, 24-686, 24-134, 10-90, 06-122, Public Notice, DA 25-433, n.31 (WCB rel. June 2, 2025) (*June 2025 USF Streamlined Public Notice*). We also note that because the special construction service delivery deadline has been extended three times for Navajo Nation Tribal Consortium for this FY 2021 application, we do not anticipate granting another waiver of the service delivery deadline for this funding request. If additional time is needed for the remaining portion(s) of this build, Navajo Nation Tribal Consortium should submit funding application(s) for the portion(s) of the build that cannot be completed by the June 30, 2026 deadline. *See Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 21-93, 10-90, 02-60, 18-213, Public Notice, DA 22-575, n.11 (WCB rel. May 31, 2022) (*May 2022 USF Streamlined Public Notice*).

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

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

[7] *See*, *e.g.*, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 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).

Archivo Biblioteca, PR, Application Nos. 251042915, 251042916, Petition for Reconsideration, CC Docket No. 02-6 (filed June 3, 2025)

Fontbonne Academy, MA, Application No. 251042899, Petition for Reconsideration, CC Docket No. 02-6 (filed June 3, 2025, duplicate filing June 5, 2025)

Hancock County School District, KY, Application No. 251037357, Petition for Reconsideration, CC Docket No. 02-6 (filed June 3, 2025)

Lee Ola Roberts Public Library, TN, Application No. 251042465, Petition for Reconsideration, CC Docket No. 02-6 (filed June 24, 2025)

Lighthouse Charter School, TX, Application No. 251043202, Petition for Reconsideration, CC Docket No. 02-6 (filed July 1, 2025)

Sayre Independent School District 31, OK, Application No. 251042983, Petition for Reconsideration, CC Docket No. 02-6 (filed June 30, 2025)

Late-Filed Petition for Reconsideration[8]

Alpena County George N. Fletcher Public Library, MI, Application No. 241040604, Petition for Reconsideration, CC Docket No. 02-6 (filed July 3, 2025)

Granted[9]

CIPA Violation – No Public Notice and Hearing/Meeting[10]

[8] *See*, *e.g.*, *Petitions for Reconsideration by Rockwood School District and Yakutat School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket 02-6, Order, 26 FCC Rcd 13004 (WCB 2011) (*Rockwell School District Order*) (dismissing two petitions for reconsideration because they were filed more than 30 days after the date of the Bureau's decisions); 47 CFR § 1.106(f) (requiring petitions for reconsideration to be filed within 30 days of the date of the Bureau's decision).

[9] 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).

[10] Although we find that Antilles Military Academy violated one provision of the Children's Internet Protection Act (CIPA), recovery may not be warranted in this situation. The academy admits that it did not conduct at least one public hearing to address its proposed CIPA technology protection measure and Internet safety policy. *See* 47 U.S.C. § 254(h)(5)(A)(iii) (requiring that schools provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy). Although the applicant did not hold a public hearing, we find that this omission is correctable. *See Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan for our Future*, CC Docket No. 02-6, GND Docket No. 09-51, Report and Order, 26 FCC Rcd 11819, 11828, para. 21 and n.72 (2011) (*2011 CIPA Order*) (citing to the Letter from Dana R. Shaffer, Chief, Wireline Competition Bureau, FCC, to Scott Barash, Acting Chief Executive Officer, USAC, CC Docket No. 02-6, Letter, 24 FCC Rcd 417 (WCB 2009) (*2009* "*Table C" Recovery Issues Letter*) and agreeing that USAC should give applicants the opportunity to correct minor errors that could result in violations of the Commission's CIPA rules before instituting recovery of E-Rate funds). Accordingly, Antilles Military Academy should provide public notice and hold a meeting to be able to demonstrate that it has complied with the statute. *See id. at* 11827-28, (continued….)

Antilles Military Academy, PR, Application Nos. 977731, 975047, Request for Waiver and/or Review, CC Docket No. 02-6 (filed Apr. 3, 2015)

Contract Agreement in Place[11]

Académie Lafayette Charter School, MO, Application No. 161016876, Request for Waiver, CC Docket No. 02-6 (filed Jan. 27, 2020)

Demonstrating Extraordinary Circumstances Warranting Invoice Rule Waiver[12]

Del Valle Independent School District, TX, Application No. 181002488, Request for Waiver, CC Docket No. 02-6 (filed Feb. 25, 2020)

Discount Calculation[13]

Holy Spirit School, OH, Application No. 241037694, Request for Review, CC Docket No. 02-6 (filed May 23, 2025)

Eligible Services[14]

Santa Ana Unified School District, CA, Application No. 826170, Request for Review, CC Docket No. 02-6 (filed Sept. 3, 2013)

Complied with Competitive Bidding Rules[15]

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para. 20 and n. 69 (providing "[i]f the school or library cannot locate any record of a public notice and hearing that was held after August 2004 … the school or library could provide public notice and hold a hearing or meeting to be able to demonstrate that it has complied with the statute."). We direct USAC to work with the applicant and obtain documentation that a public notice was issued and a meeting or hearing was held pursuant to 47 U.S.C. § 254(h)(5)(A)(iii).

[11] *See*, *e.g.*, *Requests for Waiver of the Decision of the Universal Service Administrator by Adams County School District 14 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6019, 6024, para. 11 (2007) (*Adams County School District 14 Order*) (granting requests for review in instances where USAC denied funding solely because the execution date of the contract did not accompany the signature lines of both the applicant and the service provider).

[12] *See*, *e.g.*, *Petition for Reconsideration of a Decision of the Wireline Competition Bureau by Sunesys*, *LLC (Montebello Unified School District)*, *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration, 34 FCC Rcd 7766, 7768, para. 6 (WCB 2009) (*Sunesys*, *LLC Order*) (granting an invoice filing deadline extension when the petitioner demonstrated extraordinary circumstances outside of its control).

[13] *See*, *e.g.*, *Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10708, para. 12 (WCB 2006) (*Academia Claret Order*) (remanding applications for further processing when, upon de novo review, the Commission disagreed with USAC's discount calculation determination).

[14] *See*, *e.g.*, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Aberdeen School District 5 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 2080, para. 1 (WCB 2012) (*2012 Aberdeen School District Order*) (finding that USAC erred in its eligibility determination regarding the petitioner's requested services).

[15] *See*, *e.g.*, *Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8757, 8763, para. 8 (2007) (*2007 Aberdeen School District Order*) (granting appeals where the Commission

(continued….)

MSD of Martinsville, IN, Application No. 974677, Request for Waiver, CC Docket No. 02-6 (filed Aug. 2, 2017)

FCC Form 473 Technical Issue[16]

Holmdel Township School District, NJ, Application No. 231039056, Request for Waiver, CC Docket No. 02-6 (filed July 7, 2025)

Granting on Reconsideration – Demonstrating Extraordinary Circumstances Warranting Invoice Rule Waiver [17]

K&M Communications (Fall River Deaconess Home School), MA, Application No. 231007885, Petition for Reconsideration, CC Docket No. 02-6 (filed July 2, 2025)

Late-Filed Appeal or Waiver – Submitted Only a Few Days Late[18]

New Mexico School for the Arts, NM, Application No. 251016796, Request for Waier, CC Docket No. 02-6 (filed June 9, 2025)

Late-Filed FCC Form 471 Applications — Application Filed Late Due to Circumstances Beyond Their Control[19]

Grand Isle Supervisory Union, VT, Application No. 251043179, Request for Waiver, CC Docket No. 02-6 (filed June 13, 2025)

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disagreed and found that the applicants had actually complied with the Commission's competitive bidding rules). We find that MSD of Martinsville complied with the Commission's rules and did not enter into a contract with its service provider before the Allowable Contract Date (ACD).

[16] *Aurora Public Library*, *et al.; Schools And Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 2025 WL 1368065, *4, para. 10 (WCB May 7, 2025) (granting waiver of the invoice filing deadline rule where service provider was unable to timely file its Service Provider Annual Certification due to technical issues).

[17] *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 prior decision); *Sunesys*, *LLC Order*, , 34 FCC Rcd at 7768, para. 6 (granting an invoice filing deadline extension when the petitioner demonstrated extraordinary circumstances outside of its control).

[18] *See*, *e.g.*, *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District*, *et al.*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, para. 2 (WCB 2011) (*ABC Unified School District Order*) (waiving the appeal and request for waiver filing deadline for petitioners that submitted their requests to the Commission or USAC only a few days late). 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. *See supra* note 9.

[19] *See*, *e.g.*, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Abbotsford School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 15299, 15300, para. 2 (WCB 2012) (*Abbotsford School District Order*) (granting waiver where the applicant filed within a reasonable period after the close of the application filing window despite delays beyond its control).

Late-Filed FCC Form 471 Applications – Application Filed Late Within Reasonable Period Despite School Reorganization[20]

Pella Christian Grade School, IA, Application No. 251043188, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2025)

Late-Filed FCC Form 471 Applications – Filed Late Due to Unexpected Illness[21]

Lee County School District, FL, Application No. 251042271, Request for Waiver, CC Docket No. 02-6 (filed June 23, 2025)

Kinder Cub School, FL, Application No. 251042945, Request for Waiver, CC Docket No. 02-6 (filed June 6, 2025)

Late-Filed FCC Form 471 Applications – Filed More Than 30 Days Late Due to Serious Medical Condition[22]

Robin Hill Elementary School, OK, Application No. 251043198, Petition for Reconsideration, CC Docket No. 02-6 (filed June 21, 2025)

Late-Filed FCC Form 471 Applications – Filed Within 14 Days of the Close of the Window[23]

Arkansas County Library, AR, Application No. 251042696, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2025)

Candler County School District, GA, Application No. 251042368, Request for Waiver, CC Docket No. 02-6 (filed June 5, 2025)[24]

Catholic Charities Neighborhood Services, NY, Application No. 251042713, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2025)

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[20] *See*, *e.g.*, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by A.C.E. Charter High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 15907, 15908, para. 2 (WCB 2012) (*A.C.E. Charter High School Order*) (finding special circumstances existed to justify granting waiver requests where, for example, petitioners filed within a reasonable period of the filing window's close despite a school reorganization).

[21] *See*, *e.g.*, *Academy of Math and Science Order*, 25 FCC Rcd at 9259-60, para. 9-10 (finding special circumstances exist to justify granting a waiver request where, for example, there was an unexpected serious illness or death of a family member for the staff member assigned responsibility for E-rate applications).

[22] *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, para. 7-8 (2022) (*Archdiocese of San Antonio Order*) (granting waiver requests for FCC Forms 471 filed more than 30 days after the close of the application filing window due to the filer's serious medical conditions).

[23] *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 Forms 471 within 14 days of the application filing window deadline).

[24] The consultant filing Candler County School District's waiver request listed the incorrect name of the petitioner. We include the correct name in this public notice. We also waive the appeal filing deadline because the petitioner submitted its waiver request to the Commission only a few days late. *See supra* note 18.

Centre County Federation of Public Libraries, PA, Application No. 251001237, Request for Waiver, CC Docket No. 02-6 (filed June 2, 2025)

Godfrey Lee School District, MI, Application No. 251041973, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2025)

Holland Public Schools, MI, Application No. 251042225, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2025)

La Villa Independent School District, TX, Application No. 251041821, Request for Waiver, CC Docket No. 02-6 (filed June 17, 2025)[25]

Notre Dame Academy, MA, Application No. 251042588, Request for Waiver, CC Docket No. 02-6 (filed June 4, 2025)

Reicher Catholic High School, TX, Application No. 251041881, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2025)[26]

The Phelps School, PA, Application No. 251042449, Request for Waiver, CC Docket No. 02-6 (filed Apr. 23, 2025)

Wide Ruins Community School, AZ, Application No. 251042725, Request for Waiver, CC Docket No. 02-6 (filed June 2, 2025)

Ministerial and/or Clerical Error[27]

Belvidere School District 100, IL, Application Nos. 251032972, 251019285, Request for Waiver, CC Docket No. 02-6 (filed May 22, 2025)

Scholarship Prep Schools Oceanside, CA, Application No. 251023325, Request for Waiver, CC Docket No. 02-6 (filed June 13, 2025)

Scholarship Prep Schools Santa Ana 1, CA, Application No. 251023871, Request for Waiver, CC Docket No. 02-6 (filed June 13, 2025)

Shawnee Mission School District 512, KS, Application No. 251018405, Request for Waiver, CC Docket No. 02-6 (filed June 4, 2025)

[25] We also waive the appeal filing deadline because the petitioner submitted its waiver request to the Commission only few days late. *See supra* note 18.

[26] We also waive the appeal filing deadline because the petitioner submitted its waiver request to the Commission only a few days late. *See supra* note 18.

[27] *See*, *e.g.*, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools*, 25 FCC Rcd 17319, 17320, n.5 (WCB 2010) (*Ann Arbor Public Schools Order*) (explaining that failure to enter an item from the source list onto the application is a ministerial/clerical error that can be permitted correction); *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, 15520, n.19 (WCB 2008) (*Archer Public Library Order*) (permitting corrections when applicant entered an incorrect number of students eligible for the National School Lunch Program, which, if corrected, would raise applicant's discount rate or an applicant mistakenly requested the incorrect discount level).

Ministerial and Clerical Error – Two-in-Five Year Rule[28]

Sandusky City School District, OH, Application No. 659773, Request for Waiver, CC Docket No. 02-6 (filed July 26, 2011)

Unintentional Cancellation of a Funding Request[29]

Indian Creek School District #425, IL, Application No. 251042249, Request for Waiver, CC Docket No. 02-6 (filed June 25, 2025)

USAC Decision Issued After Invoice Filing Deadline[30]

Mother of God School, MD, Application No. 231003937, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2025)

Waiver of Document Retention Rule[31]

Metropolitan School District of Washington Township, IN, Application No. 201008212, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2021)

Waiver of Special Construction Service Delivery Deadline[32]

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[28] *See*, *e.g.*, *Ann Arbor Public Schools Order*, 25 FCC Rcd at 17320, n.18 (allowing the correction of errors when the FCC Form 471 block 4 worksheet was different from the actual funding requests); s*ee also Request for Review and Waiver of Decisions of the Universal Service Administrator by All Hallows Institute School et al*., *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 35 FCC Rcd 12738, 12740-42, paras. 5, 7 (WCB 2020) (*All Hallows Institute Order*) (waiving the Category Two "2-in-5 rule" noting the lack of clarity about how the rule operated).

[29] *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 Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 19227, 19228-29, paras. 3-4 (WCB 2007) (*Joseph Jingoli & Son*, *Inc. Order*) (granting petitioners' requests to restore mistakenly cancelled funding requests). We also grant a waiver to permit the correction of some clerical and/or ministerial errors on its application. *See*, *e.g.*, *Ann Arbor Public Schools Order*, 25 FCC Rcd at 17320, n.5 & 20 (explaining that failure to enter an item from the source list onto the application is a ministerial/clerical error that can be permitted correction).

[30] 47 CFR § 54.514(a)(3); *see also Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 35 FCC Rcd 14426, 14431, para. 15 (2020) (*2020 Invoicing Rule Modification Order*) (authorizing the Bureau to grant a waiver in instances where a program participant was unable to timely submit an invoice because they were awaiting a post-commitment decision from USAC, or received a decision approving a post-commitment request or granting an appeal of a previously denied or reduced funding request after the invoice filing deadline had passed).

[31] *See Requests for Review of Decisions of the Universal Service Administrator by Eastchester UN Free School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 34 FCC Rcd 7776, 7781, para. 13 (WCB 2019) (*Eastchester UN Free School District Order*) (granting a waiver after finding that a document retention violation was actually a clerical error and that the competitive bidding documents provided were sufficient in detail for the Commission to determine that all of the bids were carefully considered and the most cost-effective service offering was selected).

[32] *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

(continued….)

Clark County School District, NV, Application Nos. 231037273, 231037299, 231037341, 231037371, 231037395, 231037425, 231037446, 231037468, Request for Waiver, CC Docket No. 02-6 (filed June 17, 2025)

Duckwater Shoshone Consortium, NV, Application No. 221022093, Request for Waiver, CC Docket No. 02-6 (filed June 17, 2025)

Elko County School District, NV, Application No. 231009631, Request for Waiver, CC Docket No. 02-6 (filed June 17, 2025)

Las Vegas-Clark County Library District, NV, Application No. 231038929, Request for Waiver, CC Docket No. 02-6 (filed June 18, 2025)

WANRack, LLC (Schaumburg School District 54), IL, Application No. 231034235, Request for Waiver, CC Docket No. 02-6 (filed June 18, 2025)

Granted in Part/Dismissed in Part/Denied in Part

Late-Filed FCC Form 471 Applications[33]

Ahi Ezer Yeshiva School, NY, Application No. 251042733; Bnos Bais Yaakov, NY, Application Nos. 251042447, 251042745; Brandeis School, NY, Application No. 251042070; Chabad Lubavitch of Southside, FL, Application No. 251042071; Cheder Be'er Yeshaya, NY, Application Nos. 251042754, 251042756; Cheder Chabad Inc., MD, Application No. 251042233; Congregation Yeshiva Beis Chaya Mushka Inc., NY, Application Nos. 251042432, 251042434; Foxman Torah Institute, NJ, Application No. 251042770; Hebrew Academy of Long Beach, NY, Application No. 251042152; Islamic School of Rhode Island, RI, Application Nos. 251042780, 251042786; Maimonides Academy, FL, Application Nos. 251042076, 251042608; Maimonides Hebrew Day School, FL, Application No. 251042752; Mesilas Bais Yaakov, NY, Application Nos. 251042614, 251042617; Mestiva Ateres Yaakov, NY, Application No. 251042774; North Star Christian Academy, NY, Application No. 251042669; Ohr Yitzchock, NY, Application No. 251042801; Rambam High School, NY, Application Nos. 251042607, 251042777; Solomon Schechter School of Queens, Application Nos. 251042606, 251042791; St. Peters Child Care Center, Inc., NY, Application Nos. 251042809, 251042811; Toras Emes Academy of Miami, FL, Application Nos. 251041922, 251041929; Yeshiva Har Torah, NY, Application No. 251042069;

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 the petitioners were unable to complete implementation for reasons beyond their control and made good faith efforts to comply with Commission rules and procedures. We waive the special construction service delivery deadline and direct USAC to provide the applicants until June 30, 2026 to complete their special construction projects.

For these petitioners, we also waive any associated administrative or procedural deadlines, including the invoice filing deadline, that might be necessary to effectuate our ruling. *See also supra* note 9.

[33] *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 Forms 471 within 14 days of the application filing window deadline).

Yeshiva Ohr Boruch, IL, Application No. 251041932; Requests for Waiver, CC Docket No. 02-6 (filed May 15, 2025)[34]

Denied

Failure to Comply with CIPA[35]

Diocese of St. Petersburg, FL, Application No. 839861, Request for Review, CC Docket No. 02-6 (filed Mar. 9, 2015)

FCC Form 470 and RFP Inadequate Specificity[36]

Immaculate Conception School, IL, Application No. 201029133, Request for Review, CC Docket No. 02-6 (filed Nov. 29, 2024)

Ineligible Services[37]

Talmudical Academy Baltimore, MD, Application No. 241039850, Request for Waiver, CC Docket No. 02-6 (filed Dec. 9, 2024)

[34] We dismiss the request for waiver for Bais Chana Heritage School, Inc., CA, Application Nos. 251042813, 251042816; St. Raymond Academy For Girls, Application No. 251027393; Yeshiva Ketana of Los Angeles, CA, Application No. 251042740; and Yeshiva Rav Isacsohn Academy, CA, Application No. 251042512, because these applications are already classified as "in window" in USAC's system. We deny the request for waiver for Bais Reuvan Kaminetz of Lakewood, NJ, Application No. 251042760, because the petitioner failed to present special circumstances justifying a waiver of the Commission's rules. *See infra* note 38.

[35] *See* 47 U.S.C. § 254(h)(5) (requiring that schools certify that they are enforcing a policy of Internet safety and have in place a technology protection measure as part of the Children's Internet Protection Act (CIPA)). The Diocese of St. Petersburg argues that it does not need a filtering device because the location at issue is an administrative office with no classrooms or students and is not located in or near a school. We reject this argument and find that computers not available to the public are not exempt from the CIPA requirements. *Federal-State Joint Board on Universal Service*, *Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8196, para. 30 (2001) (*2001 CIPA Order*) (declining to exempt computers not available to the public from CIPA's requirements after finding that CIPA makes no distinction between computers used solely by school or library staff and those accessible to the public).

[36] *See*, *e.g.*, *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District et al.; 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 and 97-21, Order, 18 FCC Rcd 26407, 26410, para. 7 (2003) (*Ysleta Independent School District Order*) (clarifying that the requirement for a bona fide request for services means that applicants must specify the services/equipment for which they anticipate they are likely to seek discounts consistent with their technology plans, in order to provide potential bidders with sufficient information on the FCC Form 470 [or on an RFP cited in the FCC Form 470] to enable bidders to reasonably determine the needs of the applicant); *Request for Review of the Decision of the Universal Service Administrator by Washington Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13746, 13748, paras. 3-6 (WCB 2013) (*Washington Unified School District Order*) (finding that the applicant violated the Commission's competitive bidding requirements by failing to include sufficient information on its FCC Form 470 to enable prospective service providers to identify and formulate bids and failed to indicate an RFP was available).

[37] *See*, *e.g.*, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by AllWays*, *Inc. (Prairie Hills School District 144); Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1968, 1968-69, para. 1 (WCB 2012) (*AllWays Order*) (upholding denials of funding requests for services that are ineligible for E-Rate support). For Talmudical Academy Baltimore, a waiver of the thirty percent rule is not applicable when all the requested services/equipment are ineligible.

Late-Filed FCC Form 471 Applications[38]

All Children Learn Differently School, OH, Application No. 251043238, Request for Waiver, CC Docket No. 02-6 (filed July 2, 2025)

Center For Spectrum Services-Kingston, NY, Application No. 251010023, Request for Waiver, CC Docket No. 02-6 (filed June 20, 2025)

Chester County School District, TN, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed July 1, 2025)

City of Brownsville - Brownsville Public Library System, TX, Application No. 251043147, Request for Waiver, CC Docket No. 02-6 (filed June 2, 2025)

Clay County School District, KY, Application No. 251043229, Request for Waiver, CC Docket No. 02-6 (filed June 30, 2025)

Flora Community Unit School District #35, IL, Application No. 251043245, Request for Waiver, CC Docket No. 02-6 (filed July 2, 2025)

Holy Family Parochial School, AL, Application No. 251040777, Request for Waiver, CC Docket No. 02-6 (filed June 24, 2025)

Indianapolis Christian School System, IN, Application No. 251043140, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2025)

Launch Expeditionary Learning Charter, NY, Application Nos. 251043153, 251043154, Request for Waiver, CC Docket No. 02-6 (filed June 10, 2025)

Mountain Top Library, NY, Application No. 251042934, Request for Waiver, CC Docket No. 02-6 (filed June 9, 2025)

Mount Vernon Public Library, NY, Application Nos. 251043115, 251043116, Request for Waiver, CC Docket No. 02-6 (filed June 23, 2025)

North Lake School District, WI, Application No. 251043234, Request for Waiver, CC Docket No. 02-6 (filed July 1, 2025)

Palm Harbor Library, FL, Application No. 251043225, Request for Waiver, CC Docket No. 02-6 (filed June 30, 2025)

Pottsville Free Public Library, PA, Application No. 251043216, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2025)

Pulaski Community School District, WI, Application No. 251043172, Request for Waiver, CC Docket No. 02-6 (filed June 17, 2025)

Pulaski Community School District, WI, Application No. 251043173, Request for Waiver, CC

[38] *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).

Docket No. 02-6 (filed June 17, 2025)

Renaissance Academy Charter School of The Arts, NY, Application No. 251043149, Request for Waiver, CC Docket No. 02-6 (filed June 2, 2025)

Rhema Word Christian Academy, FL, Application No. 251043212, Request for Waiver, CC Docket No. 02-6 (filed June 26, 2025)[39]

Riceville Community School District, IA, Application No. 251037853, Request for Waiver, CC Docket No. 02-6 (filed June 26, 2025)[40]

Ririe Joint School District 252, ID, Application No. 251043246, Request for Waiver, CC Docket No. 02-6 (filed July 2, 2025)

Sacred Heart Elementary School, NE, Application No. 251043087, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2025)

San Diego County Library, CA, Application No. 251043064, Request for Waiver, CC Docket No. 02-6 (filed May 19, 2025)

Sierra Blanca Independent School District, TX, Application No. 251043232, Request for Waiver, CC Docket No. 02-6 (filed June 30, 2025)

Skagway City School District, AK, Application No. 251042936, Request for Waiver, CC Docket No. 02-6 (filed Apr. 24, 2025)

St. Anne Institute, NY, Application No. 251043215, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2025)

St. Joseph's Children's Home, WY, Application No. 251043137, Request for Waiver, CC Docket No. 02-6 (filed June 5, 2025)

Stoughton Area School District, WI, Application No. 251043190, Request for Waiver, CC Docket No. 02-6 (filed June 19, 2025)

Trillium Charter, CA, Application No. 251042873, Request for Waiver, CC Docket No. 02-6 (filed Apr. 15, 2025)

Twin Hills School District CO11, OK, Application No. 251010353, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2025)

Wahpeton School District 37, ND, Application No. 251042819, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2025)

Western Yell County School District, AR, Application No. 251042155, Request for Waiver, CC Docket No. 02-6 (filed July 7, 2025)

[39] Rhema Word Christian Academy listed the incorrect FCC Form 471 application number in its waiver request. We are using the correct application number in this public notice.

[40] Riceville Community School District also failed to submit its waiver request to the Commission within 60 days as required by the Commission's rules. *See infra* note 43.

Late-Filed Invoice or Invoice Deadline Extension[41]

Interface Cable Assemblies and Services Corp. (Glen Cove City School District), NY, Application No. 211003959, Request for Waiver, CC Docket No. 02-6 (filed July 8, 2025)

MiNet Solutions (Martinsville School District), VA, Application No. 231013067, Request for Waiver, CC Docket Not. 02-6 (filed Apr. 29, 2025)

Stanley G. Falk School, NY, Application No. 231035757, Request for Waiver, CC Docket No. 02-6 (filed June 13, 2025, referral from USAC filed July 8, 2025)

Sterling Computers Corporation (Cedar Bluffs Public Schools), NE, Application No. 231034269, Request for Waiver, CC Docket No. 02-6 (filed May 5, 2025)

Transformyx, LLC (Rapides Parish School District), LA, Application No. 221033700, Request for Waiver, CC Docket No. 02-6 (filed June 11, 2025)

Transformyx, LLC (St. John the Baptist Parish District), LA, Application No. 231030034, Request for Waiver, CC Docket No. 02-6 (filed June 9, 2025)

Relying on FCC Form 470 That Did Not Seek Bids on Types of E-Rate Services Later Requested[42]

Al-Madrasa Al-Islamiya, NY, Application No. 161045945, Request for Review and/or Waiver, CC Docket No. 02-6 (filed May 12, 2025)

Untimely Filed Appeals or Waiver Requests[43]

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[41] *See*, *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. 7 (WCB 2016) (*Ada School District Order*) (denying waiver requests for invoice filing deadline extensions from petitioners who failed to seek an extension before the invoice filing deadline and did not demonstrate extraordinary circumstances to justify waiving the Commission's rules).

[42] *See*, *e.g*., *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Area Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 4533, 4541-42, paras. 14-15 (WCB 2009) (*Albert Lea Area Schools Order*) (finding that petitioners violated the Commission's competitive bidding rules by not including the type of service on the FCC Form 470 the applicant requested on its FCC Form 471); *Petition for Reconsideration by Chicago Public Schools; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 9289-90, paras 5, 7, 8, (WCB 2014) (*Chicago Public Schools Order*) (denying appeals of applicants that filed FCC Forms 470 that did not include the types of services for which the applicants later requested E-Rate funding and finding that petitioner did not demonstrate the existence of special circumstances to warrant a waiver of the Commission's competitive bidding requirements).

We deny Al-Madrasa Al-Islamiya's appeal of Application Nos. 171038332 and 181036697 on procedural grounds because the school did not timely file its appeals with the Commission and USAC. In this instance, we do not find special circumstances to waive the 60-day deadline rule. *See infra* note 43.

[43] *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

(continued….)

Fayette County Public Library System, WV, Application No. 191036550, Request for Waiver, CC Docket No. 02-6 (filed Mar. 19, 2021)

Congregation Machzikei Hadas and Power Tech NJ Inc., NJ, Application No. 221036765, Request for Waiver, CC Docket No. 02-6 (filed July 8, 2025)

Harvest Christian Academy, DE, Application No. 251008805, Request for Waiver, CC Docket No. 02-6 (filed June 24, 2025)

Holy Family Parish School, IL, Application No. 241028540, Request for Waiver, CC Docket No. 02-6 (filed June 16, 2025)

Tiferes Bais Yaakov School, NJ, Application No. 241040006, Request for Waiver, CC Docket No. 02-6 (filed June 12, 2025)

Emergency Connectivity Fund Program
WC Docket No. 21-93

Dismiss as Funded[44]

GovConnection, Inc. (Sandwich School District), MA, Application No. ECF202200513, Request for Waiver, WC Docket No. 21-93 (filed Sept. 5, 2024)

Trafera, LLC (Neshannock Township School District), PA, Application No. ECF202201800, Request for Waiver, WC Docket No. 21-93 (filed Aug. 29, 2024)

Granted

Early Delivery[45]

Kent School District, WA, Application No. ECF202207726, Request for Waiver, WC Docket No. 21-93 (filed June 5, 2025)

Lawrence Family Development Charter School, MA, Application No. ECF202200032, Request for Waiver, WC Docket No. 21-93 (filed Apr. 4, 2025)

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).

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

[45] *See*, *e.g.*, *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 21-93, 06-122, Public Notice, 37 FCC Rcd 7445, 7459, n.25 (WCB 2022) (granting requests for waivers for equipment delivered before the start of the approved funding year). Consistent with precedent, we also grant Rock Creek School District a waiver of the appeal filing deadline. *See also*, *e.g.*, *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (granting waivers of filing deadline for appeals because they 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).

Granting Additional Time to Respond to Information[46]

North Bergen School District, NJ, Application No. ECF202104608, Request for Review, WC Docket No. 21-93 (filed Nov. 21, 2024)

Rock Creek School District I 02, OK, Application No. ECF202206030, Request for Waiver, WC Docket No. 21-93 (filed Nov. 19, 2024)

T-Mobile USA, Inc. (San Bernadino Diocesan Schools Consortium), CA, Application No. ECF202110389, Request for Waiver, WC Docket No. 21-93 (filed May 2, 2025)

Ministerial and/or Clerical Errors[47]

Valdosta City School District, GA, Application No. ECF222116178, Request for Waiver, WC Docket No. 21-93 (filed July 11, 2025)

Waiver of the ECF Invoice Filing Deadline[48]

Chapel Hill Independent School District, TX, Application No. ECF202203604, Request for Waiver, WC Docket No. 21-93 (filed Aug. 29, 2024)

Rural Health Care Program
WC Docket No. 02-60

Dismissed as Moot

Adventist Health, CA, Request for Waiver, WC Docket No. 02-60, Funding Request No. RHC20250015943 (filed June 26, 2025)[49]

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[46] *See*, *e.g.*, *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Accomack County Public School et al.; Schools and Libraries Universal Service Support Mechanism*, *CC Docket No. 02-6*, Order, 38 FCC Rcd 330, 334-35, 337, paras. 7-9, 14 (WCB 2023) (*Accomack County Order*) (granting requests for review of applicants that had been denied funding during invoicing because they failed to respond to USAC's request for information within the USAC-specified time frame or they made a clerical error on their timely-filed invoice). Consistent with precedent, we also grant Rock Creek School District a waiver of the appeal filing deadline. *See also*, *e.g.*, *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2.

[47] *See, e.g.*, *Ann Arbor Public Schools Order*, 25 FCC Rcd at 17320-21, para. 2, n.23 (granting a waiver when applicant mistakenly provided the wrong documentation concerning a purchase). Consistent with precedent, we also grant a waiver of the appeal filing deadline. *See also, e.g.*, *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2.

[48] *See*, *e.g.*, *Requests for Waiver by Bluum USA Inc et al.; Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, 39 FCC 1049, 1051-52, paras. 9 (WCB 2024) (extending the ECF program's invoice filing deadline for funding requests by 60 days because the applicant or service provider was unable to timely file due to administrative issues). We waive the invoice filing deadline for ECF2290008185, direct USAC to process an invoicing mode change, and provide 60 days from the release date of a new RFCDL to file invoices with USAC. To the extent the petitioner is also seeking a waiver of the service delivery deadline, we deny such requests. We remind petitioners that June 30, 2024 was the final service delivery date for the ECF program and the Commission cannot waive or extend this date to provide any petitioner with additional time to purchase eligible equipment and/or services beyond this statutorily set date.

[49] *See Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, WC Docket No. 02-60, Public Notice, DA 25-509, at 12 (WCB July 1, 2025) (*July 2025 USF Streamlined Public Notice*). We dismiss request to waive the funding year 2025 application filing deadline as moot. The Wireline
(continued….)

Windstream Communications, LLC, TX, Application for Review, WC Docket No. 02-60, Funding Request Nos. 1210028 *et al*. (filed Oct. 15, 2020)[50]

Dismissed For Insufficient Documentation[51]

Lead4Life, Inc., MD, Appeal, WC Docket No. 02-60, No Funding Request Number (filed Aug. 24, 2020)

Granted

Majority-Rural Rule[52]

Baylor, Scott & White Health Consortium (BSWH), TX, WC Docket No. 02-60, Request for Review, Funding Request Nos. RHC20240012570, RHC20240012571, RHC20240012574, RHC20240012582, RHC20240012583, RHC20240012585, RHC20240012605, RHC20240012610, RHC20240012633, RHC20240012642, RHC20240012650, RHC20240012670, RHC20240012673, RHC20240012677, RHC20240012678, RHC20240012682, RHC20240012683, RHC20240012684, RHC20240012687, RHC20240012688, RHC20240012646, RHC20240012639, RHC20240014169, RHC20240014172, RHC20240014174, RHC20240012680, RHC20240014236 (filed May 8, 2025)

Competition Bureau granted Adventist Health's substantively identical request in the *July 2025 USF Streamlined Public Notice*.

[50] *See* Letter from Matthew A. Brill, Latham & Watkins, LLP, Counsel for Windstream Communications, LLC, to Marlene H. Dortch, Secretary, FCC (July 11, 2025) (on file in WC Docket No. 02-60) (withdrawing the Application for Review of Windstream Communications, LLC).

[51] 47 CFR § 54.721 (setting forth general filing requirements for review of decisions issued by USAC, including the requirement that the request for review include supporting documentation); *see also Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket No. 02-60, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the Commission's rules which require, along with a proper caption and reference to the applicable docket number: (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought). Lead4Life, Inc. failed to provide a statement of facts or of the relief sought with its appeal.

[52] See *Request for Review, Bradford Regional Medical Center*, Rural Health Care Universal Service Support Mechanism, WC Docket No. 02-60, Order, 25 FCC Rcd 7221 (WCB 2010) (Bradford RMC Order) (allowing an health care provider to cure a clerical error in which it filed the incorrect form); see also *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA, et al*., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316 (2006) (*Bishop Perry Order*) (waiving the Commission's rules to, inter alia, allow applicants additional time to file their FCC Forms 471 to receive universal service support under the Schools and Libraries mechanism, where applicants' ministerial or clerical errors caused USAC to find that the applications were not complete and thus not filed within the filing window). BSWH says it was a clerical error to include 12 non-rural health care providers in its letter of exemption, which dropped its consortium out of the majority-rural health care providers. We grant the request, authorize USAC to accept a conforming letter of exemption, and direct USAC to treat BSWH as in compliance with the majority-rural requirement when processing its funding requests.

Waiver of the Information Request Deadline[53]

Palmetto State Providers Network, SC, Request for Waiver, WC Docket No. 02-60, Funding Request No. 19612151 (filed Oct. 31, 2023)

Granted in Part

Waiver of Deadline to Appeal Funding Decision[54]

Ware County Board of Health (d/b/a Southeast Health District (SEHD)), GA, Request for Waiver and Review, WC Docket No. 02-60, Funding Request Nos. 1579837, 1579839, 1579845 (filed Apr. 28, 2020)

Waiver of Information Request Deadline[55]

Community Care of West Virginia, Inc. (CCWV), WV, Request for Waiver, WC Docket No. 02-60, Funding Request No. 1965794 (filed Apr. 26, 2021)

Waiver of the Information Request Deadline and Waiver of the Request for Funding Rule to Correct a Clerical Error[56]

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[53] *See Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 30 FCC Rcd 230, 231, para. 3 (WCB 2015) (providing 14 days for funding applicants to submit any requested supporting information). In this case, applicant was asked to provide supporting details for Form 463 invoicing purposes in an email from USAC dated Jan. 6, 2023, and was denied funding on Day 12 of the response window. We waive the petitioner's invoice filing deadline and allow 60 days from the release of this Public Notice to file invoices.

[54] *See Bishop Perry Order*, 21 FCC Rcd at 5323 (waiving Commission deadline missed due to staff error or confusion). SEHD inadvertently listed an incorrect contract end date with its funding requests, which was reflected in its funding commitment letters. The purported actual contract end date was three months later and reflected in the support schedules issued by USAC. Two years later, USAC noticed the discrepancy in contract end dates, and issued a letter seeking recovery of the three months of funding distributed between the incorrect and purported actual contract end dates because SEHD did not appeal the end date reflected in the funding commitment letters. We find that SEHD's error listing the incorrect contract end date was ministerial in nature and presents no evidence of waste, fraud, abuse, or misuse of funds. We therefore waive the 60-day deadline to appeal the funding commitment letters and remand this matter to USAC for a determination of the correct contract end date.

[55] *See Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, WC Docket No. 02-60, Order, 35 FCC Rcd 2922, 2925-26, para. 9 (WCB 2020) ("We waive the 14-day deadline for applicants to respond to information requests from USAC and automatically extend that deadline an additional 28 days. We also direct USAC to consider information that an applicant provides even after the deadline to respond to an information request has expired if the applicant can reasonably attribute such delay to its efforts to combat COVID-19."); *Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, WC Docket Nos. 02-60, 17-310, Order, 36 FCC Rcd 7051, 7063, para. 31 (WCB 2021); *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Accomack County Public School et al.;* Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 38 FCC Rcd 330, 333, 337, paras. 5, 14 (WCB 2023) (granting additional time to respond to information requests that had been denied funding because they failed to timely respond to USAC's request for information, as rigid adherence to program procedures would not "serve the public interest" in those cases). CCWV's funding was denied by USAC due to an inadvertent failure to timely respond to one information request out of 48 information requests issued in the early days of the COVID-19 pandemic. CCWV cites the distractions created by the pandemic as affecting its ability to timely respond to the information requests. We grant the request for waiver of the information request deadline and allow 28 days from the date of this Public Notice for these providers to respond to USAC's information request.

[56] *See Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, WC Docket No. 02-60, Order, 35 FCC Rcd 2922, 2925-26, para. 9 (WCB 2020) ("We waive the 14-day deadline for applicants to respond (continued….)

Grace Community Health Center, LLC (GCHC) and ENA Healthcare Services, LLC, KY, Request for Waiver, WC Docket No. 02-60, Funding Request Nos. 20871791, 20872291, 20872421, 20872601, 20872061, 20872321, 20872471, 20872701, 20872181, 20872391, 20872551, 20872861, 2087286, 2087270 (filed May 17, 2021)

Denied

Waiver of Invoice Filing and Service Delivery Deadlines[57]

Colorado Hospital Association Broadband Services (CHABS), CO, WC Docket No. 02-60, Funding Request Nos. 20220024164, 20220010623, 20220012638, 20220010683, 20220012244, 20220012159, 20220011307, 20220011318, 2220010807, 20220011925 (filed Aug. 29, 2023)

Waiver of the Invoice Filing Deadline[58]

Northland Healthcare Alliance, ND, Request for Waiver, WC Docket No. 02-60, Funding Request Nos. 21127321, 21127441, 2112748

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

Granted

to information requests from USAC and automatically extend that deadline an additional 28 days. We also direct USAC to consider information that an applicant provides even after the deadline to respond to an information request has expired if the applicant can reasonably attribute such delay to its efforts to combat COVID-19."); *Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, WC Docket Nos. 02-60, 17-310, Order, 36 FCC Rcd 7051, 7063, para. 31, n.87 (WCB 2021) (stating that applicants can request extended deadlines for information requests issued on or after Jan 1, 2021 through April 8, 2021). GCHC's funding was denied by USAC due to failure to timely respond to information requests issued on January 28, 2021. GCHC cited the distractions created by the COVID-19 pandemic to explain its failure to respond. We grant the request and allow 28 days from the date of this Public Notice for GCHC to respond to USAC's information requests. We also grant GCHC's request to waive section 54.623 of the Commission's rules to correct clerical errors on its funding request forms for FRNs 2087286 and 2087270. *See Bishop Perry Order,* 21 FCC Rcd at 5326-27, paras. 22-23 (directing USAC to provide applicants with an opportunity to cure ministerial and clerical errors on the FCC Forms that they submit to USAC). We allow 30 days from the date of this Public Notice to submit its corrections of clerical errors for these FRNs.

[57] *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Indiana Telehealth Network, et al*., *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 33 FCC Rcd 12341, 12343, paras. 4-5 (WCB 2018) (denying requests for waiver where the appellants failed to present compelling explanations for waivers of the invoice filing deadline); *Requests for Waiver by University of Virginia Health System Center for Telehealth and Lumos Networks, Inc*., *Rural Health Care Universal Service Support Mechanism,* CC Docket No. 02-60, Order, 38 FCC Rcd 1041, 1042-43, paras. 5-7 (WCB 2023) (noting that a health care provider should show specific "special circumstances" warranting an invoice filing deadline waiver due to a service provider's failure to timely submit its Form 463). The waiver request does not offer any explanation or "special circumstances" specific to its situation in support of its request.

[58] *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Indiana Telehealth Network, et al*., *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 33 FCC Rcd 12341, 12343, paras. 4-5 (WCB 2018) (denying requests for waiver where the appellants failed to present compelling explanations for waivers of the invoice filing deadline). Northland Health Alliance does not state special circumstances warranting a waiver of the invoice filing deadline, as staffing shortages do not qualify as the basis for such a waiver.

High Cost Performance Measures Module (PMM) Certification Reporting[59]

Lumos Telephone, LLC and Lumos Telephone of Botetourt Emergency Request for Expedited Treatment Petition for Waiver, WC Docket No. 10-90 (filed May 23, 2025).

Lifeline Program
WC Docket Nos. 09-197, 11-42

Dismissed as Moot[60]

Withdrawn Lifeline Program Compliance Plan Submissions

IM Telecom, LLC d/b/a Infiniti Mobile Second Amended Compliance Plan, WC Docket Nos. 09-197 and 11-42 (filed Mar. 13, 2024); IM Telecom, LLC d/b/a Infiniti Mobile Third Amended Compliance Plan, WC Docket Nos. 09-197, 11-42 (filed Apr. 4, 2025)[61]

TerraCom, Inc. Fifth Revised Compliance Plan, WC Docket Nos. 09-197 and 11-42 (filed Mar. 1, 2023)[62]

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 -

[59] Lumos Telephone, LLC and Lumos Telephone of Botetourt, LLC did not timely upload or certify their first quarter 2023 testing data as required by 47 CFR §54.313(j)(2024). Lumos Telephone and Lumos Telephone of Botetourt are considered certified as of the date they clearly communicated to USAC regarding data or system issues affecting PMM testing, which was on March 1, 2023. *See Connect America Fund*, WC Docket 10-90, Order, DA 25-414, paras. 6-9 (WCB May 14, 2025) (designating the date the carrier first had clear and documentable communication with USAC regarding its 2023 data upload/certification as the certification date for purposes of 47 CFR §54.313(j)(2024)).

[60] *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 filings as moot where the petitioners subsequently withdrew the funding requests associated with the filings).

[61] *See* Letter from John J. Heitmann, Counsel to IM Telecom, LLC d/b/a Infiniti Mobile, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 and 09-197 (May 6, 2025) (withdrawing the Second and Third Amended Compliance Plans of IM Telecom regarding the proposed acquisition by Excess Telecom, Inc.). IM Telecom's Amended Compliance Plan submitted on March 8, 2018, and approved by the Wireline Competition Bureau on October 23, 2018, remains in effect. *See* Amended Compliance Plan of IM Telecom, LLC, WC Docket Nos. 09-197 and 11-42, (filed Mar. 8, 2018); *Wireline Competition Bureau Approves the Wireless Compliance Plan of IM Telecom*, WC Docket Nos. 09-197 and 11-42, Public Notice, 33 FCC Rcd 10146, 10146-47 (WCB 2018).

[62] *See* Letter from John T. Nakahata, Counsel to TerraCom, Inc. and Maxsip Tel LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 and 09-197 (Apr. 17, 2025) (withdrawing TerraCom's request for approval of its Fifth Revised Compliance Plan). TerraCom's Fourth Revised Compliance Plan submitted on October 3, 2016, and approved by the Bureau on November 8, 2016, remains in effect. *See* Fourth Revised Compliance Plan of TerraCom, Inc., WC Docket Nos. 09-197 and 11-42 (filed Oct. 3, 2016); *see also Wireline Competition Bureau Approves the Amended Compliance Plan of TerraCom*, WC Docket Nos. 09-197 and 11-42, Public Notice, 31 FCC Rcd 12338, 12338-39 (WCB 2016).

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

In the Matter of	)	
	)	
Nashville License Holdings, L.L.C., Licensee of	)	FRN: 0003797305
Full Power Television Station WNAB, Nashville,	)	Facility ID No. 73310
Tennessee	)	LMS File No. 0000142032
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

ORDER

Adopted: July 29, 2025 **Released: July 30, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Nashville License Holdings, L.L.C. (Licensee), the licensee of full power broadcast television station WNAB, Nashville, Tennessee (Station). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensee's compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2] We find that through adoption of this Consent Decree, grant of the above-captioned application for renewal of license (Renewal Application) is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensee agrees, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[3] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Station and described in paragraph 1,[4] and granting the Renewal Application.[5] The Bureau finds that the Station has served the public interest, convenience, and necessity during the subject license term and that grant of the Renewal Application is

[1] The only station licensed to Nashville License Holdings, L.L.C. that is subject to the above-captioned forfeiture proceeding is WNAB, Nashville, Tennessee. The Commission also found that multiple other stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.1; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] 47 CFR §§ 73.670(a).

[4] *See also* Consent Decree at paras. 4-5.

[5] 47 CFR §§ 73.670(a).

warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[6] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to hold or remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[7] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[8] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to full power television station WNAB, Nashville, Tennessee, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[9] the application for renewal of license for full power television station WNAB, Nashville, Tennessee (LMS File No. 0000142032) **IS GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to Nashville License Holdings, L.L.C., 11400West Olympic Blvd., Suite 590, Los Angeles, CA 90064 and by e-mail to dbreckey@wnab.com. A copy shall also be sent to counsel for the licensee at Christina Burrow, Cooley LLP, 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004 and by e-mail tocburrow@cooley.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[6] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[7] 47 U.S.C. § 154(i).

[8] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[9] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
Nashville License Holdings, L.L.C., Licensee of	)	FRN: 0003797305
Full Power Television Station WNAB, Nashville,	)	Facility ID No. 73310
Tennessee	)	LMS File No. 0000142032
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and Nashville License Holdings, L.L.C. (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending Renewal Application (as defined below) involving the full-power station WNAB, Nashville, Tennessee (hereafter Station, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Station and the Licensee's compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of Commercial Matter (as defined below) that commercial television stations may air during Children's Programming (as defined below).[2]

2. To resolve these matters, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.670(a) of the Rules.[3] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order*, and grant the Renewal Application in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq*.

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

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

[1] The only station licensed to Nashville License Holdings, L.L.C. that is subject to the above-captioned forfeiture proceeding is WNAB, Nashville, Tennessee. The Commission also found that multiple other stations not licensed to the Station violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.1; *infra* note 11; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] *Id.*

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification" means the records placed in a station's OPIF, as required by 47 CFR § 73.3526(e)(11)(ii), sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with 47 CFR § 73.670.

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the Licensee receives, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensee, or the Station concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensee to 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, as described in this Consent Decree at paragraph 15.

(l) "Compliance Plan" means the means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Station who materially participate in scheduling Children's Programming and monitoring such programing to ensure it is broadcast, each of which is "Covered Employee."

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensee's compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensee" means Nashville License Holdings, L.L.C., the licensee of full power broadcast television station WNAB, Nashville, Tennessee (Facility ID No. 73310), as well as its parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest.

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

(v) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

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

(x) "Point of Contact" means a management or supervisory level employee of WNAB to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Application" means the application for renewal of license of WNAB, Nashville, Tennessee (Facility ID No. 73310), LMS File No. 0000142032, as amended.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Station" or "WNAB" means WNAB, Nashville, Tennessee (Facility ID No. 73310).

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[4] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[5] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to file an annual Commercial Limits Certification.[6] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with

[4] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[5] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[6] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[7]

5. Between November 10, 2018, and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired by the Station on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[8] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[9] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[10] The Commission subsequently released the *NAL* finding that the Station was apparently liable for forfeiture in the amount of $20,000, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[11] On October 7, 2024, the Licensee and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration, asking the Commission to vacate or rescind the *Forfeiture Order* and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensee have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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

11. **Admission of Facts**. The Licensee 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture*

[7] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

[8] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[9] The "KidsClick" program block contained animated and short form programming targeted at children viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[10] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[11] The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. The Bureau will address all other stations subject to the forfeiture proceeding by separate action. *See* Adopting Order at n.1; *supra* note 1.

Order, and Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL* and *Forfeiture Order*, and to take the actions as specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensee concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensee in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding (formal or informal) to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.[12]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission 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 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 Rules or Act. The Commission's adjudication of any complaints or potential violations will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Application**. In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Application for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. The Compliance Officer must be provided all necessary corporate and organizational authority to ensure it is able to discharge its duties. The Compliance Officer shall report directly to the Licensee's Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws, prior to assuming its duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

[12] *See* 47 CFR § 1.93(b).

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station and shall contain, at a minimum, the following elements:

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensee shall develop and distribute a "Compliance Manual" to all Covered Employees. The Compliance Officer shall distribute a Compliance Manual that it has personally prepared or one that has been prepared by the Licensee's in-house legal counsel or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Station's compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensee will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Commercial Limits Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensee shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Station in coordination with the Compliance Officer. The Licensee shall maintain on the Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of

noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted to VideoCompliance@fcc.gov. The Licensee must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 17.[13]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensee agrees to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Station within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and grant of the Renewal Application. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent via e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensee understands that it is fully responsible for the programming that it transmits over the Station, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve a licensee from its obligations and noncompliance can independently subject the Licensee to enforcement action.

[13] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

22. **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 any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, 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[14] 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 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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Station, as applicable, unless otherwise agreed to by the Commission.

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 each Party.

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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

Nashville License Holdings, L.L.C.

By:

_____
Michael Lambert
Member of the General Partner of the Sole Member

_____
Date

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

In the Matter of	)	
	)	
WTVH License LLC, Licensee of Full Power	)	FRN: 0004995882
Television Station WTVH, Syracuse, New York	)	Facility ID No. 74151
	)	LMS File No. 0000208974
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

ORDER

Adopted: July 24, 2025 **Released: July 28, 2025**

By the Acting Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and WTVH License LLC (Licensee), the licensee of full power broadcast television station WTVH, Syracuse, New York (Station). In particular, the Consent Decree terminates the investigation and resolves the *NAL* and *Forfeiture Order* involving the Licensee's compliance with section 73.670(a) of the Commission's rules (Rules), which limits the amount of commercial matter that commercial television stations may air during children's programming.[2] We find that through adoption of this Consent Decree, grant of the above-captioned application for renewal of license (Renewal Application) is in the public interest.

2. The Bureau and the Licensee have negotiated the terms of the attached Consent Decree in which the Licensee agrees, among other things, to implement a compliance plan to ensure future compliance with sections 73.670(a) of the Rules.[3] After reviewing the terms of the Consent Decree, the Bureau finds that the public interest will be served by its approval and by terminating the investigation and resolving the *NAL* and *Forfeiture Order*, as applied to the Station and described in paragraph 1,[4] and granting the Renewal Application.[5] The Bureau finds that the Station has served the public interest, convenience, and necessity during the subject license term and that grant of the Renewal Application is

[1] The only station licensed to WTVH License LLC that is subject to the above-captioned forfeiture proceeding is WTVH, Syracuse, New York. The Commission also found that multiple other stations not licensed to the above-captioned licensee violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Consent Decree at n.1; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters*, Order and Consent Decree, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations).

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] 47 CFR §§ 73.670(a).

[4] *See also* Consent Decree at paras. 4-5.

[5] 47 CFR §§ 73.670(a).

warranted pursuant to section 309(k)(1) of the Communications Act of 1934, as amended.[6] We also find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to hold or remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) the Communications Act of 1934, as amended,[7] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[8] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

4. **IT IS FURTHER ORDERED** that all the investigatory matters noted above **ARE TERMINATED** and the ***NAL*** and ***FORFEITURE ORDER***, as applied to full power television station WTVH, Syracuse, New York, **ARE RESOLVED** in accordance with the terms of the attached Consent Decree.

5. **IT IS FURTHER ORDERED** that, pursuant to section 309(k)(1) of the Communications Act of 1934, as amended,[9] the application for renewal of license for full power television station WTVH, Syracuse, New York (LMS File No. 0000208974) **IS GRANTED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested to WTVH License LLC, 2700 Patriot Blvd., Suite 250, Glenview, IL 60026 and by e-mail to carllane@granitetv.com. A copy shall also be sent to counsel for the licensee at Christina Burrow, Cooley LLP, 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004 and by e-mail to cburrow@cooley.com.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief
Media Bureau

[6] 47 U.S.C. § 309(k)(1). In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act. 47 U.S.C. § 309(k). That section provides that the Commission shall grant the renewal application if, upon consideration of the application and pleadings, it finds 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. 47 U.S.C. § 309(k)(1).

[7] 47 U.S.C. § 154(i).

[8] 47 CFR §§ 0.61, 0.204, 0.283 and 1.93(b).

[9] 47 U.S.C. § 309(k)(1).

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

In the Matter of	)	
	)	
WTVH License LLC, Licensee of Full Power	)	FRN: 0006583298
Television Station WTVH, Syracuse, New York	)	Facility ID No. 74151
	)	LMS File No. 0000208974
	)	
	)	*Cunningham Broadcasting Corp., et al.*,
	)	Forfeiture Order, FCC 24-88 (2024)[1]

CONSENT DECREE

1. The Media Bureau (hereafter Bureau, as defined below) of the Federal Communications Commission (hereafter Commission, as defined below) and WTVH License LLC (hereafter Licensee, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving issues arising from the Investigation (as defined below) and the Bureau's review of the pending a Renewal Application (as defined below) for the license of full power television station WTVH, Syracuse, New York (hereafter Station, as defined below). In particular, the Consent Decree resolves the *NAL* and *Forfeiture Order* (both as defined below) involving the Station and the Licensee's compliance with section 73.670(a) of the Commission's rules (hereafter Rules, as defined below), which limits the amount of Commercial Matter (as defined below) that commercial television stations may air during Children's Programming (as defined below).[2]

2. To resolve these matters, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.670(a) of the Rules.[3] In exchange, the Bureau agrees to terminate the Investigation, resolve the *NAL* and *Forfeiture Order*, and grant the Renewal Application in accordance with the terms of this Consent Decree.

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, 47 U.S.C. § 151 *et seq*.

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

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

[1] The only station licensed to WTVH License LLC that is subject to the above-captioned forfeiture proceeding is WTVH, Syracuse, New York. The Commission also found that multiple other stations not licensed to the above captioned licensee violated 47 CFR § 73.670(a). *See Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024); *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022). Those third-party stations are not subject to any of the actions that we take herein and will be addressed by separate action by the Media Bureau. *See* Adopting Order at n.1; *infra* note 11; *see also Sinclair Broadcast Group, LLC, Applications for Renewal of License and Pending Matters, Order and Consent Decree*, DA 25-560 (MB & EB, rel. June 27, 2025) (terminating various investigations and resolving the NAL and Forfeiture Order with regards to Sinclair licensed stations)..

[2] 47 CFR § 73.670(a); *see* 47 U.S.C. §303a(b).

[3] *Id.*

(d) "Children's Programming" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 2.

(e) "Commercial Limits Certification" means the records placed in a station's OPIF, as required by 47 CFR § 73.3526(e)(11)(ii), sufficient to permit substantiation of the station's certification in its license renewal application of compliance with 47 CFR § 73.670.

(f) "Commercial Limits Rule" means the requirements, time limits, and restrictions on Commercial Matter during Children's Programming contained in 47 CFR § 73.670(a), including the Commission's policies related to host-selling and program-length commercials.

(g) "Commercial Matter" shall have the same meaning as the term is defined in 47 CFR § 73.670, Note 1.

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

(i) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Licensee is subject by virtue of it being a Commission licensee or the parent company of a licensee, including but not limited to 47 CFR § 73.670(a).

(j) "Complaint" means any communication that the Licensee receives, whether written or oral, resulting from a person or entity contacting either the Commission, the Licensee, or the Station concerning issues related to compliance with 47 CFR § 73.670(a).

(k) "Compliance Officer" means a responsible party employed by the Licensee to 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, as described in this Consent Decree at paragraph 15.

(l) "Compliance Plan" means the means the compliance obligations, program, and procedures in an effort to ensure compliance with 47 CFR § 73.670(a), and as described in this Consent Decree at paragraph 16.

(m) "Covered Employees" means all master control, traffic, and programming employees at the Station who materially participate in scheduling Children's Programming and monitoring such programing to ensure it is broadcast, each of which is a "Covered Employee."

(n) "Division" means the Video Division of the Media Bureau of the Commission.

(o) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(p) "*Forfeiture Order*" means *Cunningham Broadcasting Corp., et al.*, Forfeiture Order, 39 FCC Rcd 9834 (2024) (FCC 24-88).

(q) "Investigation" means the examination of the Licensee's compliance with 47 CFR § 73.670(a).

(r) "Joint Petition for Reconsideration" means the Joint Petition for Reconsideration of Cunningham Broadcasting Corp., et al., NAL/Acct. Nos. 202241420017, et al. (filed Oct. 7, 2024).

(s) "Licensee" means WTVH License LLC, the licensee of full power broadcast television station WTVH, Syracuse, New York (Facility ID No. 74151), as well as

its parent(s), affiliates, subsidiaries, assigns, transferees, predecessors-in-interest, and successors-in-interest.

(t) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television broadcast applications, notifications and related pleadings.

(u) "*NAL*" means *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042 (2022) (FCC 22-70).

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

(w) "OPIF" means a commercial broadcast television station's online public inspection file as defined by 47 CFR § 73.3526.

(x) "Point of Contact" means a management or supervisory level employee of WTVH to be responsible for Complaints and coordinating with the Compliance Officer in order to ensure compliance with the terms of this Consent Decree.

(y) "Renewal Application" means the application for renewal of license of WTVH, Syracuse, New York (Facility ID No. 74151), LMS File No. 0000208974, as amended.

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

(aa) "Sinclair" means Sinclair Broadcast Group, LLC.

(bb) "Station" or "WTVH" means WTVH, Syracuse, New York (Facility ID No. 74151).

II. BACKGROUND

4. *Team Hot Wheels Children's Programming Commercial Limits Matter*. As part of the Children's Television Act of 1990, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of Commercial Matter that television stations may air during children's programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits.[4] Pursuant to this statutory mandate, the Commission adopted the Commercial Limits Rule, which limits the amount of Commercial Matter that may be aired during Children's Programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[5] In order to verify compliance with the Commercial Limits Rules, commercial full power and Class A stations are required to file an annual Commercial Limits Certification.[6] In addition, as part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials."[7]

[4] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[5] *Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order*,* 6 FCC Rcd 2111, 2118, paras. 44-46 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

[6] Such records must be retained until final action has been taken on a station's next license renewal application. 47 CFR § 73.3526(e)(11)(ii).

[7] *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

5. Between November 10, 2018 and December 16, 2018, a commercial for the "Hot Wheels Super Ultimate Garage" toy that was inadvertently aired by the Station on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels*.[8] The program and commercial were distributed by Sinclair under a programming block entitled "KidsClick."[9] The commercial was pulled from airing during *Team Hot Wheels* immediately after discovery.[10] The Commission subsequently released the *NAL* finding that the Station was apparently liable for forfeiture in the amount of $20,000, constituting an apparent willful and repeated violation of the Commercial Limits Rule. On September 6, 2024, the Commission issued the *Forfeiture Order* affirming the conclusions in the *NAL*.[11] On October 7, 2024, the Licensee and the other licensees subject to the *Forfeiture Order* filed the Joint Petition for Reconsideration, asking the Commission to vacate or rescind the *Forfeiture Order* and to cancel all forfeitures in full.

6. *Conclusion*. The Bureau and the Licensee have negotiated the terms of this Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will resolve the *NAL* and *Forfeiture Order* and grant the Renewal Application. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Commercial Limits Rule.

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 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. **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 to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. **Admission of Facts**. The Licensee 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 paragraphs 4 through 5 are a true and accurate description of the facts underlying the *NAL*, *Forfeiture Order*, and Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law, and the Bureau makes no finding of any liability or violation.

12. **Termination of Investigation and Resolution of *NAL* and *Forfeiture Order***. 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, resolve the *NAL* and

[8] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[9] The "KidsClick" program block contained animated and short form programming targeted at children viewers, including programming that met the definition of "Children's Programming" under 47 CFR § 73.670. *See also supra* para. 2(d). Sinclair stopped distributing the KidsClick program block as of March 31, 2019.

[10] *See NAL*, 37 FCC Rcd at 11052, para. 19; *Forfeiture Order*, 39 FCC Rcd at 9837-8, para. 3.

[11] The *NAL* and *Forfeiture Order* also found that multiple non-Licensee stations violated the Commercial Limits Rule. *See NAL*, 37 FCC Rcd at 11061-8, App. A; *Forfeiture Order*, 39 FCC Rcd at 9860-7, App. A. As stated in the Adopting Order, only WTVH is subject to the actions that we undertake herein. The Bureau will address all other stations subject to the forfeiture proceeding by separate action. *Adopting Order* at n.1; *see supra* note 1.

Forfeiture Order, and to take the actions as specified in paragraph 14. In consideration for the termination of the Investigation and resolution of the *NAL* and *Forfeiture Order*, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 15, 16, 18, and 19 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the *NAL* and *Forfeiture Order*, 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 or recommend any such action by the Commission against the Licensee concerning the matters that were the subject of the Investigation or *NAL* and *Forfeiture Order*, or in assessing the issuance or size of sanctions or forfeitures proposed against the Licensee in any future enforcement actions. 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 *NAL* and *Forfeiture Order*, or the existence of this Consent Decree, to institute on its own motion any proceeding (formal or informal) to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.[12]

13. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission 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 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 Rules or Act. The Commission's adjudication of any complaints or potential will be based solely on the record developed in subsequent proceedings.

14. **Grant of Renewal Application**. In the Adopting Order, the Bureau has determined that grant of the Renewal Application is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k)(1). The Bureau agrees to grant the Renewal Application for a full eight (8) year term from the prior license expiration date. The Renewal Application will be granted within two (2) business days following the Effective Date.

15. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a responsible party employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth in paragraph 16. The Compliance Officer must be provided all necessary corporate and organizational authority to ensure it is able to discharge its duties. The Compliance Officer shall report directly to the Licensee's Chief Executive Officer (or other senior executive officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring compliance with the terms and conditions of this Consent Decree. The Compliance Officer shall have specific knowledge of the Communications Laws, prior to assuming its duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau by e-mail at VideoCompliance@fcc.gov within thirty (30) calendar days after the Effective Date. The Bureau must be notified in the manner discussed above of any change in the person serving as Compliance Officer within five (5) business days.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Commercial Limits Rule and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station and shall contain, at a minimum, the following elements:

[12] *See* 47 CFR § 1.93(b).

(a) **Compliance Manual**. Within thirty (30) calendar days after the Effective Date, the Licensee shall develop and distribute a "Compliance Manual" to all Covered Employees. The Compliance Officer shall distribute a Compliance Manual that has been prepared by the Compliance Officer, the Licensee's in-house legal counsel, or a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the Commercial Limits Rule;

ii. establish "Operating Procedures" that Covered Employees must follow to help ensure the Station's compliance with the Commercial Limits Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station monitors the Children's Programming it broadcasts, addresses problems, reports issues to the Compliance Officer, and addresses consumer Complaints in a timely manner; and

iii. be reviewed and revised by the Compliance Officer, or Licensee's legal counsel (internal or external) in coordination with the Compliance Officer, 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.

(b) **Compliance Training Program**. The Licensee will conduct formal compliance training on the Commercial Limits Rule for all Covered Employees. Such training will be provided to all such employees no later than thirty (30) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Commercial Limits Covered Employee. The compliance training program shall include, but not be limited to, instruction relating the provisions of the Commercial Limits Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee's legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to remain current, complete, accurate, and effective.

(c) **Complaint Coordination**. Within thirty (30) calendar days of the Effective Date, the Licensee shall establish and maintain a Point of Contact to investigate and respond to any Complaint alleging noncompliance with the Commercial Limits Rule at the Station in coordination with the Compliance Officer. The Licensee shall maintain on the Station's public website (to the extent it has one) the name, e-mail, and phone number of the Point of Contact. Changes in the listed Point of Contact must be made within five (5) business days of the change.

(d) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Commercial Limits Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of such noncompliance shall be submitted by e-mail to

VideoCompliance@fcc.gov. The Licensee must also disclose with any Commercial Limits Certification a copy of any such report.

17. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two (2) years after the Effective Date.

18. **Placement of Documents in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints." The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 17.[13]

19. **Withdrawal as a Party to the Joint Petition for Reconsideration**. The Licensee agrees to submit a written request to the Commission requesting to withdraw as a party to the Joint Petition for Reconsideration and seek dismissal of the Joint Petition for Reconsideration as it pertains to the Station within ten (10) business days following finality, as defined by 47 CFR § 1.102, of the Adopting Order and the grant of the Renewal Application. The written request must be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service, as specified below. It must be addressed to the Secretary, Federal Communications Commission to the attention of the Chief of the Media Bureau. A copy must also be sent by e-mail to VideoCompliance@fcc.gov.

- 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.

20. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

21. **Further Violation(s)**. The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation that occurs during the term of this Consent Decree. The Licensee understands that it is fully responsible for the programming that it transmits over the Station, even if such programming is provided by a network or third party. Reliance on a program's source or producer for compliance with the Commission's rules and policies, except where otherwise permitted or required, does not relieve the Licensee from its obligations and noncompliance can independently subject the Licensee to enforcement action.

22. **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 any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, 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*

[13] *See* 47 CFR § 73.3526(e)(10) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

novo. The Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act[14] 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 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) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

26. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on successors, assigns, and transferees of the Station, as applicable, unless otherwise agreed to by the Commission.

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 each Party.

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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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

Federal Communications Commission

By:

_____
Erin Boone
Acting Chief
Media Bureau

_____
Date

WTVH License LLC

By:

_____
Carl Lane
President

_____
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 25-651
Released: July 23, 2025

COMMENT REQUESTED ON APPLICATION AND WAIVER REQUEST FILED BY THE NEW YORK CITY TRANSIT AUTHORITY FOR OPERATION IN THE 4.9 GHZ BAND

ULS File Number 0011366120

Comments Due: August 22, 2025
Reply Comments Due: September 8, 2025

The Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau (jointly the Bureaus) seek comment on an application and waiver request filed on January 10, 2025, by the New York City Transit Authority on behalf of the Metropolitan Transit Authority (otherwise known as the MTA). MTA seeks to license fixed base stations and mobile units throughout numerous counties in New York on channels in the 4940-4990 MHz (4.9 GHz) band to facilitate deployment of a 5G communications system to replace outdated signaling technology used for train safety.[1] Specifically, MTA seeks to license "wayside" transmitters as temporary fixed stations but requests a waiver of certain technical rules to operate them at permanent locations.[2] In addition, MTA seeks a waiver of the 4.9 GHz application freeze on new deployments so it can continue expanding its operations in the future.[3]

We seek comment on whether the Bureaus should grant MTA a waiver of Sections 90.1207(c) and (e)(1) of the Commission's rules and the freeze on new deployments in the band.[4] In particular, we seek comment from any party who would be affected by MTA's proposal to: (1) license wayside stations as temporary fixed based stations, and (2) continue the deployment of 5G CBTC technology throughout its system after July 9, 2025.[5]

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[1] New York City Transit Authority Application, ULS File no. 0011366120 (dated Jan. 10, 2025) (MTA Application). MTA seeks to operate temporary fixed sites and mobile units on channels in the 4.9 GHz band throughout Bronx, New York, Queens, Kings and Richmond Counties, New York. *Id*.

[2] Attachment to Application labeled "Waiver Request – Updated" at 1 (attached Jan. 10, 2025) (Waiver Request).

[3] *Id*. *See also Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Further Modify Temporary Filing Freeze on the Acceptance and Processing of Certain Part 90 Applications for the 4940–4990 MHz Band*, Public Notice, 39 FCC Rcd 12317 (PSHSB WTB 2024) (suspending acceptance of new applications or applications to modify existing licenses in the 4.9 GHz band) (*4.9 GHz Freeze PN*).

[4] Waiver Request at 1.

[5] *Id*. The Commission has recently collected granular data concerning the existing operations of licensees in the 4.9 GHz band. After initially directing licensees to submit that data on or before June 9, 2025, *The Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Establish Deadline for 4.9 GHz Public Safety Licensees to Provide Granular Licensing Data*, WP Docket No. 07-100, DA 24-1137 (PSHSB/WTB Dec. 9, 2024), the Commission subsequently extended the deadline for submissions through July 9, 2025, *Deadline for 4.9 GHz Public Safety Licensees to Provide Granular Licensing Data Extended by 30 Days*, Public Notice, WP Docket No. 07-100, DA 25-463 (PSHSB/WTB July 9, 2025).

Interested parties may file comments on or before **August 22, 2025**. Parties may file replies on or before **September 8, 2025**.

Instructions for Filing Comments

All comments and reply comments should reference the subject MTA Waiver Request and the DA number indicated on this *Public Notice*. Comments may be filed: (1) electronically by accessing the applicant's file number(s) in the Commission's Universal Licensing System (ULS),[6] or (2) by filing paper copies.

Electronic Filers: Pleadings may be submitted electronically as follows:

- Begin the process by using the following link to the ULS website https://wireless2.fcc.gov/UlsEntry/pleadings/pleadingsType.jsp. The link will take you to the "*Pleading Information*" screen for "Non-docketed Pleadings" where you select "Reply" in the drop-down window for the type of pleading and then enter the pleadings filer information. Completion of the contact information is optional. Upon completion of this screen, please note the instructions for the filing: "*Pleadings must be dated and must include a signature, in this instance an electronic signature, and the address and phone number of the signing party*."[7] Click on "CONTINUE."

- The second step is to complete the *File Numbers/Call Signs* screen. Click if the pleading pertains to a File Number or Call Sign and enter the File Number or Call Sign. Please note that you must enter a File Number or Call Sign to continue. If the pleading pertains to multiple applications or licenses, you must enter each File Number or Call Sign as appropriate. After clicking the "SUBMIT" button, the screen will update to show all the File Numbers/Call Signs associated with the pleading. At this time, you may delete selected File Numbers/Call Signs from the page before continuing.

- The third step is to complete the *Attach File* screen to attach the pleading document. Use the drop down box to select Pleading or Confidential Pleading. The "BROWSE" button opens a file upload window where you will locate and select your pleading file. The Description field allows you to enter a brief description for the pleading. Click the "ADD ATTACHMENT" button to upload your pleading. You may submit up to thirty files for each pleading but each file must be smaller than 10 MB in size. You also can delete any selected file from the pleading.

- Finally, to complete your electronic pleading submission, click on the "SUBMIT PLEADING" button and the *Confirmation* screen will be displayed. The *Confirmation* screen will display your Confirmation Number as well as your entered pleadings information. You may print this page for your records by selecting the Print Page link at the top of the page and have the option of submitting another pleading or returning to the ULS website by selecting a link at the bottom of the page.

The ULS Application Search results will display pleadings under the ADMIN tab when a comment or reply comment has been filed. Users can view the pleading by clicking on the link for the specific comment or reply comment in the Description field. The general public will not be able to view

[6] *Wireless Telecommunications Bureau Enhances the Commission's Universal Licensing System to Implement Electronic Filing for Pleadings*, Public Notice, 21 FCC Rcd 424 (WTB 2006). *See* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-06-125A1.pdf.

[7] *See* 47 CFR Part 1.

confidential pleadings.

For additional information or assistance on how to file a comment or reply comment or other relevant pleading, you may visit the Web at https://www.fcc.gov/available-support-services. You may also call the FCC ULS Customer Support Center at (877) 480-3201 and select option 2. For TTY, please call (717) 338-2824. Assistance from the FCC ULS Customer Support Center is available between the hours of 8 a.m. to 6:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls to the FCC ULS Customer Support Center are recorded.

Paper Filers: Parties who choose to file by paper must submit an original and one copy of each filing.

- 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

The application(s), waiver request, and comments and reply comments can be accessed electronically via the Commission's Universal Licensing System, http://wireless.fcc.gov/uls.

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 regarding this Public Notice, please contact Brian Marenco, Brian.Marenco@fcc.gov, of the Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-0838 or Paul Powell, Paul.Powell@fcc.gov, of the Mobility Division, Wireless Telecommunications Bureau, (202) 418-1613.

-FCC-

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-652
Released: July 24, 2025

WIRELESS TELECOMMUNICATIONS BUREAU PROVIDES GUIDANCE TO OPERATORS OF AUTONOMOUS VESSELS IN U.S. WATERS

In light of the proliferation in recent years of Autonomous Vessels (AVs),[1] the Wireless Telecommunications Bureau (Bureau) provides guidance on how to obtain a Maritime Mobile Service Identity (MMSI), a nine-digit number that identifies radio stations in the maritime mobile service,[2] and reminds AV operators of certain legal obligations under part 80 of the Commission's rules.[3]

The United States Coast Guard (USCG) recently issued Marine Safety Information Bulletins (MSIBs) on AVs that have been operating on U.S. waters, setting forth precautions that mariners, vessel owners, and operators should take while planning an outing or transit.[4] These precautions include maintaining an awareness of common identifiers of AVs, which—in addition to visual identifiers to aid in the sighting of AV—could include the use of Automatic Identification System (AIS) technology.[5]

AIS is "[a] maritime navigation safety communications system standardized by the International Telecommunication Union . . . and adopted by the International Maritime Organization (IMO) that provides vessel information, including the vessel's identity, type, position, course, speed, navigational status and other safety-related information automatically to appropriately equipped shore stations, other ships, and aircraft; receives automatically such information from similarly fitted ships; monitors and

[1] It is estimated that there were more than 1,100 AVs operating worldwide in 2022. Allied Market Research, *Autonomous Shipping Revolution: Transforming the Global Trade Industry*, https://www.alliedmarketresearch.com/resource-center/trends-and-outlook/automotive-and-transportation/autonomous-shipping-revolution-transforming-global-trade (last visited July 2, 2025).

[2] 47 CFR § 80.5.

[3] 47 CFR §§ 80.1–80.1252.

[4] USCG, *Marine Safety Information Bulletin 10-25: Autonomous Unmanned Vessel or Craft Operations* (Apr. 7, 2025), https://www.joecel.com/GMDSSTaskForce/MMSI%20Working%20Group/MMSI%20Reference%20documents/MSIB%2010-25%20Autonomous%20Vessel%20Operations.pdf; USCG, *Marine Safety Information Bulletin: Autonomous Unmanned Watercraft on the Great Lakes* (Aug. 23, 2024), https://www.atlanticarea.uscg.mil/Portals/7/Ninth%20District/Documents/MSIBs/MSIB_003-24.pdf?ver=5bmZaTIHUFcyZi1Gc_qGbw%3D%3D.

[5] USCG, *Marine Safety Information Bulletin 10-25: Autonomous Unmanned Vessel or Craft Operations* (Apr. 7, 2025), https://www.joecel.com/GMDSSTaskForce/MMSI%20Working%20Group/MMSI%20Reference%20documents/MSIB%2010-25%20Autonomous%20Vessel%20Operations.pdf; USCG, *Marine Safety Information Bulletin: Autonomous Unmanned Watercraft on the Great Lakes* (Aug. 23, 2024), https://www.atlanticarea.uscg.mil/Portals/7/Ninth%20District/Documents/MSIBs/MSIB_003-24.pdf?ver=5bmZaTIHUFcyZi1Gc_qGbw%3D%3D.

tracks ships; and exchanges data with shore-based facilities."[6] AIS allows vessels to use radio signals to see each other on electronic displays, especially when visibility conditions may not be ideal.

Please be advised that when equipping a voluntary[7] or compulsory[8] vessel with AIS, an MMSI is required.[9] For visibility and search and rescue purposes, voluntary vessels sailing domestically with AIS installed may contact any of the following FCC-designated MMSI providers to obtain the requisite MMSI number:

- BoatUS (https://www.boatus.com/)[10]
- Shine Micro, Inc. (https://www.shinemicro.com)[11]
- United States Power Squadrons, Inc. (https://www.usps.org/php/mmsi_new/)[12]

Additionally, voluntary vessels sailing internationally and all compulsory vessels must file an application with the FCC for a ship station license, which includes the issuance of an MMSI number.[13] It should also be noted that an MMSI issued by the FCC is required when traveling internationally regardless of whether the vessel is classified as voluntary or compulsory. For more information, visit FCC's webpage on MMSIs: https://www.fcc.gov/wireless/bureau-divisions/mobility-division/maritime-mobile/ship-radio-stations/maritime-mobile.

Importantly, AVs are subject to the same FCC radio safety equipment carriage requirements as other vessels. Vessel operators are responsible for understanding and complying with these rules. Recognizing that there are various levels of autonomy for AVs in which they may be crewed, remotely

[6] 47 CFR § 80.5.

[7] A voluntary vessel is a ship that is not required by treaty or statute to be equipped with radiotelecommunication equipment. 47 CFR § 80.5. Such U.S. vessels are instead FCC licensed by rule, allowing a mariner to operate maritime radio equipment without obtaining a ship station license from the FCC. *See* 47 CFR § 80.13(c) ("A ship station is licensed by rule . . . if the ship is not subject to the radio equipment carriage requirements of any statute, treaty or agreement to which the United States is [a] signatory, the ship station does not travel to foreign ports, and the ship station does not make international communications."). For example, a voluntary vessel can be operated for personal use and with a marine VHF radio or other maritime radio safety equipment (*e.g.*, radar or AIS) for increased safety and communications on U.S. waters. Subpart X of part 80 applies to voluntary vessels. *See* §§ 80.1151–80.1201.

[8] A compulsory vessel is any ship that is required to be equipped with radiotelecommunication equipment to comply with the radio or radio-navigation provisions of a treaty, statute, or Subpart T (Radiotelephone Installation Required for Vessels on the Great Lakes) of part 80. 47 CFR § 80.5. U.S. compulsory vessels are required to obtain a ship station license from the FCC. *See* 47 CFR § 80.13(a).

[9] *See Wireless Telecommunications Bureau Reminds Mariners Regarding Correct Use of Maritime Mobile Service Identity (MMSI) Number*s, DA-12-1989, Public Notice, 27 FCC Rcd 15260 (WTB 2012) ("Vessel owners must obtain an MMSI prior to using a . . . shipborne universal AIS transponder . . . .").

[10] *Commission Announces Revision of Procedures for Assigning Maritime Mobile Service Identities*, DA 01-115, Public Notice, 16 FCC Rcd 918 (WTB 2001) (notifying the public that in November 2000, the Commission and USCG entered into a Memorandum of Agreement with BoatUS to issue MMSIs to exempt vessel operators).

[11] *Commission Announces Agreements with Shine Micro, Inc., and United States Power Squadrons, Inc., and Termination of Agreement with Maritel, Inc., Regarding Assignment of Maritime Mobile Service Identities (MMSIs)*, DA 07-1732, Public Notice, 22 FCC Rcd 7329 (WTB 2007) (notifying the public that in December 2006, the Commission and USCG entered into a Memorandum of Agreement with Shine Micro, Inc. to issue MMSIs to exempt vessel operators).

[12] *Id*. (notifying the public that in April 2007, the Commission and USCG entered into a Memorandum of Agreement with United States Power Squadrons, Inc. to issue MMSIs to exempt vessel operators).

[13] *See* WTB, *supra* note 9, at 1 (noting that "[h]ow a vessel owner obtains an MMSI depends on whether the ship station requires a license from the Federal Communications Commission (FCC) or instead licensed by rule").

operated with or without crew, or fully autonomous with or without crew,[14] the Bureau reminds vessel operators that depending on the size or weight of the AV, number of passengers on board, and/or the AV's intended route, the following may apply: Subpart S (Compulsory Radiotelephone Installations for Small Passenger Boats),[15] Subpart T (Radiotelephone Installations Required for Vessels on the Great Lakes),[16] Subpart U (Radiotelephone Installations Required by the Bridge-to-Bridge Act),[17] and/or Subpart W (Global Maritime Distress and Safety System (GMDSS)).[18] If an AV operator believes mandatory carriage of radio safety equipment may be unreasonable or unnecessary, it may request an exemption from carriage requirements by submitting FCC Form 605[19] and Schedule G[20] through the Commission's Universal Licensing System.[21] Such requests will be considered on a case-by-case basis, taking into account the routes and equipment carried on the vessel, and the safety of not only the AV but also other vessels in U.S. waters.

For further information, contact Kathleen Curameng of the Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2791 or Kathleen.Curameng@fcc.gov.

[14] IMO has identified and proposed four degrees of ship autonomy for AVs, ranging from automated operations with crew on board ready to take control, to a fully autonomous ship (in which the operating system independently decides and determines actions) without crew on board. U.S. Government Accountability Office, *Coast Guard: Autonomous Ships and Efforts to Regulate Them* (Aug. 8, 2024), https://www.gao.gov/assets/gao-24-107059.pdf.

[15] 47 CFR §§ 80.901–80.935.

[16] 47 CFR §§ 80.951–80.971.

[17] 47 CFR §§ 80.1001–80.1023.

[18] 47 CFR §§ 80.1065–80.1135.

[19] FCC, *FCC Form 605: Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services* (Jan. 10, 2024), https://www.fcc.gov/wireless/support/knowledge-base/fcc-form-605.

[20] FCC, *FCC Form 605, Schedule G: Exemption from Ship Station Requirements (Part 80)*, https://www.fcc.gov/files/fcc-form-605-schedule-g-dec2023 (last visited July 2, 2025).

[21] FCC, *Universal Licensing System* (Aug 26, 2021), https://www.fcc.gov/wireless/universal-licensing-system.

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
TTY: 1-888-835-5322

DA 25-653
Released: July 25, 2025

MEDIA BUREAU ANNOUNCES EFFECTIVE DATE OF MODIFIED AND NEW RULES ENABLING FM AND LPFM BROADCAST STATION BOOSTERS TO ORIGINATE PROGRAMMING

MB Docket Nos. 20-401 and 17-105

Effective Date of Amended Sections 73.3526, 73.3527, and 74.1204; New Section 74.1206; and FCC Form 2100, Schedule 336 is July 25, 2025

On November 22, 2024, the Commission adopted the Second Report and Order and Order on Reconsideration in *Amendment of Section 74.1231(i) of the Commission's Rules on FM Broadcast Booster Stations*; *Modernization of Media Initiative*,[1] in which the Commission amended certain of its broadcast radio procedures and rules, including sections 73.3526, 73.3527, and 74.1204 of the rules;[2] added new section 74.1206 of the rules;[3] and directed the creation of the FM Booster Program Origination Notification, FCC Form 2100, Schedule 336, to allow FM and LPFM broadcast stations voluntarily to originate programming on a limited basis over FM booster stations.

By this *Public Notice*, the Media Bureau announces that the notice of the effective date for modified sections 73.3526, 73.3527, and 74.1204, as amended in the *Geocasting Second R&O*, as well as the effective date of new section 74.1206, was published in the *Federal Register* on July 25, 2025,[4] and became effective on that date. Upon this effective date, FM and LPFM stations must now use FCC Form 2100, Schedule 336 to notify the Commission of the initiation of voluntary, limited use of FM booster stations to originate content on a permanent basis.

[1] *Amendment of Section 74.1231(i) of the Commission's Rules on FM Broadcast Booster Stations; Modernization of Media Initiative*, MB Docket Nos. 22-405 and 17-105; RM 11854, FCC 24-121, Second Report and Order and Order on Reconsideration, 39 FCC Rcd 12945 (2024) (*Geocasting Second R&O*).

[2] 47 CFR §§ 73.3526, 73.3527, and 74.1204. Amendments to 47 CFR §§ 11.21, 73.860, 74.1204(a)(4), 74.1204(a)(5), 74.1204(i), 74.1231, 74.1232, and 74.1290 became effective 30 days after publication in the *Federal Register* of the summary of the *Geocasting Second R&O*. *See Geocasting Second R&O*, 39 FCC Rcd at 12975-76; 89 Fed. Reg. 100868 (Dec. 13, 2024).

[3] 47 CFR § 74.1206.

[4] 90 Fed. Reg. 35238 (July 25, 2025).

For additional information on this proceeding, contact James Bradshaw, Senior Deputy Division Chief, Audio Division, Media Bureau, (202) 418-2700, James.Bradshaw@fcc.gov, or Irene Bleiweiss, Attorney-Advisor, Audio Division, Media Bureau, (202) 418-2700, Irene.Bleiweiss@fcc.gov. Press inquiries should be directed to Nancy Murphy, (202) 418-1043, Nancy.Murphy@fcc.gov.

--FCC--

Federal Communications Commission
Washington, D.C. 20554

July 24, 2025

DA 25-654
In Reply Refer to:
1800B3-ARR
Released July 24, 2025

La Familia De Fe Corp
c/o Rodolfo S. Martinez
6700 NW 72 Ave
Miami, FL 33166
(sent by email)

Doral Voice Corporation
c/o Edward Maldonado
2850 Douglas Road, Suite 303
Coral Gables, FL 33134
(sent by email)

Cristo Te Ama Ministry
c/o Luis E. Giraldo
15190 SW 136th St., Suite #15
Miami, FL 33196
(sent by email)

REC Networks
c/o Michelle Bradley
11541 Riverton Wharf Rd.
Mardela Springs, MD 21837

In re: LPFM MX Group 29

La Familia De Fe Corp
New LPFM, Miami, Florida
Facility ID No. 780589
Application File No. 0000231444

Doral Voice Corporation
New LPFM, Miami, Florida
Facility ID No. 788615
Application File No. 0000233072

Cristo Te Ama Ministry
New LPFM, Miami, Florida
Facility ID No. 785408
Application File No. 0000231715

Petitions to Deny
Informal Objections

Dear Applicants and Objector:

We have before us the above-referenced mutually exclusive applications for construction permits for new low power FM (LPFM) stations in Miami, Florida, filed by La Familia De Fe Corp (LFDFC), Doral Voice Corporation (DVC), and Cristo Te Ama Ministry (CTAM).[1]

We also have before us: 1) an Informal Objection to the DVC Application, filed by REC Networks (REC) (REC Objection),[2] 2) a Petition to Deny the DVC Application, filed by LFDFC (LFDFC Petition),[3] 3) an Informal Objection to the DVC Application, filed by LFDFC (LFDFC Objection),[4] 4) a Petition to Deny the LFDFC Application, filed by DVC (DVC Petition),[5] and 5) related responsive pleadings.[6]

For the reasons set forth below, we (1) grant the REC Objection, (2) dismiss the LFDFC Petition as procedurally defective, and consider and grant it in part as an Informal Objection, (3) grant the LFDFC Objection in part, (4) dismiss the DVC Application, (5) dismiss the DVC Petition as procedurally defective, and consider and deny it as an Informal Objection,[7] (6) dismiss the CTAM Application as a non-tentative selectee, and (7) grant the LFDFC Application.

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[1] *See* Application File Nos. 0000231444 (LFDFC Application), 0000233072 (DVC Application), and 0000231715 (CTAM Application).

[2] Pleading File No. 0000256237 (filed Oct. 24, 2024).

[3] Pleading File No. 0000258117 (filed Nov. 15, 2024).

[4] Pleading File No. 0000266890 (filed Feb. 19, 2025).

[5] Pleading File No. 0000258219 (filed Nov. 18, 2024).

[6] DVC filed an Opposition and Opposition Supplement to the LFDFC Petition. Pleading File Nos. 0000258765 and 0000261815 (filed Dec. 2, 2024 and Dec. 30, 2024) (DVC Opposition and DVC Opposition Supplement). LFDFC filed an Opposition to the DVC Petition. Pleading File No. 0000265510 (filed Jan. 29, 2025) (LFDFC Opposition). DVC filed a Reply to the LFDFC Opposition. Pleading File No. 0000266269 (filed Feb. 6, 2025) (DVC Reply). LFDFC filed a Response to the DVC Reply. Pleading File No. 0000267012 (filed Feb. 23, 2025) (LFDFC Response). We also have before us an Informal Objection to the CTAM Application, filed by DVC. Pleading File No. 0000261784 (filed Dec. 27, 2024). Because we are dismissing the CTAM Application as a non-tentative selectee, we need not consider this pleading and dismiss it as moot.

[7] DVC argues that the LFDFC Petition is procedurally defective because it lacks a supporting affidavit. *See* DVC Opposition at 2. Similarly, LFDFC argues that the DVC Petition is procedurally defective because it lacks a supporting affidavit and was filed after the 30-day filing deadline. *See* LFDFC Opposition at 2-3. We agree that the LFDFC Petition and DVC Petition are each procedurally deficient. *See* 47 U.S.C. § 309(d)(1) ("Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof."); 47 CFR §§ 73.870(d), 73.3584 (procedures for filing petitions to deny). However, in the interest of a complete record, we will treat both filings as informal objections pursuant to section 73.3587 of the Commission's rules, and consider the pleadings and all subsequent responsive filings. *See* 47 CFR § 73.3587 (explaining that the "limitations on pleadings and time for filing pleadings" are not applicable to informal objections).

Background. LFDFC, DVC, and CTAM filed their respective applications during the 2023 LPFM filing window.[8] The Media Bureau identified these applications as LPFM MX Group 29.[9] The Commission subsequently conducted a point system analysis and awarded LFDFC and DVC five points each, including one point each for established community presence, and awarded CTAM four points.[10] The Commission, therefore, identified LFDFC and DVC as the tentative selectees of MX Group 29,[11] and directed the applicants to submit a voluntary time-sharing proposal in accordance with section 73.872(c) of the Commission's rules (Rules).[12]

DVC Application. In the REC Objection, REC argues that DVC is not entitled to a point under established community presence because the address contained in the application—9835 SW 72 Street, Miami, Florida—is different than the headquarters listed in the Articles of Incorporation—9600 NW 2th Street, Suite 43, Doral, Florida, and in annual reports filed with the Florida Secretary of State—7791 NW 46th Street, Suite L2, Doral, Florida.[13] REC further argues that because the DVC headquarters address is not within ten miles of the proposed transmitter site, DVC has not shown that it is local, and accordingly may not even be eligible to hold a license.[14] DVC did not file an opposition to the REC Objection.

In the LFDFC Petition and LFDFC Objection, LFDFC reiterates REC's assertions that DVC has not met the localism requirements for an LPFM authorization and is not eligible for a point under the established community presence criterion.[15]

In the DVC Opposition and DVC Opposition Supplement, DVC does not address LFDFC's

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[8] *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, 38 FCC Rcd 6660 (MB 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, 38 FCC Rcd 9589 (MB 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, 38 FCC Rcd 11882 (MB 2023).

[9] *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the December 2023 LPFM Filing Window*, Public Notice, 39 FCC Rcd 2355 (MB 2024). MX Group 29 initially included two other mutually exclusive applications, Application File Nos. 0000231450 and 0000233164, filed by For A Better Community Corp. (FAB) and King Jesus Haitian Inc. (KJH). FAB and KJH each subsequently filed technical amendments to qualify as "singletons," or applications which are not in conflict with any other applications.

[10] LFDFC and DVC each received a point under the following criteria: (1) established community presence; (2) commitment to originate local programming; (3) commitment to maintain a main studio; (4) commitment to originate local programming and to maintain a main studio; and (5) diversity of ownership. CTAM did not receive the established community presence point.

[11] *Commission Identifies Tentative Selectees in 93 Groups of Mutually Exclusive Applications Submitted in the December 2023 LPFM Window*, Public Notice, FCC 24-113 at Attach. A (Oct. 16, 2024) (*Tentative Selectee Public Notice*).

[12] *Tentative Selectee Public Notice* at 8.

[13] REC Objection at 5 and 10-12, Appendix D.

[14] *Id.*

[15] LFDFC Petition at 1-4; *see also* LFDFC Objection at 2-5 and 7-35, Attachs. 1-10 and Exh. 11. LFDFC also argues that (1) the DVC Second Adjacent Waiver is deficient under section 73.807(e)(1) because it does not adequately demonstrate how it would prevent interference to two adjacent stations, and (2) DVC does not qualify for the main studio and main studio/local origination points. Because we are dismissing the DVC Application on other grounds, we need not address these additional arguments.

established community presence and localism allegations, but rather raises several new allegations regarding LFDFC, discussed below.

LFDFC Application. In the DVC Petition, DVC Opposition, and DVC Opposition Supplement, DVC argues that: 1) LFDFC lacks reasonable assurance of site availability because it has not provided a contact name, and there is "low likelihood" that the tower it proposes to use could accommodate its proposed antenna;[16] 2) LFDFC does not meet the requirements of a Florida nonprofit corporation because it does not have the required minimum of three directors;[17] 3) based on public records showing common ownership, address, and phone numbers, LFDFC is an alter ego of La Familia FM Radio Broadcasting LLC, and the two organizations also share a common president;[18] 4) LFDFC engaged in radio piracy, or unlicensed broadcasting, on 99.5 MHz for several years, makes on-air references to La Familia, lafamilafm.com, and lafamilia.org, and LFDFC does not appear to be affiliated with WHIM-LP or WBUJ-LP, the stations that time-share on 99.5;[19] and 5) the LFDFC President, Rodolfo S. Martinez (Martinez), also an officer of La Familia FM Radio Broadcasting LLC, engages in unlicensed broadcasting on 99.5 MHz, and no FCC call sign is ever stated on air.

In the LFDFC Opposition, LFDFC counters that: 1) LFDFC had reasonable assurance of transmitter site availability when it filed the LFDFC Application because it received a standard letter of reasonable assurance of availability from American Tower LLC, the owner of the proposed transmitter site, and the required information was included in the original application, but omitted from a subsequent amendment "in what appears to be a technical glitch;"[20] 2) neither LFDFC nor its principals are involved in an unlicensed pirate radio operation, and the broadcasts highlighted by DVC are "those of an announcer on a licensed broadcast station";[21] and 3) DVC's argument that LFDFC lacks the required minimum number of directors fails because LFDFC is an "active" nonprofit organization in Florida, "there is no indication under Florida state law that the failure to have 'three directors' in any way invalidates the efficacy of a non-profit corporation," and the Commission declines to consider issues of a licensee's compliance with the requirements of state corporate law where no challenge has been made before a state court.[22]

In the DVC Reply, DVC responds: 1) despite the reasonable assurance letter provided by LFDFC in its Opposition, according to the tower information, LFDFC's proposed antenna cannot fit on the available tower space;[23] 2) LFDFC fails to meet eligibility requirements for LPFM applicants because it

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[16] DVC Petition at 1-2.

[17] *Id.* at 2.

[18] *Id.* at 2.

[19] *Id.* at 3-5; DVC Opposition at 5-7; DVC Opposition Supplement at 1.

[20] LFDFC Opposition at 3-4.

[21] *Id.* at 4-6. LFDFC includes a Declaration from Rodolfo Samuel Martinez, the President of LFDFC, stating that, "at WHIM-LP, I serve as a producer, on-air talent, and voice-over artist… At no time have I ever operated or been involved with a pirate radio station, nor is there any record with the FCC linking me to illegal radio activities.". *Id.* at 5-6 and Attachment 5.

[22] LFDFC Opposition at 6-8 (citing *Fatima Response, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 18543 (1999) (*Fatima*) and similar cases).

[23] DVC Reply at 4.

lacks the minimum three directors required for nonprofit corporations under Florida state law;[24] 3) LFDFC's claim that neither it nor its principals have engaged in pirate radio broadcasting is undermined by evidence that LFDFC's President entered into a contract for commercial airtime on 99.5 FM, which is specifically reserved on a timeshare basis for low power FM stations WBUJ-LP and WHIM-LP, and, therefore, only allowed noncommercial content;[25] and 4) there may be an undisclosed arrangement in place in which LFDFC or its President, Martinez, control WHIM-LP, or an unauthorized transfer of control, yet LFDFC does not mention this attributable interest in the LFDFC Application.[26]

Finally, in the LFDFC Response, LFDFC argues that: (1) LFDFC was timely incorporated under Florida law, the Florida Secretary of State's acceptance of its articles of incorporation and its current active status are evidence that LFDFC has satisfied all requirements of a Florida nonprofit corporation, and the FCC does not interpret state laws or their enforcement;[27] 2) DVC "provides no evidence to refute the fact that [reasonable] assurance was given, on a timely basis, by American Tower," and whether or not the proposed transmitting facility will be difficult to construct is irrelevant;[28] 3) neither LFDFC nor its principals have engaged in pirate broadcasting, and 4) neither LFDFC nor its principals control or have an attributable interest in WHIM-LP; instead, Martinez is an announcer on WHIM-LP, and neither he nor his company, La Familia FM Radio Broadcasting LLC, which is separate from LFDFC and produces interviews and underwriting announcements for WHIM-LP, controls the operations of WHIM-LP.[29]

Discussion. Pursuant to section 309(d) of the Communications Act of 1934, as amended (Act),[30] 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.[31] REC has met this burden, LFDFC has met this burden in part, DVC has not.

DVC Application – Local Eligibility. We find that DVC fails to meet the localism requirements of section 73.853(b) of the rules.[32] An LPFM applicant must qualify as a "local" entity at the time that it files its FCC Form 2100, Schedule 318 application (LPFM Application).[33] To qualify as local, a

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[24] *Id.* at 4-6, citing *Review of Six Applications for New LPFM Stations*, Memorandum Opinion and Order, 28 FCC Rcd 13390 (2013) (*Review of Six Applications*).

[25] *Id.* at 6-7; *see also* DVC Opposition Supplement at 1-2 and 9-17, Exh. 2.

[26] DVC Reply at 7.

[27] LFDFC Response at 3-4.

[28] *Id.* at 4-5.

[29] *Id.* at 5 and 23-26, Attachs. 6 and 7, Declarations of Reinaldo W. Medina, President of WHIM-LP and Rodolfo S. Martinez, President of LFDFC.

[30] 47 U.S.C. § 309(d).

[31] *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).

[32] 47 CFR § 73.853(b).

[33] *See* Instructions for LPFM Application, Legal Certifications Section, Eligibility Certifications and Community-Based Criteria Certifications questions. *See also* LPFM Application, Legal Certifications Section, Eligibility Certifications and Community-Based Criteria Certifications questions.

nonprofit educational organization LPFM applicant within the top 50 urban markets, such as DVC,[34] must either: (1) be physically headquartered or have a campus within 10 miles of the transmitting antenna site proposed in its application; or (2) have 75% of its board members residing within 10 miles of the transmitting antenna site proposed in its application.[35]

While DVC claims that it is local based on the location of its headquarters, REC notes, and DVC does not dispute, that the DVC principal place of business in annual reports filed before and after the DVC Application filing, list an address of 7791 NW 46th St., Ste. L2, Doral, Florida 33166, located over 10 miles from the transmitter site.[36] Further, in the supporting documentation provided by DVC, the DVC headquarters is listed as 9600 NW 25th St., Ste. 4E, Doral, Florida 33172, which is also more than 10 miles from the transmitter site.[37] While DVC lists 9835 SW 72 St, Miami, Florida, as its contact address,[38] DVC provides no documentation to support its claim that it is physically headquartered at this address.[39] Therefore, DVC has not established that it was local by virtue of maintaining a physical headquarters within ten miles of the transmitting antenna site. Accordingly, we grant the REC Objection and grant the LFDFC Petition and LFDFC Objection in part, and dismiss the DVC Application.[40]

LFDFC Application.

Nonprofit Eligibility. We reject DVC's claim that the LFDFC Application should be dismissed because LFDFC has two directors, not three, and is therefore not a valid nonprofit corporation. An LPFM applicant must meet basic eligibility requirements[41] and certify its eligibility to own and operate an LPFM station at the time that it files its FCC Form 2100, Schedule 318 application.[42] Specifically, each applicant claiming eligibility as a nonprofit educational organization must certify it is a noncommercial educational institution, corporation, foundation, association, or entity that is recognized under state law at

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[34] The 10 mile standard applies here because DVC's proposed community of license is in the Miami-Ft. Lauderdale-Hollywood radio market, which is a top 50 market. *See* The Nielsen Company (US) LLC, Radio Market Survey Population & Information, Spring 2024, at 1 (2024) https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations_Rankings.pdf.

[35] 47 CFR § 73.853(b). *See also Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2219-20, para. 33 (2001) (localism requirement may be met by relying on either headquarters or board member residences).

[36] *See* REC Objection at 5 and 10-12, Appendix D; DVC Application at Parties to the Application Section, and Point System Factors Section and Attach. "DoralVoice-ArticlesOfIncorporation.pdf" (Articles of Incorporation).

[37] DVC Application at Articles of Incorporation Attach. *See also* REC Objection at 5 and 10-12, Appendix D

[38] DVC Application at Applicant Information Section, Applicant Name, Type, and Contact Information question. The Miami address is within 10 miles of DVC's transmitting antenna site.

[39] *See, e.g., Comparative Consideration of 7 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 30 FCC Rcd 5161, 5174-75 (2015) ("a local headquarters must be a primary place of business and may not be, for example, a post office box, vacation home, attorney's office, or branch office, which are more easily feigned and/or present less of an opportunity for meaningful contact with the community.").

[40] Because we dismiss the DVC Application, we need not consider LFDFC's remaining allegations, and therefore, dismiss them as moot.

[41] *See* 47 CFR § 73.853.

[42] *See* Instructions for LPFM Application, Legal Certifications, Eligibility Certifications. *See also* LPFM Application, Legal Certifications, Eligibility Certifications.

the time its application is submitted.[43] In order to demonstrate established nonprofit status, LPFM Applicants must submit complete copies of the documents establishing their nonprofit status, such as corporate charters or articles of incorporation.[44] LFDFC satisfied this mandate. Specifically LFDFC submitted a copy of its Articles of Incorporation, filed with the Florida Secretary of State on November 23, 2020 – well before the LFDFC Application was filed.[45] Moreover, according to the Florida Secretary of State, LFDFC is an active nonprofit and has filed annual reports from 2020 through 2025.[46] LFDFC demonstrated it was incorporated and recognized under state law at the time of the application filing, and therefore, eligible for an LPFM license. We also note that LFDFC now has three directors listed in its 2025 annual report, rendering DVC's allegation moot.[47] Regardless, the Commission generally does not interpret matters of state law where a court of competent jurisdiction is the more appropriate venue.[48]

Reasonable Site Assurance. We also reject DVC's claim that LFDFC lacked reasonable site assurance. An applicant for a new LPFM station must have reasonable assurance, at the time of filing, that its specified site will be available for the construction and operation of its proposed facilities.[49] This requirement is satisfied if the applicant provides "[s]ome clear indication from the landowner that [the landowner] is amenable to entering into a future arrangement with the applicant for use of the property as its transmitter site, on terms to be negotiated, and that [the landowner] would give notice of any change of intention."[50] While some latitude is afforded such "reasonable assurance," there must be, at a minimum, a "meeting of the minds resulting in some firm understanding as to the site's availability."[51]

LFDFC has sufficiently demonstrated it had reasonable assurance of site availability at the time it filed its application. Specifically, contrary to DVC's allegation, LFDFC included the required contact

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[43] *See id;* 47 U.S.C. § 397(6)(A); *Procedures Public Notice*, 38 FCC Rcd at 6664-5; *Review of Six Applications*, 28 FCC Rcd at 13397-98, para. 22 (2013).

[44] *Procedures Public Notice*, 38 FCC Rcd at 6665.

[45] LFDFC Application, Attach. "Articles of Incorporation.pdf" (Articles of Incorporation). *Cf. Emergency & Community Broadcasters, Inc*., Memorandum Opinion and Order, 30 FCC Rcd 7705 (2015) (because the Secretary of State did not recognize applicant to be legally in existence as a nonprofit corporation until more than one month after filing the subject LPFM application, applicant was not legally in existence when it filed its application).

[46] Sunbiz.org, Division of Corporations, https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=LAFAMILIADEFE%20N200000132240&aggregateId=domnp-n20000013224-a2bf83c8-f8e8-4c43-8021-c3bc113a7f74&searchTerm=LA%20FAMILIA%20DE%20FE%20CORP&listNameOrder=LAFAMILIADEFE%20N200000132240 (last visited June 16, 2025).

[47] *Id.*

[48] *White Pine*, Letter Order, 22 FCC Rcd 12809, 12811 (MB 2007) ("We believe the interpretation of the referenced Nevada state statute is most appropriately addressed by a court of competent jurisdiction. Thus, we conclude that further Commission consideration of this issue is unwarranted."); *Abundant Life, Inc*., Memorandum Opinion and Order, 16 FCC Rcd 4972 (2002).

[49] *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Report and Order, 34 FCC Rcd 12519, 12542-43, paras. 57-59 (2019).

[50] *Elijah Broadcasting Corp.,* Memorandum Opinion and Order, 5 FCC Rcd 5350, 5351, para. 10 (1990).

[51] *Genesee Communications, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 3595 (1988). The applicant need not own the proposed site and may even work out the final details for a lease sometime in the future. *See National Innovative Programming Network, Inc.,* 2 FCC Rcd 5641, 5643, para. 11 (1987).

information for the agent representing its proposed tower site in its initial application.[52] LFDFC explains that when it amended its Application, the contact information was inadvertently omitted, but it subsequently amended the application to reflect this same information.[53] Moreover, LFDFC also provided a letter dated September 20, 2023, from the tower owner, American Towers LLC, granting LFDFC reasonable assurance to use the proposed tower.[54] We also reject DVC's claim that LFDFC has a "low likelihood" of being able to use the tower site because there is very little space on the proposed transmitting tower.[55] DVC's assertion is purely speculative and, further, does not negate the fact that LFDFC had reasonable assurance of site availability at the time it filed its application.

Unlicensed Broadcasting. We reject DVC's claim that LFDFC's President, Martinez, has engaged in unlicensed, or "pirate" broadcasting, on frequency 99.5 MHz.

Section 632(a)(1)(B) of the Making Appropriations for the Government of the District of Columbia for Fiscal Year 2001 Act provides that the Commission must "prohibit any applicant from obtaining a low power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of Section 301 [of the Act]."[56] Section 73.854 of the Rules and FCC Form 2100, Schedule 318 implement this mandate by requiring an LPFM applicant to certify under penalty of perjury that neither the applicant, nor any party to the application, has engaged in any manner in unlicensed operation of any station.[57]

LFDFC certified in its Application that neither it, nor any party to its application, has engaged in unlicensed operation of any station.[58] Here, Martinez explains that he has worked as an announcer and on-air talent for station WHIM-LP, Hialeah Gardens, Florida, on 99.5 MHz, since 2019.[59] Further, in declarations signed under penalty of perjury, both Martinez and the WHIM-LP President state that Martinez has never broadcast unlicensed programming on the 99.5 frequency.[60] Additionally, Martinez explains that his program on WHIM-LP is titled "Hola Familia."[61] In light of Martinez's explanation that he has been broadcasting on 99.5 MHz for station WHIM-LP, as an announcer and on-air talent, he would not have been engaging in unauthorized broadcast operations in violation of section 73.854. Further, his program on WHIM-LP also includes the word "familia," which he would likely have referenced a number of times while on the air. Absent any evidence conclusively establishing that either Martinez or LFDFC

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[52] LFDFC Application at Technical Certifications Section, Reasonable Site Assurance questions.

[53] LFDFC Application, amended on Dec. 6, 2023; and LFDFC Opposition at 3-4.

[54] LFDFC Opposition at Attachs. 2-4, Photos of Tower Site, Antenna Structure Registration Information, and American Tower Letter.

[55] DVC Petition at 2.

[56] *See* Pub. L. No. 106-553, 114 Stat. 2762 (2000) (Appropriations Act), amended by Pub. L. No. 111-371, 124 Stat. 4072 (2011). *See also* 47 CFR § 73.854 (implementing the Appropriations Act); *Ruggiero v. FCC*, 278 F.3d 1323 (D.C. Cir. 2002), *rev'd en banc*, 317 F.3d 239 (D.C. Cir. 2003)..

[57] *See Creation of a Low Power Radio Service*, Second Report and Order, 16 FCC Rcd 8026, 8030, para. 11 (2001) (*Second Report and Order*); 47 CFR § 73.854; FCC Schedule 318, Legal Certifications Section, Unlicensed Operations question.

[58] LFDFC Application at Legal Certifications Section, Unlicensed Operations question.

[59] *Id.*

[60] LFDFC Opposition at 18-20, Attach. 5, Declaration of Rodolfo S. Martinez, and LFDFC Response at 23-26, Attach. 7, Declaration of Reinaldo W. Medina and Attach. 8, Declaration of Rodolfo S. Martinez..

[61] LFDFC Opposition at 18-20, Attach. 5, Declaration of Rodolfo S. Martinez.

engaged in the unlicensed operation of a broadcast station in violation of section 301 of the Act,[62] we reject DVC's claim.[63]

Undisclosed Attributable Interests. We also reject DVC's allegation that LFDFC or its President, Martinez, may have an undisclosed attributable interest in station WHIM-LP. In the LFDFC Application, LFCFC certifies that no party to the application has an attributable interest in any LPFM station.[64] Martinez subsequently submitted a declaration, signed under penalty of perjury, attesting that: "I have no ownership interest in Station WHIM-LP. I do not run WHIM-LP, nor do I control its operations.".[65] Martinez further explains that DVC's allegation likely stems from his interest in a separate commercial marketing business, not a station, by which he produces programming and advertising for other stations.[66] Martinez clarifies that his business is similarly titled "La Familia FM Radio Broadcasting LLC," but it is a different entity.[67] He explains that "La Familia FM Radio Broadcasting, LLC" is a separate commercial enterprise that is wholly unrelated to "La Familia De Fe Corp."[68] Moreover, in a separate declaration signed under penalty of perjury, the president of WHIM-LP also confirms that "Martinez does not control the operations of Station WHIM-LP, or establish the policies or operations of WHIM-LP".[69] Absent any evidence that LFDFC or Martinez exercise any control over WHIM-LP, or maintain an undisclosed attributable interest otherwise, we reject DVC's claim as speculative.

WHIM-LP Violations. Finally, DVC makes several allegations specific to WHIM-LP, including underwriting violations and failure to identify a station call sign. WHIM-LP is not the subject of this proceeding. Accordingly, we decline to consider these allegations.[70]

Conclusion/Actions. For the reasons set forth above, **IT IS ORDERED** that the Informal Objection filed by REC Networks on October 24, 2024 (Pleading File No. 0000256237) **IS GRANTED**.

IT IS FURTHER ORDERED that the Petition to Deny, filed by La Familia De Fe Corp on November 15, 2024 (Pleading File No. 0000258117), **IS DISMISSED**, and when considered as an Informal Objection, **IS GRANTED IN PART AND OTHERWISE IS DISMISSED AS MOOT**.

IT IS FURTHER ORDERED that the Informal Objection, filed by La Familia De Fe Corp on February 19, 2025 (Pleading File No. 0000266890) **IS GRANTED IN PART AND OTHERWISE IS DISMISSED AS MOOT**.

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[62] *Compare WKMJ Radio Live The People Station Inc.*, Letter Order, 30 FCC Rcd 7427, 7428-29 (MB 2015) (dismissing LPFM application where a local police case report and a notice of unauthorized operations issued by FCC field agents showed that applicant's CEO and 50 percent voting shareholder was observed by police officers and FCC field agents actually operating an unlicensed radio station).

[63] *See La Iglesia De Dios Pentecostes, Inc*., Letter Order, 39 FCC Rcd 3107 (MB 2024).

[64] LFDFC Application at Legal Certifications Section, Ownership questions.

[65] LFDFC Opposition at 18-20, Attach. 5, Declaration of Rodolfo S. Martinez, and LFDFC Response at 23-26, Attach. 7, Declaration of Reinaldo W. Medina and Attach. 8, Declaration of Rodolfo S. Martinez.

[66] *Id.*

[67] *Id.*

[68] *Id.*

[69] LFDFC Response at 23-24, Attach. 7, Declaration of Reinaldo W. Medina.

[70] DVC claims to have additional documentation supporting these claims to submit to either the Media Bureau or the Enforcement Bureau. This evidence would be more appropriately submitted in a complaint against station WHIM-LP, and should conclusively demonstrate the facts alleged.

IT IS FURTHER ORDERED that the application for a construction permit for a new LPFM station at Miami, Florida, filed by Doral Voice Corp on December 15, 2023 (Application File No. 0000233072) **IS DISMISSED**.

IT IS FURTHER ORDERED that the Petition to Deny, filed by Doral Voice Corp on November 18, 2024 (Pleading File No. 0000258219), **IS DISMISSED**, and when considered as an Informal Objection, **IS DENIED**.

IT IS FURTHER ORDERED that the application for a construction permit for a new LPFM station at Miami, Florida, filed by Cristo Te Ama Ministry on December 6, 2023 (Application File No. 0000231715), **IS DISMISSED**.

IT IS FURTHER ORDERED that the Informal Objection filed by Doral Voice Corp on December 27, 2024 (Pleading File No. 0000261784) **IS DISMISSED AS MOOT**.

IT IS FURTHER ORDERED that the application of La Familia De Fe Corp, for a construction permit for a new low power FM station at Miami, Florida (Application File No. 0000231444) **IS GRANTED.**

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L Street NE
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: http://www.fcc.gov

DA Number: 25-655
Report No. SCL-00563NS **Friday July 25, 2025**

Non-Streamlined Submarine Cable Landing License Applications

Accepted For Filing

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing. Pursuant to the Submarine Cable Landing License Act, 47 U.S.C. §§ 34-39, and Executive Order No. 10530, reprinted as amended in 3 U.S.C. § 301, each applicant seeks: (a) the grant of a submarine cable landing license; (b) the modification of a submarine cable landing license; and/or (c) the assignment or transfer of control of an interest in a submarine cable landing license. These applications are not subject to the streamlined processing procedures set forth in Section 1.767 of the Commission's rules, 47 CFR § 1.767. Pursuant to section 1.1910(b)(2) of the rules, action will be withheld on any application by any entity found to be delinquent in its debts to the Commission. Applicants should check the Red Light Display System's website at www.fcc.gov/redlight to determine if they are delinquent in a debt to the Commission and for information on how to pay the debt. 47 CFR § 1.1910(b)(2).

Unless otherwise specified, filings relating to these applications must be received within 14 days of this notice. Ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 CFR § 1.1206. All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

These applications are being coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 CFR §1.767(b), and consistent with procedures established with the Department of State. 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).

Pursuant to its decision in Review of Commission Consideration of Applications under the Submarine Cable Landing License Act, IB Docket No. 00-106, FCC 01-332, 16 FCC Rcd 22167 (2001), and section 1.767 of the rules, the Commission will take action upon these applications within ninety (90) days after release of this public notice, unless it determines that additional time is needed.

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).

INFORMATIVE:

SCL-LIC-20240926-00039 S250412 Starfish Infrastructure Inc.
Date filed: 2024-09-26
Submarine Cable Landing License

On July 23, 2025, the National Telecommunications and Information Administration, 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 Authorization and License regarding the application. The Committee has no objection to the Commission granting the application for the Taihei cable system provided that the Commission conditions its approval on the assurances of Starfish Infrastructures, Inc. and Google LLC to abide by the commitments and undertakings set forth in the July 10, 2025, National Security Agreement (NSA) by and between Starfish and Google on the one hand, and the Committee, represented by DHS, the Department of Justice, and the Department of Defense, on the other hand.

On July 24, 2025, the Commission referred the application to the Department of State (State) pursuant to the Submarine Cable Landing License Act of 1921 and Executive Order No. 10530. 47 U.S.C. §§ 34-39, Executive Order No. 10530 (reprinted as amended in 3 U.S.C. § 301). That began the 10-day State review process set out in the letter from the Under Secretary of State for Economic, Business, and Agricultural Affairs to the Chair, Federal Communications Commission (Feb. 23, 2022). See 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).

SCL-LIC-20241224-00052 S250403 Edge Cable Holdings USA, LLC
Date filed: 2024-12-24
Submarine Cable Landing License

On July 24, 2025, the Chair of Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) notified the Commission that the Committee granted the Applicant a 30-day extension and thus is extending its initial review period for the application for the ORCA cable system to conclude on or before August 29, 2025, pursuant to Executive Order 13913 (85 Fed Reg 19643 (April 8, 2020)).

SCL-LIC-20241030-00042 S250468 Starfish Infrastructure Inc.
Date filed: 2024-10-30
Submarine Cable Landing License

On July 16, 2025, the National Telecommunications and Information Administration, 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 Authorization and License regarding the application. The Committee has no objection to the Commission granting the application for the Honomoana cable system provided that the Commission conditions its approval on the assurances of Starfish and Google, LLC (Google) to abide by the commitments and undertakings set forth in the July 11, 2025, National Security Agreement (NSA) by and between Starfish and Google on the one hand, and the Committee, represented by DHS, the Department of Justice, and the Department of Defense, on the other hand.

On July 17, 2025, the Commission referred the application to the Department of State (State) pursuant to the Submarine Cable Landing License Act of 1921 and Executive Order No. 10530. 47 U.S.C. §§ 34-39, Executive Order No. 10530 (reprinted as amended in 3 U.S.C. § 301). That began the 10-day State review process set out in the letter from the Under Secretary of State for Economic, Business, and Agricultural Affairs to the Chair, Federal Communications Commission (Feb. 23, 2022). See 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).

SCL-LIC-20240911-00038 S250471 Starfish Infrastructure Inc.
Date filed: 2024-09-11
Submarine Cable Landing License

On July 21, 2025, the National Telecommunications and Information Administration, 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 Authorization and License regarding the application. The Committee has no objection to the Commission granting the application for the Proa cable system provided that the Commission conditions its approval on the assurances of Starfish and Google, LLC (Google) to abide by the commitments and undertakings set forth in the July 16, 2025, National Security Agreement (NSA) by and between Starfish and Google on the one hand, and the Committee, represented by DHS, the Department of Justice, and the Department of Defense, on the other hand.

On July 22, 2025, the Commission referred the application to the Department of State (State) pursuant to the Submarine Cable Landing License Act of 1921 and Executive Order No. 10530. 47 U.S.C. §§ 34-39, Executive Order No. 10530 (reprinted as amended in 3 U.S.C. § 301). That began the 10-day State review process set out in the letter from the Under Secretary of State for Economic, Business, and Agricultural Affairs to the Chair, Federal Communications Commission (Feb. 23, 2022). See 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).

REMINDER:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 CFR §§ 1.2001-.2003.

By this notice, we inform the public that submarine cable landing license applications that are part of larger transactions involving multiple Commission licenses or authorizations may involve "extraordinary circumstances" as referenced in Review of Commission Consideration of Applications under the Submarine Cable Landing License Act, Report and Order, 16 FCC Rcd 22167 (2001) and Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997), paras. 327-28, Order on Reconsideration, 15 FCC Rcd 18158 (2000). Additionally, extraordinary circumstances result where Executive Branch agencies petition the Commission to defer action on an application pending the resolution of potential national security, law enforcement, foreign policy and trade policy issues. Accordingly, these applications may not be acted on within the 90-day review period that the Commission has established as the period of time normally required to reach a decision on non-streamlined submarine cable landing licenses. This notice shall serve as public notice to applicants that, in these circumstances, additional time may be required for Commission review and final action. No additional formal public notice will be provided routinely with respect to specific applications in the event that the applicable review period extends beyond 90 days

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 Number: 25-656
Report No. TEL-02609NS **Friday July 25, 2025**

Non Streamlined International Applications/Petitions Accepted For Filing

Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing. These applications are not subject to the streamlined processing procedures set forth in section 63.12 of the Commission's rules. 47 CFR § 63.12. These applications shall not be deemed granted until the Commission affirmatively acts upon the application, either by public notice or by written order. Operation for which authorization is sought may not commence except in accordance with any terms or conditions imposed by the Commission. Pursuant to section 1.1910(b)(2) of the rules, action will be withheld on any application by any entity found to be delinquent in its debts to the Commission. Applicants should check the Red Light Display System's website at www.fcc.gov/redlight to determine if they are delinquent in a debt to the Commission and for information on how to pay the debt. 47 CFR § 1.1910(b)(2).

Unless otherwise specified, interested parties may file comments with respect to these applications within 28 days of the date of this public notice. We request that such comments refer to the application file number shown below. No application listed below shall be granted by the Commission earlier than the day after the date specified in this public notice for the filing of comments. All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

Unless otherwise specified, ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 CFR § 1.1206.

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).

INFORMATIVE:

ITC-214-20230720-00076 T252171 Smarteletec S.L.
Date filed: 2023-07-19
International Telecommunications Authorizations

Service:
- Global Resale Authority pursuant to section 63.18(e)(2) of the Commission's rules.

Pursuant to Commission practice, Smarteletec S.L.'s (Smarteletec) application is being referred for the second time to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy or trade policy concerns. *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, 10935-36, para. 24 (2020).

The application was originally referred to the Executive Branch agencies on September 8, 2023. *See* Non-Streamlined International Applications/Petitions Accepted For Filing, Report No. TEL-02300NS, Public Notice (OIA rel. Sep. 8, 2023). On November 15, 2023, the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) recommended that the application be dismissed without prejudice because Smarteletec had not filed complete responses to the Committee's questions about the application. *See* Letter from Nadia Asancheyev, Attorney Advisor, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, FCC, dated Nov. 15, 2023. On May 2, 2025, the Commission notified Smarteletec that the Commission would dismiss the application without prejudice if Smarteletec did not respond that it wants to continue to seek international section 214 authority. *See* Letter from Denise Coca, Chief, Telecommunications and Analysis Division, Office of International Affairs, FCC, to Maen Rajab, Smarteletec S.L., dated May 2, 2025. On May 20, 2025, Smarteletec responded, stating that it continues to seek international section 214 authority and indicated it had provided the requested information to the Committee. *See* Letter from Maen Rajab Qteishat, Smarteletec S.L. to Denise Coca, Chief, Telecommunications and Analysis Division, Office of International Affairs, FCC, dated May 20, 2025.

REMINDERS:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 CFR §§ 1.2001-.2003.

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 Number: 25-657
Report No. TEL-02609S **Friday July 25, 2025**

Streamlined International Applications Accepted For Filing

Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)

Unless otherwise specified, the following procedures apply to the applications listed below:

The international section 214 applications listed below have been found, upon initial review, to be acceptable for filing and subject to the streamlined processing procedures set forth in section 63.12 of the Commission's rules. 47 CFR § 63.12. These applications are for authority under section 214 of the Communications Act, to transfer control of an authorized carrier or to assign a carrier's existing authorization; and/or (b) to become a facilities-based international common carrier; and/or (c) to become a resale-based international common carrier. 47 U.S.C. § 214(a).

Pursuant to section 63.12 of the rules, these applications will be granted 14 days after the date of this public notice (see 47 CFR § 1.4 regarding computation of time), and the applicant may commence operations on the 15th day, unless the Commission has informed the applicant in writing, within 14 days after the date of this public notice, that the application, on further examination, has been deemed ineligible for streamlined processing. Pursuant to Section 1.1910(b)(2) of the rules, action will be withheld on any application by any entity found to be delinquent in its debts to the Commission. Applicants should check the Red Light Display System's website at www.fcc.gov/redlight to determine if they are delinquent in a debt to the Commission and for information on how to pay the debt. 47 CFR § 1.1910(b)(2).

Communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 CFR § 1.1206. An application can be removed from streamlined processing only in the sound discretion of Commission staff. The filing of comments or a petition to deny will not necessarily result in an application being deemed ineligible for streamlined processing.

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). All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

We request that comments on any of these applications refer to the application file number shown below.

ITC-214-20250708-00038 T257715 1 Click 2022 Telecommunication
Date filed: 2025-07-09
International Telecommunications Authorizations

Service:
- Global Resale Authority pursuant to section 63.18(e)(2) of the Commission's rules.

1 Click 2022 Telecommunication (1 Click) filed an application for authority to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2).

1 Click, a Florida limited liability company, is solely owned by Mark Griffith, a U.S. citizen.

ITC-T/C-20250613-00055 Biddeford Internet Corporation
Date filed: 2025-06-13
Transfer of Control

Biddeford Internet Corporation d/b/a Great Works Internet (Biddeford), a Maine corporation that holds an international section 214 authorization to provide global resale service (ITC-214-20250210-00020), filed an application for consent to the transfer of control of Biddeford to Mac Mountain, LLC (Mac Mountain). Fletcher Kittredge, a U.S. citizen, currently holds 70% equity and voting interests in Biddeford. Through exercise of a warrant dated September 21, 2023, Mac Mountain will acquire 51% of the equity interest and 91% of the voting interest in Biddeford.

Post-transaction, Mac Mountain Broadband, LLC (Mac Mountain Broadband), a wholly owned subsidiary of Mac Mountain, will directly hold the 51% equity interest and 91% voting interest in Biddeford being acquired by Mac Mountain. Mac Mountain Broadband and Mac Mountain are both Delaware limited liability companies. Alexander Rozek, a U.S. citizen, holds 87% equity and 100% voting interests in Mac Mountain. Post-transaction Fletcher Kittredge will hold 34% equity and 6% voting interests in Biddeford.

REMINDER:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 CFR §§ 1.2001-.2003.

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 Number: 25-658
Report No. SAT-01937 **Friday July 25, 2025**

Satellite Licensing Division and Satellite Programs and Policy Division Information

RE: Actions Taken

The Commission, by its Space Bureau, took the following actions pursuant to delegated authority. The effective date of these actions is the release date of this Notice, except where an effective date is specified.

SAT-STA-20250716-00172 S2180 SES Americom, Inc.
Date filed: 2025-07-17
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-21

Granted, With Conditions

SAT-MOD-20240226-00039 S2357 Skynet Satellite Corporation
Date filed: 2024-02-26
Modification
Grant of Authority Date of Action: 2025-07-22

Granted, With Conditions

INFORMATIVE:

SAT-AMD-20220805-00078 S3032 BlackSky Global LLC
Date filed: 2022-08-05
Amendment Date of Action: 2025-01-22

Nature of Service: Earth Exploration-Satellite Service

See ICFS file no. SAT-MOD-20211230-00205 for description.

SAT-MOD-20211230-00205 S3032 BlackSky Global LLC
Date filed: 2021-12-30
Modification Date of Action: 2025-01-22

Nature of Service: Earth Exploration-Satellite Service

On July 24, 2025, Satellite Policy and Programs Division re-issued a grant-in-part authorization for BlackSky's constellation to correct the orbital range and inclination, and to update federal coordination conditions for the 400-402 MHz band.

For more information concerning this Notice, contact the Satellite Licensing Division and Satellite Programs and Policy Division at (202) 418-0719.

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
Pedro Arce Licensee of WCND(AM), Shelbyville, Kentucky	)	Facility ID: 60083 FRN: 0022835128 Application File Nos. BL-19900117AH, 0000112858

REVOCATION ORDER

Adopted: July 25, 2025 **Released: July 25, 2025**

By the Chief, Media Bureau, and the Managing Director, Office of Managing Director:

I. INTRODUCTION

1. By this *Revocation Order*, we revoke the license held by Pedro Arce (Licensee), for WCND(AM), Shelbyville, Kentucky (Station), for failure to pay its fiscal year (FY) 2013, 2014, 2015, 2016, 2022, and 2023 regulatory fee debt owed to the Commission, totaling $9,261.41 as of July 11, 2025.[1] We also dismiss the pending application for renewal of the Station's license.[2]

II. DISCUSSION

2. Under section 9 of the Communications Act of 1934, as amended (Act), and the Commission's implementing rules, the Commission is required to "assess and collect regulatory fees" to recover the costs of certain regulatory activities.[3] 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 that was not paid in a timely manner."[4] In addition to financial penalties, section 9a(c)(4)(A) of the Act, and section 1.1164(f) of the Commission's rules (Rules) grant the Commission the authority to revoke authorizations for failure to pay regulatory fees (or related interest and penalties) in a timely fashion.[5]

3. Licensee failed to timely pay or only partially paid the Station's regulatory fees for FYs 2013, 2014, 2015, 2016, 2022, and 2023. For FY 2013, the deadline for paying regulatory fees was September 20, 2013;[6] for FY 2014, it was September 23, 2014;[7] for FY 2015, it was September 24, 2015;[8]

[1] 47 U.S.C. § 159a(c)(4)(A) ("[T]he Commission may revoke any instrument of authorization held by any licensee that has not paid in a timely manner a regulatory fee assessed under section 9 or any related interest or penalty."). The debt will continue to accrue interest and other charges until paid in full.

[2] Application File No. 0000112858 (Renewal Application).

[3] 47 U.S.C. § 159(a)(1); 47 CFR §§ 1.1151-1.1167.

[4] 47 U.S.C. § 159a(c)(1); 47 CFR §§ 1.1157(c)(1), 1.1164.

[5] 47 U.S.C. § 159a(c)(4)(A); 47 CFR § 1.1164(f).

[6] *Payment Methods and Procedures for Fiscal Year 2013 Regulatory Fees*, Public Notice, DA 13-1796, 28 FCC Rcd 12635 (OMD September 4, 2013).

[7] *Payment Methods and Procedures for Fiscal Year 2014 Regulatory Fees*, Public Notice, DA 14-1283, 29 FCC Rcd 10500 (OMD September 5, 2014).

[8] *Payment Methods and Procedures for Fiscal Year 2015 Regulatory Fees*, Public Notice, DA 15-1013, 30 FCC Rcd 9941 (OMD September 11, 2015).

for FY 2016, it was September 27, 2016,[9] for FY 2022, it was September 30, 2022,[10] and for FY 2023, it was September 20, 2023.[11]

4. Thus, for each delinquent regulatory fee, the Commission assessed the statutory late payment penalty required by the Act,[12] and sections 1.1157(c)(1), and 1.1164 of the Rules,[13] and interest, penalties, and administrative costs required by law.[14] The Commission sent demand letters to Licensee demanding payment of the delinquent regulatory fee debts.

5. On April 30, 2025, the Media Bureau (Bureau) and the Office of Managing Director (OMD) jointly issued an *Order to Pay or to Show Cause* (*Order*) requiring Licensee to file with the Bureau within sixty (60) calendar days[15] evidence of full payment of the regulatory fee debt owed, or show cause why the fees were inapplicable or should be waived or deferred.[16] The *Order* further stated that failure to provide such evidence of payment or to show cause within the time specified could result in revocation of the Station's license.[17] To date, Licensee has not paid any of the debts, and Licensee has not filed a written response to the *Order*.

III. DISCUSSION

6. We revoke the Station's license. The Bureau and OMD issued the *Order* on April 30, 2025, and it required Licensee to respond within 60 days.[18] The *Order* specified that failure to provide evidence of payment or show cause within the time specified could result in revocation of the Station's

[9] *Payment Methods and Procedures for Fiscal Year 2016 Regulatory Fees*, Public Notice, 2016 WL 4625515 (OMD September 6, 2016).

[10] *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).

[11] *Payment Methods and Procedures for Fiscal Year 2023 Regulatory Fees*, Public Notice, DA 23- 765, 38 FCC Rcd 7773 (OMD August 28, 2023).

[12] 47 U.S.C. § 159a(c)(1); 47 U.S.C. § 159(c)(1) (2017). The RAY BAUM's Act, Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, Pub. L. No. 115-141, 132 Stat. 348, 1095, modified section 9 of the Act and added a new section 9a. Prior to October 1, 2018, when the RAY BAUM's Act became effective, section 9(c)(1) set forth the penalties for late payment of regulatory fees. As amended by the RAY BAUM's Act, section 9a(c)(1) now sets forth those penalties.

[13] 47 CFR §§ 1.1157(c)(1), 1.1164.

[14] Prior to October 1, 2018, the Commission was required to and did assess administrative charges on delinquent regulatory fee debt pursuant to section 3717 of the Debt Collection Improvement Act. 37 U.S.C. § 3717(e)(1); *see also* 47 CFR § 1.1940. Effective October 1, 2018, and as a result of the changes wrought by section 9a of the RAY BAUM'S Act, the Commission may no longer assess the administrative cost of collecting delinquent regulatory fee debt, though the mandate that it charge a 25 percent late payment penalty and interest remains. 47 U.S.C. § 159a(c)(1) and (2).

[15] While not required by the statute, the Commission adopted the 60-day response period for regulatees "to assure that the subject regulatee will have a full opportunity to obtain the funds needed to make payment and to prepare its case." *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, MD Docket No. 94-19, Report and Order, 9 FCC Rcd. 5333, 5354 para. 62 (1994) (*1994 Report and Order*); *see also Shelly Broadcasting Company, Inc.*, Revocation Order, 34 FCC Rcd 7983 (MB/OMD 2019) (revoking license of station with unpaid regulatory fees after licensee failed to pay fees or respond to order to pay or show cause within 60 days); *Dean Brothers Broadcasting Corp.*, Revocation Order, 34 FCC Rcd 2151 (MB/OMD 2019).

[16] *Pedro Arce, Licensee of WCND(AM), Shelbyville, Kentucky,* Order to Pay or to Show Cause, DA 25-380 (MB/OMD Apr. 30, 2025) (*Order*). At that time, the Commission's records showed that Licensee had unpaid regulatory fees for WCND(AM) of $1,361.69 for FY 2013; $1,829.08 for FY 2014; $1,702.28 for FY 2015; $1,535.07 for FY 2016; $1,419.51 for FY 2022; and $1,413.78 for FY 2023. *Id*. at para. 4.

[17] *Id*. at para. 5. *See also* 47 U.S.C. §159a(c)(4).

[18] *Order* at para. 5.

license.[19] Licensee did not file a written response to the *Order*.[20] In these circumstances, where Licensee has failed to pay its regulatory fee debt and does not dispute that it is obligated to pay the debt, we conclude revocation is appropriate.[21]

7. We note that this *Revocation Order* does not relieve Licensee of its obligation to pay any debt, including any regulatory fee or any other financial obligation that is owed or may in the future be owed to the Commission. We further note that Licensee may have been or may continue to be a respondent in other administrative proceedings. Action in this proceeding is without prejudice to action in those proceedings, and the existence of those proceedings and matters raised therein are not considered by the Commission in this proceeding.

IV. 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,[22] the license of Pedro Arce, for Station WCND(AM), Shelbyville, Kentucky, **IS HEREBY REVOKED**.

9. **IT IS FURTHER ORDERED** that all authority to operate the facility **IS TERMINATED** and any operation of the facility **is now unauthorized and must cease immediately**.[23]

10. **IT IS FURTHER ORDERED** that the Commission's public and internal database will be modified to reflect the revocation, and the Station's call sign **IS HEREBY DELETED**.

11. **IT IS FURTHER ORDERED** that the renewal application filed on April 29, 2020 (Application File No. 0000112858), **IS DISMISSED**.

[19] *Id*.

[20] A copy of the *Order* was sent by registered mail, return receipt requested, to the address provided by Licensee in the Renewal Application. *See* 47 CFR § 1.5(a) (unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission). A signed certified mail receipt was not returned to the Commission. Additionally, a courtesy copy was sent to the email addresses on file for Licensee. Email from Keith Coburn, Audio Division, FCC Media Bureau, to Pedro Arce (Apr. 30, 2025, 12:29pm EDT). As a courtesy, Commission staff sent Mr. Arce a final warning by email advising him that failure to pay regulatory fees or response to the *Order* would result in the revocation of this license. Email from Alexander Sanjenis, Audio Division, FCC Media Bureau, to Pedro Arce (July 7, 2025, 2:22 PM EDT).

[21] *See, e.g., Shelley Broad. Co., Inc*., Revocation Order, 34 FCC Rcd 7983 (MB/OMD 2019); *Deane Bros. Broad. Corp*., Revocation Order, 34 FCC Rcd 2151 (MB/OMD 2019) (both revoking station license for failure to pay delinquent regulatory fees). *See also LDC Telecomm., Inc*., Revocation Order, 31 FCC 11662 (2016) (revoking authorizations held by LDC for failure to pay delinquent regulatory fees).

[22] 47 U.S.C. § 159a(c)(5); 47 CFR §§ 0.11, 0.61, 0.231, 0.283, 1.1164(f).

[23] **It is imperative to the safety of air navigation that any prescribed painting and illumination of the Station's tower be maintained**. *See* 47 CFR §§ 17.6 and 73.1213.

12. **IT IS FURTHER ORDERED** that a copy of this *Revocation Order* shall be sent by first class mail and registered mail, return receipt requested, to Pedro Arce, P.O. Box 8103, Lexington, KY 40533.

FEDERAL COMMUNICATIONS COMMISSION

Erin Boone
Acting Chief, Media Bureau

Mark Stephens, Managing Director
Office of Managing Director

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

In the Matter of	)	
	)	
Theia Holdings A, Inc.	)	ICFS File Nos. SAT-LOA-20161115-00121
	)	and SAT-AMD-20170301-00029
Request for Retroactive Waiver of Surety Bond	)	
Requirement for a Non-Geostationary Satellite	)	Call Sign: S2986
Orbit System License	)	

ORDER

Adopted: July 25, 2025 **Released: July 25, 2025**

By the Acting Chief, Satellite Programs and Policy Division, Space Bureau:

I. INTRODUCTION

1. By this Order, we deny the request of Theia Holdings A, Inc. (Theia) for retroactive waiver of the surety bond requirement associated with its license to construct, launch, and operate a non-geostationary-satellite orbit (NGSO) satellite system.[1] After review of the record, we conclude that Theia's contractual dispute with its surety bond provider does not present a good cause for waiver of its license requirement to maintain its surety bond.[2] Accordingly, by the conditions of Theia's license, its satellite authorization became null and void on May 16, 2024, the day that Theia's potential bond liability under the Commission's rules exceeded the value of its bond.[3] The full $4,340,000 value of the bond is due and payable to the U.S. Treasury upon written notice from the Commission's Office of Managing Director.[4]

II. BACKGROUND

2. On May 9, 2019, the Commission granted Theia's application for authority to construct, launch, and operate an NGSO satellite system of 112 active satellites and 8 on-orbit spare satellites to be operated in low-Earth orbit.[5] Consistent with the Commission's rules, Theia's license was conditioned upon Theia posting, and thereafter maintaining in the Commission's files, a surety bond with a specified penal amount sufficient to cover its potential liability in the event of default under the Commission's escalating bond liability formula.[6] Theia would be relieved of its bond obligation upon a Commission

[1] Letter from Michael Fuqua, Receiver, Theia Group, Inc., to Marlene H. Dortch, Secretary, FCC, ICFS File Nos. SAT-LOA-20161115-00121 and SAT-AMD-20170301-00029 (filed June 10, 2024) (Waiver Request).

[2] *See* 47 CFR § 1.3.

[3] *Theia Holdings A, Inc., Request for Authority to Launch and Operate a Non-Geostationary Satellite Orbit System in the Fixed-Satellite Service, Mobile-Satellite Service, and Earth-Exploration Satellite Service*, Memorandum Opinion, Order and Authorization, 34 FCC Rcd 3526, 3548, paras. 59a, c (*Authorization*); 47 CFR § 25.165(a)(1).

[4] *See International Bureau Updates Procedures for Filing and Maintaining Surety Bonds Pursuant to Revised Milestone and Escalating Bond Requirements*, Public Notice, 31 FCC Rcd 11054 (IB 2016).

[5] *See Authorization*, 34 FCC Rcd at 3526, paras. 1-2.

[6] *Authorization*, 34 FCC Rcd at 3548, para. 59a; 47 CFR § 25.165(a)(1), (c). An NGSO satellite licensee is considered to be in default with respect to a bond filed in connection with its satellite license if it surrenders the license before meeting the applicable 50% deployment milestone requirement or if it fails to satisfy any such

(continued….)

finding that it had satisfied its first satellite deployment milestone to launch and operate 50% of its authorized constellation within six years of its license grant.[7] Failure to maintain a surety bond with a sufficient penal sum would render the authorization "null and void automatically, without further Commission action."[8]

3. On May 20, 2019, Theia posted an initial surety bond in the Commission's International Communications Filing System, and on May 5, 2021, April 29, 2022, and May 8, 2023, submitted bond riders increasing the maximum penal sum owed upon an event of default in accordance with the Commission's rules.[9] Theia's final bond rider provides for a maximum bond penalty of $4,340,000.[10] Under the Commission's escalating bond liability rule, Theia's liability in the event of default exceeded its bond on file as of May 16, 2024, and would have continued to increase to a maximum value of $5,000,000 as of its first milestone date of May 9, 2025.[11]

4. On November 8, 2021, Theia entered receivership.[12] On October 26, 2023, the court presiding over the receivership approved the sale of Theia's assets to a new buyer.[13] On March 25, 2024, Theia and Athena-5 Systems Corp. (Athena), a wholly owned subsidiary of Emtech Global International, LLC, submitted an application for Commission consent to the assignment of Theia's satellite license to Athena.[14] The application was granted on May 9, 2024.[15]

5. On January 4, 2024, Theia's receiver communicated to the provider of its surety bond that a cancellation of the bond in accordance with its terms would not require relief from the stay imposed in Theia's receivership order.[16] On January 29, 2024, according to Theia's receiver, its bond provider

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milestone by the milestone date. *See* 47 CFR § 25.165(a)(1), (c). A licensee that, for reason of its failure to maintain an adequate bond under the Commission's rules, has its license become null and void is incapable of meeting its milestone obligations and therefore immediately defaults on its bond in the same manner as if the license had been surrendered.

[7] *Authorization*, 34 FCC Rcd at 3548, para. 59b; 47 CFR §§ 25.164(b)(1), 25.165(d). Theia was required to launch and simultaneously operate 50% of its authorized satellites in its authorized frequency bands by no later than May 9, 2025, to satisfy its first milestone and qualify for release of the bond. *See Authorization*, 34 FCC Rcd at 3526, para. 1, 3548, para. 59b.

[8] *Authorization*, 34 FCC Rcd at 3548, para. 59c.

[9] *See* ICFS File Nos. SAT-LOA-20161115-00121 and SAT-AMD-20170301-00029.

[10] Letter from Michael Fuqua, Receiver, Theia, to Marlene H. Dortch, Secretary, FCC, ICFS File Nos. SAT-LOA-20161115-00121 and SAT-AMD-20170301-00029 (filed May 8, 2023).

[11] *See* 47 CFR § 25.165(a)(1) (providing that an NGSO licensee must have on file a surety bond requiring payment in the event of default in an amount, at a minimum, determined according to the following formula, with the resulting dollar amount rounded to the nearest $10,000: A = $1,000,000 + $4,000,000 * D/2192, where A is the amount to be paid and D is the lesser of 2192 or the number of days that elapsed from the date of license grant until the date when the license was surrendered). May 16, 2024 is 1834 days after Theia's license grant date of May 9, 2019. Theia's bond liability on this date was $1,000,000 + $4,000,000 * 1834/2192 = $4,346,715.33, and when rounded to the nearest $10,000, was $4,350,000. One day earlier, on May 15, 2024, Theia's bond liability was $1,000,000 + $4,000,000 * 1833/2192 = $4,344,890.51, and when rounded to the nearest $10,000, was $4,340,000, the value of Theia's bond.

[12] Waiver Request at 2; ICFS File No. SAT-T/C-20211119-00164.

[13] Waiver Request at 2.

[14] ICFS File No. SAT-ASG-20240325-00064.

[15] *Id.*

[16] Waiver Request at 3.

"purported to non-renew the bond, effective May 9, 2024."[17] Theia's receiver states that he was unaware of the purported non-renewal at the time, as notice was delivered to an address not used by Theia or the receiver "for a number of years."[18] In April 2024, Theia's receiver engaged the surety provider to execute a new bond rider extending the term of the bond and increasing the maximum penal sum, which the surety provider refused to do.[19] On May 16, 2024, Theia's potential liability under the Commission's escalating bond liability formula exceeded the value of its bond on file, triggering the automatic cancellation provision in its license.[20]

6. On June 10, 2024, Theia filed the Waiver Request. Theia seeks retroactive waiver of its obligation to maintain a bond in an adequate amount under the Commission's rules, and relief from the automatic termination of its license caused by failure to maintain an adequate bond, because it argues that waiver is necessary in order to permit Theia's receiver to consummate the sale of Theia's assets to Athena.[21] After the parties consummate the sale, Theia argues that Athena should have 30 days to post a satisfactory bond "just as it would have to if it were a new licensee."[22] Theia argues that grant of a waiver would avoid undue harm to the receivership estate and Theia's creditors and serve the underlying purpose of the surety bond requirement by "enabling the assignment of the license to a well-funded buyer that will put the licensed spectrum into use."[23]

III. DISCUSSION

7. After review of the record, we conclude that Theia has failed to demonstrate good cause for waiver of its bond requirement. Rather, Theia's license became null and void on May 16, 2024, without further Commission action. Accordingly, the full $4,340,000 value of Theia's bond must be paid to the U.S. Treasury upon written notice from the Commission's Office of Managing Director.

8. *Purpose of Bond Requirement*. In 2003, the Commission adopted a bond requirement for satellite licensees.[24] The Commission reasoned that requiring satellite licensees to make a financial commitment to construct and launch their satellites would help deter speculative applications and help ensure scarce resources are used efficiently.[25] In 2015, the Commission adopted a revised bond methodology with an escalating bond requirement.[26] In doing so, the Commission sought to rely on the financial incentive of the escalating bond liability to encourage satellite operators to construct and launch spacecraft expeditiously or surrender their authorization early if business plans changed.[27]

9. To further provide flexibility to satellite licensees in meeting their bond requirements, and to potentially reduce their bond maintenance costs, the Commission has offered licensees the option of submitting an initial bond with a value less than the maximum $5 million potential liability at the end

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Authorization*, 34 FCC Rcd at 3548, paras. 59a, c; 47 CFR § 25.165(a)(1).

[21] Waiver Request at 1.

[22] *Id.* at 1-2.

[23] *Id.*

[24] *Amendment of the Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 12674, 10824, para. 166 (2003).

[25] *Id*.

[26] *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, 30 FCC Rcd 14713, 14734, paras. 50-51 (2015).

[27] Under the escalating bond requirement, liability increases from $1 million to $5 million for NGSO systems.

of the 6-year NGSO milestone period, and instead submitting periodic bond riders to increase the penal sum of the bond. The Commission has clarified that any bond riders must be submitted "without any gap in coverage," such that "[i]n all cases, the bond, including any rider or succession bond, must provide continuing coverage and satisfy the increased potential liability pursuant to the formulas in Section 25.165 until the Bureau releases the bond."[28] The Commission has also clarified that "[b]y its terms, the bond must remain effective until the Bureau releases the bond."[29] Accordingly, satellite licensees that take advantage of the flexibility to file bond riders nonetheless remain responsible for continuous compliance with the bond requirements, including maintaining a bond in a sufficient amount until the bond is released by the Commission. It is the satellite licensee, and not the Commission, that assumes any risk associated with the licensee's business decision to procure and submit periodic bond riders in place of a single bond that covers its maximum potential liability.

10. *Waiver Analysis.* A waiver of the Commission's rules is appropriate if both (1) special circumstances warrant a deviation from the general rule, and (2) such deviation better serves the public interest.[30] Generally, the Commission may waive any rule if there is good cause to do so.[31] In making this determination, the Commission may take into account considerations such as hardship, equity, or more effective implementation of overall policy on an individual basis.[32]

11. That standard is not met in this case. First, aside from a private contractual dispute with its surety bond provider, apparently exacerbated by Theia's listing of a formal mailing address not in use by the company or its receiver for a number of years,[33] Theia offers no reason for its failure to maintain an adequate bond, including by securing a bond with an alternative surety company. By making a business decision to lower its bond maintenance costs and seek periodic increases in its bond value through riders, instead of filing a single bond in the maximum value, Theia, and its receiver, assumed the associated risks. Second, the sale of Theia's assets to a new buyer, Athena, which the Commission consented to one week prior to Theia's default on its bond obligation and which the parties were free to consummate but have not yet done so, is also no justification for bond waiver.[34] The bond guarantees the licensee's compliance with its first deployment milestone. Neither Theia nor Athena have provided any information as to how Athena could have met Theia's first milestone of launching and operating 50% of its authorized satellites by May 9, 2025.[35] Failure to launch and operate any satellites by this date also renders the

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[28] *International Bureau Clarifies Procedures for Maintaining Satellite Space Station Surety Bonds pursuant to Escalating Bond Requirements*, Public Notice, 32 FCC Rcd 743 (IB 2017).

[29] *Id.*, 32 FCC Rcd at 744. In addition, the bond by its terms should define the events of default sufficiently broad to include a situation in which the license or grant becomes null and void due to failure to maintain a surety bond in an adequate amount. *Id.*

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

[31] 47 CFR § 1.3.

[32] *See Northeast Cellular*, 897 F.2d at 1166 ("[A] waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. The agency must explain why deviation better serves the public interest and articulate the nature of the special circumstances to prevent discriminatory application and to put future parties on notice as to its operation"); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) ("The agency's discretion to proceed in difficult areas through general rules is intimately linked to the existence of a safety valve procedure for consideration of an application for exemption based on special circumstances.").

[33] Waiver Request at 3.

[34] Thus, the Commission has not prevented the sale of Theia's assets or the termination of its receivership.

[35] Indeed, on May 8, 2025, Theia filed a modification application to extend these dates. *See* Theia Modification Application, ICFS File No. SAT-MOD-20250508-00118 (filed May 8, 2025). As discussed above, we do not reach

(continued….)

license null and void.[36] Finally, since being issued its license in 2019, Theia has not provided any indication that it has progressed with construction of its authorized satellite system. The purpose of the bond requirement is to deter speculative satellite licenses and promote the timely deployment of authorized systems. Under these conditions, we cannot conclude that waiver of the bond requirement would not undermine the purpose of the rule. If Athena is interested in pursuing a satellite constellation, it is free to file a new application for Commission authority to do so.

IV. CONCLUSION AND ORDERING CLAUSES

12. For the foregoing reasons, IT IS ORDERED, pursuant to sections 0.51, 0.261, and 1.3 of the Commission's rules, 47 CFR §§ 0.51, 0.261, 1.3, that Theia's request for a retroactive waiver of its surety bond requirement IS DENIED.

13. IT IS REAFFIRMED that Theia's license, ICFS File No. SAT-LOA-20161115-00121, as amended by SAT-AMD-20170301-00029, became NULL AND VOID on May 16, 2024, pursuant to 47 CFR § 25.165(a)(1).

14. IT IS FURTHER ORDERED that Theia's modification application, ICFS File No. SAT-MOD-20250508-00118, seeking extension of its milestones is DISMISSED AS MOOT.

15. IT IS FURTHER ORDERED that the full amount of Theia's surety bond payment of $4,340,000 will be due and payable to the U.S. Treasury upon written notice from the Office of the Managing Director.

FEDERAL COMMUNICATIONS COMMISSION

Jonathan R. Markman
Acting Chief, Satellite Programs and Policy Division
Space Bureau

the merits of this application because of our finding that the license was null and void when the bond lapsed in May 2024.

[36] *See Authorization*, 34 FCC Rcd at 3548, para. 59c.

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 25-661
Released: July 25, 2025

MEDIA BUREAU ANNOUNCES EFFECTIVE DATE OF CERTAIN CABLE TELEVISION RATE REGULATION REVISIONS

MB Docket No. 02-144, MM Docket Nos. 92-266 and 93-215, CS Docket No. 94-28

On June 27, 2025, the Commission released a Report and Order (*Order*) that adopted rules to streamline the cable television rate regulations in Part 76 of the Commission's rules.[1] On July 14, 2025, the Federal Register published a summary of the final rules adopted in the *Order*.[2] On July 16, the Media Bureau announced the effective date of August 13, 2025 for the rules adopted in the *Order*, except for 47 CFR §§ 1.1204, 1.1206, 76.911, 76.922, 76.923, 76.934, 76.944 and 76.990.[3]

On July 25, 2025, the Federal Register published a notice of the effective date for 47 CFR §§ 1.1204, 1.1206, 76.911, 76.922, 76.934, 76.944 and 76.990.[4] These rules will take effect on August 13, 2025. At the conclusion of the OMB review process, the Media Bureau will announce the effective date of the modifications to 47 CFR § 76.923 in a document published in the Federal Register and in a subsequent Public Notice.

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

For additional information, contact Katie Costello, Policy Division, Media Bureau at Katie.Costello@fcc.gov or (202) 418-2233.

-- FCC --

[1] *Revisions to Cable Television Rate Regulations*, MB Docket No. 02-144, MM Docket Nos. 92-266 and 93-215, CS Docket No. 94-28, Report and Order, FCC 25-33 (rel. Jun. 27, 2025) (*Order*) available online at https://docs.fcc.gov/public/attachments/FCC-25-33A1.pdf.

[2] *See* Federal Communications Commission, Revisions to Cable Television Rate Regulations, Final Rule, 90 Fed. Reg. 31145 (July 14, 2025) available online at https://www.govinfo.gov/content/pkg/FR-2025-07-14/pdf/2025-13107.pdf.

[3] *Media Bureau Announces Effective Date of Cable Television Rate Regulation Revisions*, Public Notice, DA 25-627 (rel. July 16, 2025).

[4] *See* Federal Communications Commission, Cable Television Rates, Final Rule, Announcement of Effective Date, 90 Fed. Reg. 35238 (July 25, 2025) available online at https://www.govinfo.gov/content/pkg/FR-2025-07-25/pdf/2025-14093.pdf.

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

In the Matter of	)	
	)	
Window to the World Communications, Inc.,	)	Acct. No. 202541420011
Licensee of Full Power Television Station WTTW,	)	FRN: 0002860179
Chicago, Illinois	)	Facility ID No. 10802
	)	LMS File No. 0000155026

ORDER

Adopted: July 25, 2025 **Released: July 25, 2025**

By the Chief, Video Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Window to the World Communications, Inc. (Licensee), licensee of full power non-commercial educational (NCE) television station WTTW, Chicago, Illinois (Station). The Consent Decree resolves issues arising from the review of the Station's pending license renewal application.[1] In particular, the Consent Decree resolves the Bureau's investigation of the Licensee's compliance with section 73.3527(e)(8) of the Commission's rules (Rules), which requires full power NCE television stations to upload to their online public inspection file at required intervals copies of issues/programs lists.[2]

2. The Bureau and the Licensee have negotiated the attached Consent Decree in which the Licensee agrees to make a voluntary contribution to the United States Treasury in the amount of Six Thousand Dollars ($6,000) and implement compliance plan to ensure future compliance with section 73.3527(e)(8).[3] In exchange the Bureau agrees to terminate its investigation into the matters discussed above in paragraph 1.[4] After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau's consideration of potential violations of the Rules. We find that nothing in the record creates a substantial and material question of fact as to whether the Licensee possesses the basic qualifications to remain a Commission licensee.

3. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,[5] and by the authority delegated by sections 0.61, 0.204, 0.283, and 1.93(b) of the Commission's rules,[6] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

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[1] Application of Window of the World Communications, Inc. for Renewal of License of WTTW(DT), Chicago, IL, LMS File No. 0000155026 (filed Jul. 30, 2021) (Renewal Application).

[2] 47 CFR § 73.3527(e)(8).

[3] *Id.*

[4] *See also* Consent Decree at paras. 4-5. This settlement does not terminate or resolve any other investigatory matters currently pending before the Commission involving the Station or Licensee. Processing of the Renewal Application will remain suspended until all investigatory matters are resolved. *See* Informal Objection of Nico Tsatsoulis, Pleading File No. 0000215824 (filed May 31, 2023) (objecting to renewal of the Station's license).

[5] 47 U.S.C. § 154(i).

[6] 47 CFR §§ 0.61, 0.204, 0.283, and 1.93(b).

4. **IT IS FURTHER ORDERED** that the investigation by the Media Bureau into the matter discussed above **IS TERMINATED**.

5. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Window to the World Communications, Inc., 5400 North St. Louis Ave., Chicago, IL 60625, and by e-mail to ehalpern@wttw.com. A copy shall also be sent in the same manner to the Licensee's counsel, Margaret L. Miller, Esq. and Derek Teslik, Esq., Gray Miller Persh, LLP, 2233 Wisconsin Ave., NW, Suite 226, Washington, DC 20007 and by e-mail to mmiller@graymillerpersh.com and dteslik@graymillerpersh.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

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

In the Matter of	)	
	)	
Window to the World Communications, Inc.,	)	Acct. No. 202541420011
Licensee of Full Power Television Station WTTW,	)	FRN: 0002860179
Chicago, Illinois	)	Facility ID No. 10802
	)	LMS File No. 0000155026

CONSENT DECREE

I. INTRODUCTION

1. The Media Bureau of the Federal Communications Commission (hereafter Bureau, as defined below) and Window to the World Communications, 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 (as defined below) into the Licensee's compliance with sections 73.3527(e)(8) of the Commission's rules (hereafter Rules, as defined below), relating to its untimely uploading of issues/programs lists to the above captioned Station's (as defined below) online public inspection file.[1] To resolve these matters, the Licensee agrees to make a voluntary contribution to the United States Treasury in the amount of Six Thousand dollars ($6,000) and implement a comprehensive Compliance Plan to ensure its future compliance with sections 73.3527(e)(8) of the Rules.[2] The Bureau agrees to terminate the Investigation in accordance with 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) "Bureau" means the Media Bureau of the Federal Communications Commission.

(d) "Commission" or "FCC" means 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 Licensee is subject by virtue of it being a Commission licensee.

(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).

(g) "Compliance Officer" means a responsible party employed by the Licensee to 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.

(h) "Covered Employees," each of which is a "Covered Employee," means all employees, volunteers, and agents of the Licensee, who are responsible for

[1] 47 CFR §§ 73.3527(e)(8).

[2] *Id.*

performing, supervising, overseeing, or managing activities related to the maintenance of the Station's OPIF, as required by the OPIF Rule.

(i) "Division" means the Video Division of the Media Bureau of the Commission.

(j) "Effective Date" means the date on which the Bureau releases the Adopting Order.

(k) "Investigation" means the Bureau's decision to hold and not process the Renewal Application and examination of the Licensee's compliance with 47 CFR § 73.3527(e)(8).

(l) "Issues/Programs Lists Rule" means the requirements detailed in 47 CFR § 73.3527(e)(8).

(m) "Licensee" means Window to the World Communications, and its assigns, transferees, affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(n) "LMS" means the Commission's Licensing and Management System, which allows licensees, permittees, applicants, and the public to submit, manage, and track television and radio broadcast applications, notifications and related pleadings.

(o) "OPIF" means the Station's online public inspection file as defined by 47 CFR § 73.3527.

(p) "OPIF Rule" means the requirements detailed in 47 CFR § 73.3527 in its entirety.

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

(r) "Renewal Application" means the application of Window to the World Communications, for renewal of the television broadcast license for station WTTW(TV), Chicago, Illinois (Facility ID No. 10802), LMS File No. 0000155026 as amended.

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

(t) "Station" means WTTW(TV), Chicago, Illinois (Facility ID No. 10802).

III. BACKGROUND

3. On July 30, 2021, the Licensee timely filed the Renewal Application. In the Renewal Application, the Licensee responded "No" to the statement that "the documentation, required by 47 CFR Sections 73.3526 or 73.3527, as applicable, has been uploaded to the station's public inspection file when required." In an attachment to the Renewal Application, the Licensee disclosed that during the prior license term it failed to upload a total of thirteen (13) issues/programs lists to the Station's OPIF in a timely manner.[3] In order to prevent similar violations in the future, the Licensee stated that it "continues to review and refine, procedures that will ensure that it timely files all subsequent documents to the station's online public file."[4] Upon review of the Station's OPIF, Division staff confirmed the late uploads disclosed by the Licensee.[5] Based on the Licensee's failure to comply with the Issues/Programs

[3] Renewal Application at Attach. Amended Public File Exhibit.

[4] *Id.*

[5] The Station's late issues/programs lists consisted of one that was filed under one month late, nine that were filed between one month and one year late, and three that were filed over one year late. As of the date of the Adopting Order, all required documents have been placed in the Station's OPIF.

Lists Rule, the Division commenced the Investigation and suspended processing the Renewal Application.[6]

4. The Issues/Programs Lists Rule requires every noncommercial educational 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 Bureau and the Licensee have negotiated the terms of the Consent Decree, subject to specific terms and conditions set forth herein, by which the Bureau will terminate the Investigation into the matters discussed above. In consideration, the Licensee agrees to implement and maintain a Compliance Plan designed to ensure its future compliance with the Issues/Programs Lists Rule, and has agreed to make a voluntary contribution in the amount of Six Thousand Dollars ($6,000) to the United States Treasury.

IV. TERMS OF AGREEMENT

6. **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.

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

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

9. **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.

10. **Admission of Liability**. The Licensee admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provision of paragraph 12 herein, that paragraphs 3 to 4 of this Consent Decree are a true and accurate description of the facts underlying the Investigation. By entering into this Consent Decree, the Licensee makes no admission of liability of any Communications Law and the Bureau makes no finding of any liability or violation.

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. This Consent Decree does not terminate or resolve any other investigatory matters currently pending before the Commission involving the Station or Licensee. In consideration for the termination of the Investigation, the Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in paragraphs 13, 15 and 17 of this Consent Decree. The Bureau further agrees that, in the absence of new material evidence, the Bureau will not use the facts

[6] Processing of the Renewal Application was also suspended due to an Informal Objection filed against the Station's application, which remains pending. *See* Informal Objection of Nico Tsatsoulis, Pleading File No. 0000215824 (filed May 31, 2023). The Bureau will proceed with processing the Renewal Application once all open investigatory matters are resolved. See Adopting Order at n.4.

[7] *See* 47 CFR § 73.3527(e)(8).

[8] *Id*.

developed in this Investigation through the Effective Date or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding (formal or informal), or take any action on its own motion against the Licensee or recommend any such action by the Commission 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 or recommend any proceeding (formal or informal) 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]

12. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Licensee with the Communications Laws 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 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 Rules or Act. The Commission's adjudication of any complaints or potential will be based solely on the record developed in subsequent proceedings.

13. **Voluntary Contribution**. The Licensee agrees to make a voluntary contribution to the United States Treasury in the amount of Six Thousand ($6,000) within thirty (30) calendar days after the Effective Date. It also acknowledges and agrees that upon execution of this Consent Decree, the voluntary contribution shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of the Debt Collection Improvement Act of 1996.[10] **The Licensee shall send electronic notification of payment to VideoCompliance@fcc.gov on the date payment is made.** Payment of the voluntary contribution must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),[11] or by wire transfer. Payments by check or money order are no longer accepted. 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. Below are instructions that the Licensee should follow based on the form of payment selected:

- 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 captioned above 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).[12] 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

[9] *See* 47 CFR § 1.93(b).

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

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

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

view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the Consent Decree. The bill number is the Acct. No. (e.g., Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678) captioned above. 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 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 Consent Decree. The bill number is the Acct. No. (e.g., Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678) captioned above. 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. **Event of Default**. The Parties agree that an "Event of Default" shall occur upon the failure by the Licensee to pay the full amount of the voluntary contribution on or before the due date specified in paragraph 13. After an Event of Default has occurred under this Consent Decree, the unpaid amount of the voluntary contribution 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 voluntary contribution, 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.

15. **Compliance Plan**. For purposes of settling the matters set forth herein, the 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/Programs Lists Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan shall solely apply to the Station. 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 responsible party 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 Rule, including but not limited to the Issues/Programs Lists Rule, and the terms and conditions of the Consent Decree prior to assuming their duties. The name and contact information (mailing address, phone number, and electronic mail address) of the Compliance Officer must be submitted to the Bureau within thirty (30) calendar days after the Effective Date by e-mail at VideoCompliance@fcc.gov. A copy of the notification shall also be placed in the Station's OPIF in the folder entitled "FCC Investigations or Complaints" which is located under the "More Public Inspection Files" tab. The Bureau must be notified in the manner discussed above of any change in the person serving as

Compliance Officer and the Station's OPIF must be updated within to reflect the change within five (5) business days.

(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 the Licensee's in-house legal counsel or 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/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/Programs Lists Rule and the terms of this Consent Decree. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Station uploads all required information to its OPIF in a timely manner, that Covered Employees promptly report to the Compliance Officer failures to comply with the OPIF Rule, and that the Licensee otherwise maintains full, complete, and up to date information in the Station's OPIF; and

iii. be reviewed and revised by the Compliance Officer, or Licensee's legal counsel (internal or external) in coordination with the Compliance Officer, 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 conduct formal compliance training on the OPIF Rule to all Covered Employees. Such training will be provided to all Covered Employees no later than sixty (60) calendar days after the Effective Date of this Consent Decree, and on an annual basis thereafter while this Compliance Plan remains in effect. Training must be provided to every new Covered Employee within ten (10) business days after commencing employment or becoming a Covered Employee. The compliance training program shall include, but not be limited to, instruction relating to the provisions of the OPIF Rule and responsibilities of any Covered Employee under the terms of this Consent Decree. The training must be reviewed and revised by the Compliance Officer, or Licensee's legal counsel (internal or external) in coordination with the Compliance Officer, as necessary to ensure that it remains current, complete, and effective.

(d) **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the OPIF Rule or the terms and conditions of this Consent Decree within ten (10) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial action has or will be taken; and (iv) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance. The report must be signed by the Compliance Officer and be subscribed to as true under penalty of perjury in accordance with 47 CFR § 1.16. All reports of noncompliance shall be submitted by e-mail to VideoCompliance@fcc.gov. A copy shall also be placed in the Station's OPIF in the folder entitled "FCC Investigations or Complaints" which is located under the "More Public

Inspection Files" tab in the Station's OPIF.[13]

16. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two years after the Effective Date provided the Bureau is satisfied that the Licensee has demonstrated substantial compliance with its obligations. The Bureau may deem the Licensee has failed to demonstrate substantial compliance with its obligations if the Station fails to upload in a timely manner to its OPIF three or more documents during the term of this Consent Decree. In such an instance, the Bureau may, within its sole discretion and authority and upon written notice to the Licensee, extend the term of this Consent Decree for up to an additional two years.

17. **Placement of Consent Decree in OPIF**. Within thirty (30) days of the Effective Date, the Licensee shall place in the Station's OPIF a copy of this Consent Decree in the folder entitled "FCC Investigations or Complaints" which is located under the "More Public Inspection Files" tab in the Station's OPIF.[14] The Consent Decree shall be retained in the Station's OPIF until the date specified in paragraph 16.[15]

18. **Computation of Time**. The Parties agree that the method for computing the amount of time within which the Parties must act in response to deadlines established by this Consent Decree shall be governed by 47 CFR § 1.4.

19. **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[16] 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.

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 the Licensee does not expressly consent) or any federal law or regulation, that provision will be superseded by such Rule, Order, law, or regulation.

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[13] A station's OPIF can be found at https://publicfiles.fcc.gov/. To log-in a licensee must select "sign-in" and enter the required log-in information. More information about how to log-in to the Station's OPIF and upload documents can be found by clicking on "For Filers" or "FAQ" from the OPIF homepage.

[14] *See supra* note 14 (OPIF log-in instructions).

[15] *See* 47 CFR § 73.3527(e)(11) (requiring stations to place in their OPIF "[m]aterial relating to FCC investigation or complaint" and instructing that such material "be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded).

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

23. **Successors and Assigns**. The Licensee agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees unless otherwise agreed to by the Commission or Bureau.

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 counterparts (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Federal Communications Commission

By:

_____
Barbara A. Kreisman
Chief, Video Division
Media Bureau

_____
Date

Window to the World Communications, Inc.

By:

_____
Sandra Cordova Micek
President and CEO

_____
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

DA 25-663
Released: July 25, 2025

FCC CONSUMER PROTECTION AND ACCESSIBILITY ADVISORY COMMITTEE MEMBERSHIP APPOINTMENTS AND FIRST MEETING DATE

By this Public Notice, the Chairman of the Federal Communications Commission (FCC or Commission) announces the first meeting of the Commission's Consumer Protection and Accessibility Advisory Committee (CPAAC or Committee) for this term and the appointment of Committee members, including its Co-Chairs. The CPAAC is organized under, and will be operated in accordance with, the Federal Advisory Committee Act[1] and will provide advice and recommendations to the Commission on a wide array of consumer protection and accessibility matters specified by the Commission. The CPAAC was previously known as the Consumer Advisory Committee (CAC) and was renamed to better reflect its broader mission, which now includes matters relating to disability access.

Membership. In August 2024, the Commission solicited applications for membership for the CPAAC's current term.[2] After careful consideration of the applications and nominations for membership received,[3] the Chairman has selected 27 members for this term of the CPAAC, as listed below. The membership consists of a mix of non-profit organizations representing consumers, communications companies, and trade associations.

David M. Pérez, National Community Impact Manager, Consumer Affairs and Outreach Division (CAOD), Consumer and Governmental Affairs Bureau (CGB), and Joshua Mendelsohn, Attorney Advisor, Disability Rights Office, CGB, will serve as co-Designated Federal Officers (DFOs).

During the Committee's new term, it is anticipated that, each year, the Committee will hold at least two or three one-day plenary meetings in-person or, if appropriate, by video conference. In addition, as needed, working groups or subcommittees will be established to facilitate the Committee's work between meetings of the full Committee on matters specified by the Commission.

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[1] 5 U.S.C. ch 10.

[2] On August 5, 2024, the Commission announced the anticipated rechartering of and solicited applications for membership for this term of the committee, which runs from October 9, 2024, through October 8, 2026. *FCC Announces Anticipated Renewal of its Consumer Advisory Committee and Solicits Nominations for Membership*, Public Notice, DA 24-755 (CGB Aug. 5, 2024) https://docs.fcc.gov/public/attachments/DA-24-755A1.pdf. Further, on August 1, 2024, the Commission solicited applications for membership for the Disability Advisory Committee (DAC). *FCC Announces Anticipated Renewal of its Disability Advisory Committee and Solicits Nominations for Membership*, Public Notice, DA 24-734 (CGB Aug. 1, 2024) https://docs.fcc.gov/public/attachments/DA-24-734A1.pdf.

[3] This selection also included consideration of certain applications and nominations for the Disability Advisory Committee, *see supra* note 2, several of whose functions have been added to the CPAAC. Those members appointed to the CPAAC that had originally applied for the DAC expressed to the Commission an interest in serving on the CPAAC, and were therefore considered for membership.

First Meeting. The CPAAC will hold the first meeting of this term in-person on **Wednesday, September 10, 2025, at 9:00 a.m.** Eastern time. This will be an in-person meeting taking place in the FCC's Commission Meeting Room located at 45 L Street NE in Washington, DC.

The meeting will address (i) the roles and responsibilities of the Committee and its members; (ii) issues that the Committee will address during this term; (iii) meeting schedules; and (iv) any other topics relevant to the CPAAC's work. The meeting will be led by co-chairs: Logan Kolas, Director of Technology, The American Consumer Institute and Elizabeth Hill, Board Member-at-Large, National Association of State Agencies for the Deaf and Hard of Hearing. The meeting agenda will be available at www.fcc.gov/cpaac and may be modified at the discretion of the Committee DFOs.

The Committee meeting will be open to the public with audio and video coverage of the meeting at www.fcc.gov/live. During the meeting, members of the public may submit questions and comments to the Committee via email: livequestions@fcc.gov. These comments or questions may be addressed during the public comment period.

Open captioning and sign language interpreters 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 CGB at (202) 418-0530 (voice). Such requests should include a detailed description of the accommodation needed and specify how the FCC should contact the requester if more information is needed to fill the request. Please provide at least five business days' advance notice of accommodation requests; last-minute requests will be accepted but may not be possible to accommodate.

To obtain further information about the Committee, visit www.fcc.gov/cpaac, or contact Committee DFOs David M. Pérez at (202) 418-0664 or Joshua Mendelsohn at 202-559-7304 (videophone / voice) or CPAAC@fcc.gov.

MEMBERS OF THE CONSUMER PROTECTION AND ACCESSIBILITY ADVISORY COMMITTEE

David M. Pérez, Designated Federal Officer
Joshua Mendelsohn, Designated Federal Officer

Co-Chairs: Elizabeth Hill, Board Member-at-Large, National Association of State Agencies for the Deaf and Hard of Hearing

Logan Kolas, Director of Technology, The American Consumer Institute

Members:

AARP Primary: Coralette M. Hannon, Director of Livable Communities, Government Affairs	Alternate: Tim Morstad, Government Affairs Director
American Association of People with Disabilities (AAPD) Primary: Michael Lewis, Vice President of Policy	Alternate: Maitreya Shah, Tech Policy Director
The American Consumer Institute Primary: Logan Kolas, Director of Technology	Alternate: Tirzah Duren, President & CEO
American Council of the Blind (ACB) Primary: Claire Stanley, Director of Advocacy and Governmental Affairs	Alternate: Scott Thornhill, Executive Director
Apple Inc. Primary: Megan Anne Stull, Sr. Mgr., Gov't Relations & Regulatory	Alternate: James Craig, Accessibility Standards Manager
AT&T Primary: Angela DeMahy Dais, Director, Federal Regulatory, External & Legislative Affairs Organization	Alternate: Susan Mazrui, Director of Public Policy

Comcast NBCUniversal Primary: Thomas Wlodkowski, Vice President of Accessibility	Alternates: Sean Durkin, Director of Accessibility - Product Management Richard Wikoff, Principal Engineer, Product Development Engineering Hannah Lepow, Senior Counsel, Regulatory Affairs
Common Sense Primary: Amina Fazlullah, Head of Tech Policy Advocacy	
Consumer Technology Association Primary: Rachel Nemeth, Senior Director Regulatory Affairs	Alternate: David Grossman, Vice President of Regulatory Affairs
CTIA – The Wireless Association Primary: Christiaan Segura, Assistant Vice President, Regulatory Affairs	Alternate: Courtney Tolerico, Director, Regulatory Affairs
Deaf Equality Primary: Zainab Alkebsi, Chief Policy Officer	Alternate: Howard Rosenblum, Chief Executive Officer
Digital Progress Institute Primary: Joel Thayer, President	
Google LLC Primary: Jonathan Mark, Associate Corporate Counsel	
Helen Keller National Center (HKNC) Primary: Scott Davert, Lead Research and Training Specialist	
The Internet and Competitive Network Association (INCOMPAS) Primary: Taylor Abshire, Policy Advisor	Alternate: Christopher Shipley, Executive Director of Public Policy

The Kapor Center Primary: Lili Gangas, Chief Technology Community Officer	
National Association of Broadcasters Primary: Joshua N. Pila, Vice President, Assistant General Counsel, Gray Television, Inc.	Alternate: Larry Walke, Associate General Counsel
National Association of State Agencies of the Deaf and Hard of Hearing (NASADHH) Primary: Elizabeth Hill, Board Member-at-Large	Alternate: Darlene Goncz Zangara, Board Member-at-Large
National Center for Resource Development (NCRD) / RuralRISE Primary: Tina Metzer, Vice President and Co-Founder	
National Consumer Law Center Primary: Olivia Wein, Senior Attorney	Alternate: Margot Saunders, Senior Counsel
National Consumers League Primary: John Breyault, Vice President, Public Policy, Telecommunications and Fraud	Alternate: Eden Iscil, Public Policy Manager
NCTA -- The Internet & Television Association Primary: Pamela Arluk, Vice President & Associate General Counsel	Alternates: Radhika Bhat, Vice President and Associate General Counsel Kyle Dixon, Vice President & Deputy General Counsel, Program Network Policy
Project GOAL Primary: Debra Berlyn, Executive Director	
Rural Community College Alliance Primary: Christopher Breitmeyer, President	
T-Mobile US, Inc. Primary: Karl E. Gerner, Corporate Counsel, Government Affairs - Federal Regulatory	Alternate: Dennis A. Selznick, Senior Accessibility Compliance Manager - T-Mobile For Business

USTelecom -- The Broadband Association	
Primary:	Alternate:
Diana Eisner, Vice President, Policy and Advocacy	Kathleen Slattery Thompson, Vice President, Regulatory & Legal Affairs
Verizon Communications	
Primary:	Alternate:
Zachary Bastian, Senior Manager, Strategic Alliances	Ian Dillner, Associate General Counsel

- FCC –

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-664
Released: July 25, 2025

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF BIDDEFORD INTERNET CORP. D/B/A GREAT WORKS INTERNET TO MAC MOUNTAIN, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 25-196

Comments Due: August 8, 2025
Reply Comments Due: August 15, 2025

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Biddeford Internet Corp. d/b/a Great Works Internet (GWI) and Mac Mountain, LLC (Mac Mountain) (together, Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended, and sections 63.04 of the Commission's rules,[1] requesting consent for the transfer of control of GWI to Mac Mountain.[2]

GWI, a Maine benefit corporation, provides interstate telecommunications services to residential and business customers in Maine.[3] Fletcher Kittredge, a U.S. citizen, currently is the majority shareholder with ultimate control (70% equity and voting) of GWI.[4]

Mac Mountain, a Delaware limited liability holding company, wholly owns Mac Mountain Broadband, LLC (Mac Mountain Broadband), a provider of non-telecommunications services to broadband Internet access providers.[5] Alexander Rozek, a U.S. citizen, is the majority shareholder with ultimate control (87% equity and 100% voting) of Mac Mountain.[6]

[1] *See* 47 U.S.C. § 214(a); 47 CFR § 63.04.

[2] Restated Domestic Section 214 Application Filed for the Transfer of Control of Biddeford Internet Corp. d/b/a Great Works Internet to Mac Mountain, LLC, WC Docket No. 25-196 (filed July 11, 2025) (Restated Application). We note that the Restated Application amends and replaces a domestic section 214 application filed in this docket by the same parties on June 13, 2025. *See* Federal Communications Commission's Electronic Comment Filing System, https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-196%22)) (last visited Jul. 25, 2025). Applicants also filed an application for the transfer of an authorization associated with international services (ITC-T/C-2025-20250613-00055). Any action on the Application is without prejudice to Commission action on other related, pending applications.

[3] Restated Application at 2. GWI also provides other communications services and network operator services, including wholesale voice and internet access services, to three communications union districts in Vermont and one internet service provider in New Hampshire. *Id.*

[4] *Id*. at 7, Attach. 1 (Transferor Pre-Transaction) at i. No other person or entity directly or indirectly holds 10% or greater equity or voting interest in GWI. *Id.*

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

[6] *Id*. at 8, Attach. 1 (Transferee Pre-Transaction) at ii.

Pursuant to the terms of the proposed transaction, Mac Mountain Broadband will indirectly acquire 51% of the equity interests and 91% of the voting interests of GWI.[7] Fletcher Kittredge thereafter will hold 34% of the equity interest and 6% of the voting interests in GWI.[8] As a result, and upon closing, ultimate control of GWI will be held by Alexander Rozek, as the controlling shareholder.[9] Applicants state that GWI will continue to operate as it currently does and that there will be no changes to GWI's services, prices, or billing practices.[10]

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.[11] We accept the Application for streamlined processing under section 63.03(b)(2)(i) of the Commission's rules.[12]

Restated Domestic Section 214 Application Filed for the Transfer of Control of Biddeford Internet Corp. d/b/a Great Works Internet to Mac Mountain, LLC, WC Docket No. 25-196 (filed July 11, 2025).

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, interested parties must file comments using the Commission's Electronic Comment Filing System (ECFS): https://www.fcc.gov/ecfs.

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).

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

1) Megan Danner, Competition Policy Division, Wireline Competition Bureau, megan.danner@fcc.gov;
2) David Krech, Telecommunications and Analysis Division, 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

[7] *Id*. at 4-5, 9, and Attach. 1 (Post-Transaction) at iii.

[8] *Id.* at 9, Attach. 1 at iii.

[9] *Id*. Applicants affirm that, following the consummation of the proposed transaction, no individual or entity holding an equity or voting interest in GWI holds a 10% or greater interest in any other provider of domestic telecommunications services. *Id.* at 5.

[10] *Id*. at 5.

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

[12] 47 CFR § 63.03(b)(2)(i).

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.[13] 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, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1151.

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[13] *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

DA 25-665
Released: July 25, 2025

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF MICHIGAN BELL TELEPHONE COMPANY, LLC BY UP FIBER, INC.

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 25-181

Comments Due: August 8, 2025
Reply Comments Due: August 15, 2025

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Michigan Bell Telephone Company, LLC (Michigan Bell) and UP Fiber, Inc. (UP Fiber) (together, Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended, and sections 63.04 of the Commission's rules,[1] requesting Commission approval for the acquisition of certain wire centers (Wire Centers) and other related assets of Michigan Bell by UP Fiber.[2]

Michigan Bell, a Michigan limited liability company, provides service as an incumbent local exchange carrier (LEC) in parts of Michigan.[3] Michigan Bell's parent company, AT&T Inc., through its affiliates, provides service as an incumbent LEC in parts of twenty other states and, through its affiliates, offers wireless and enterprise services in most parts of the United States.[4]

UP Fiber, a Delaware corporation created for the purposes of the proposed transaction, is held by the following U.S. citizens: Daniel Miller (43 percent equity and voting), Mario J. Gabelli (23 percent

[1] *See* 47 U.S.C. § 214(a); 47 CFR § 63.04.

[2] Domestic Section 214 Application for the Acquisition of Certain Assets of Michigan Bell Telephone Company, LLC, by Up Fiber, Inc., WC Docket No. 25-181 (filed May 23, 2025) (Application). Applicants state that, under the proposed transaction, the wireline assets being acquired represent more than 9,000 miles of copper, 1,500 miles of business fiber, and network infrastructure across 40 wire centers that collectively provide voice and internet service to more than 9,000 residential and business customers. Application at 2; *see also* Application, Exh. A at 1-2 (identifying the 40 locations of the Wire Centers). In connection with the proposed transaction, Applicants concurrently filed a joint petition seeking waiver of the Commission's study area boundary freeze codified in Part 36 of the Commission's Rules. *See* 47 CFR Part 36, Appendix; Joint Petition for Waiver of the Definition of "Study Area: of the Appendix-Glossary of Part 36 of the Commission Rules, CC Docket No. 96-45 (filed May 23, 2025) (Petition for Waiver) (seeking waiver of the Commission's study area boundary freeze in order to transfer the exchanges being acquired in the proposed transaction); *see also* Letter from Danielle Burt and Patricia Cave, counsel for Up Fiber, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No.25-181; CC Docket No. 96-45 (filed Jul. 14, 2025) (updating Up Fiber's position on issues related to the Petition for Waiver). Any action on the Application is without prejudice to Commission action on other pending applications or proceedings.

[3] Application at 2 and 8.

[4] *Id.* at 8.

equity and voting), and Warren Lichtenstein (17 percent equity and voting).[5] UP Fiber is affiliated with various providers of domestic telecommunications services, none of which provide service in Michigan where the Wired Centers and other related assets included in the proposed transaction are located.[6]

Pursuant to the terms of the proposed transaction, UP Fiber will acquire the Wire Centers and other related assets of Michigan Bell in Michigan.[7] Applicants state that upon consummation of the transaction, all residential and certain business customers of Michigan Bell receiving wired telecommunications services and served by the Wire Centers will be assigned to and become customers of UP Fiber.[8]

Applicants assert that a grant of the application would serve the public interest, convenience, and necessity.[9] Applicants state that UP Fiber will deploy new technologies to enhance and expand services available to customers served by the Wire Centers.[10] According to the Applicants, UP Fiber's owners have substantial experience investing in communications infrastructure assets and, therefore, the affected customers will benefit from the financial and operational expertise of UP Fiber's owners.[11] Applicants state that the proposed transaction will have no adverse impact on the affected customers and that they will continue to receive high quality telecommunications services.[12] Finally, Applicants assert that the proposed transaction does not present any anticompetitive issues and note that neither UP Fiber, nor any of its affiliates, provide telecommunications services in the areas served by the Wire Centers.[13]

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.[14]

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of
Michigan Bell Telephone Company, LLC by Up Fiber, Inc.,
WC Docket No. 25-181 (filed May 23, 2025).

GENERAL INFORMATION

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

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[5] *Id.*, Exh. D (UP Fiber, Inc. Ownership Information) at 1; *see also id.*, Exh. C (UP Fiber Inc., Corporate Ownership Structure Chart) at 1. Applicants state that no other individuals or entities hold a ten percent or greater interest in UP Fiber. *Id*., Exh. D at 1.

[6] *Id.*, Exh. D at 1-3. Applicants provide information on the thirty-one affiliated entities of UP Fiber which include incumbent LECs, competitive LECs, interexchange carriers, resellers, and providers of wireless services. *Id.*, Exh. D at 2-3.

[7] Application at 2; *see also supra* note 2.

[8] *Id*. Applicants note that certain business customers located within the acquired service area may continue to receive other services from Michigan Bell and its affiliates. *Id.* at 3. Applicants state that the proposed transaction does not involve customer relationships for international telecommunications services. *Id.* Applicants further state that Michigan Bell's affiliate, AT&T Mobility, will continue to provide mobile services to the extent it does now within the service area of the Wire Centers. *Id.* at 2-3.

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

[10] *Id.* at 4.

[11] *Id.*

[12] *Id.* at 5.

[13] *Id.*

[14] 47 CFR § 63.03(c)(1)(v).

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).

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

1) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
2) William Layton, Telecommunications and Access Policy Division, Wireline Competition Bureau, William.layton@fcc.gov;
3) Christopher Koves, Pricing and Policy Division, Wireline Competition Bureau, christopher.koves@fcc.gov; and
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.[15] 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, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1191.

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[15] *See* 47 CFR § 1.45(c).

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 25-666
Released: July 25, 2025

COMMENTS INVITED ON SECTION 214 APPLICATIONS TO DISCONTINUE DOMESTIC NON-DOMINANT CARRIER TELECOMMUNICATIONS AND/OR INTERCONNECTED VOIP SERVICES

WC Docket Nos. 25-227, 25-229 & 25-230

Comments Due: August 11, 2025

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 25, 2025**, 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 service ("Authorized Date"). Any applicant whose application has been deemed granted may discontinue their Affected Service(s) in their Service Area(s) on or after the authorized discontinuance 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 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

[1] 47 CFR § 63.71.

[2] 47 U.S.C. § 214.

[3] 47 CFR § 63.71.

[4] *See* 47 CFR § 63.71(f)(1) (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.").

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 the application(s) listed in the Appendix must be filed with the Commission on or before **August 11, 2025**.[5] Comments should refer to the specific WC Docket No. and Comp. Pol. File No. listed in the Appendix for the Section 214 Discontinuance Application. 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). *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.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.

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.

This proceeding(s) shall be treated as a "permit-but-disclose" proceeding(s) 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(s) should familiarize themselves with the Commission's *ex parte* rules.

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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] 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.

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/general/domestic-section-214-discontinuance-service.

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Appendix

1) **Applicant(s): AT&T Services, Inc., on behalf of its affiliates**[7]
WC Docket No. 25-227, Comp. Pol. File No. 2033
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-227%22))
Affected Service(s) – special access DS1 and DS3 services
Service Area(s) – in certain wire centers in Alabama, Florida, Georgia, Indiana, Kentucky, Michigan, Missouri, Oklahoma, Tennessee, Texas, and Wisconsin, as specified in the application
Authorized Date(s) – on or after June 30, 2026
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson.gov, of the Competition Policy Division, Wireline Competition Bureau

2) **Applicant(s): AT&T Services, Inc., on behalf of its affiliates**[8]
WC Docket No. 25-229, Comp. Pol. File No. 2035
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-229%22))
Affected Service(s) – Remote Call Forwarding Service or TeleBranch
Service Area(s) – in portions of certain wire centers in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas, as specified in the application
Authorized Date(s) – on or after June 30, 2026
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson.gov, of the Competition Policy Division, Wireline Competition Bureau

3) **Applicant(s): AT&T Services, Inc., on behalf of its affiliates**[9]
WC Docket No. 25-230, Comp. Pol. File No. 2036
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-230%22))
Affected Service(s) – Interconnected VoIP services, called AT&T Phone Service and AT&T Phone for Business
Service Area(s) – in certain wire centers in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Michigan, Missouri, Mississippi, North Carolina, Ohio, Oklahoma, South

[7] BellSouth Telecommunications, LLC, d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, and AT&T Tennessee; Indiana Bell Telephone Company, LLC, d/b/a AT&T Indiana; Michigan Bell Telephone Company, LLC, d/b/a AT&T Michigan; Southwestern Bell Telephone Company, LLC, d/b/a AT&T Missouri, AT&T Oklahoma, and AT&T Texas; and Wisconsin Bell, LLC, d/b/a AT&T Wisconsin.

[8] BellSouth Telecommunications, LLC, d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T South Carolina, and AT&T Tennessee; and Southwestern Bell Telephone Company, LLC, d/b/a AT&T Arkansas, AT&T Missouri, AT&T Oklahoma, and AT&T Texas.

[9] BellSouth Telecommunications, LLC, d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina, and AT&T Tennessee; Indiana Bell Telephone Company, LLC, d/b/a AT&T Indiana; Michigan Bell Telephone Company, LLC, d/b/a AT&T Michigan; The Ohio Bell Telephone Company, LLC, d/b/a AT&T Ohio; Southwestern Bell Telephone Company, LLC, d/b/a AT&T Arkansas, AT&T Missouri, AT&T Oklahoma, and AT&T Texas; and Wisconsin Bell, LLC, d/b/a AT&T Wisconsin.

Carolina, Tennessee, Texas, and Wisconsin, in areas where AT&T can only provide the services over copper, as specified in the application
Authorized Date(s) – on or after June 30, 2026
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson.gov, of the Competition Policy Division, Wireline Competition Bureau

PUBLIC NOTICE

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

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

DA 25-667
Released: July 25, 2025

COMMENTS INVITED ON AT&T'S SECTION 214 APPLICATION TO DISCONTINUE DOMESTIC LEGACY VOICE SERVICE AS PART OF A TECHNOLOGY TRANSITION

WC Docket No. 25-228

Comments Due: August 11, 2025

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 25, 2025**, 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 service ("Authorized Date"). Any applicant whose application has been deemed granted may

[1] 47 CFR § 63.71.

[2] 47 U.S.C. § 214.

[3] 47 CFR § 63.71.

[4] *See* 47 CFR § 63.71(f)(1) (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"); *see also* 47 CFR § 63.71(f)(2)(i) (stating that "[a]n application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(i), may be automatically granted… if: The applicant provides affected customers with the notice required under paragraph (a)(6) of this section, and the application contains the showing or certification described in § 63.602(b)"); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-248, para. 6 (WCB Mar. 20, 2025) (waiving the Adequate Replacement Test's "single replacement service" requirement for a period of two years when a carrier seeks to discontinue a legacy voice service pursuant to section 214(a), thereby allowing carriers to satisfy all three prongs of the Adequate Replacement Test with a bundled service); *Technology Transitions*, GN Docket No. 13-5, Order on Clarification, DA 25-250, para. 6 (WCB Mar. 20, 2025) (clarifying the applicability of the testing methodology and parameters required for meeting the streamlining criteria when a carrier submits a technology transition discontinuance application relying on the "totality of the circumstances" under the Adequate Replacement Test)).

discontinue their Affected Service(s) in their Service Area(s) on or after the authorized discontinuance 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 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 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 the application listed in the Appendix must be filed with the Commission on or before **August 11, 2025**.[5] Comments should refer to the specific WC Docket No. and Comp. Pol. File No. listed in the Appendix for the Section 214 Discontinuance Application. 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). *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.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.

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.

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

[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] 47 CFR § 1.1200 *et seq*.

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.

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.

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/general/domestic-section-214-discontinuance-service.

– FCC –

Appendix

1) **Applicant(s): AT&T Services, Inc., on behalf of its affiliates**[7]
WC Docket No. 25-228, Comp. Pol. File No. 2034
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-228%22))
Affected Service(s) – legacy voice service called AT&T Residential Local Service and AT&T Business Local Exchange Access Line Service
Service Area(s) – in portions of certain wire centers in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Michigan, Missouri, Mississippi, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin, as specified in the application
Authorized Date(s) – on or after June 30, 2026
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau

[7] BellSouth Telecommunications, LLC, d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina, and AT&T Tennessee; Indiana Bell Telephone Company, LLC, d/b/a AT&T Indiana; Michigan Bell Telephone Company, LLC d/b/a AT&T Michigan; The Ohio Bell Telephone Company, LLC, d/b/a AT&T Ohio; Southwestern Bell Telephone Company, LLC, d/b/a AT&T Arkansas, AT&T Missouri, AT&T Oklahoma, and AT&T Texas; and Wisconsin Bell, LLC, d/b/a AT&T Wisconsin.

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 25-668
Released: July 25, 2025

COMMENTS INVITED ON SECTION 214 APPLICATION TO DISCONTINUE DOMESTIC DOMINANT CARRIER TELECOMMUNICATIONS SERVICES

WC Docket No. 25-231

Comments Due: August 25, 2025

Unless otherwise specified, the following procedures and dates apply to the application(s) (the Section 214 Discontinuance Application(s)) listed in the Appendix.

The Wireline Competition Bureau (Bureau), upon initial review, has found the Section 214 Discontinuance Application(s) listed herein to be acceptable for filing and subject to the procedures set forth in Section 63.71 of the Commission's rules.[1] The application(s) request authority, under section 214 of the Communications Act of 1934, as amended,[2] and section 63.71 of the Commission's rules,[3] to discontinue, reduce, or impair certain domestic telecommunications service(s) (Affected Service(s)) in specified geographic areas (Service Area(s)) as applicable and as fully described in each application.

In accordance with section 63.71(f) of the Commission's rules, the Section 214 Discontinuance Application(s) listed in the Appendix will be deemed granted automatically on **September 23, 2025**, the 60th 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 service ("Authorized Date"). Any applicant whose application has been deemed granted may discontinue their Affected Service(s) in their Service Area(s) on or after the authorized discontinuance 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 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)(1) (stating, in relevant part, that an application filed by a dominant carrier "shall be automatically granted on the 60th 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 the application(s) listed in the Appendix must be filed with the Commission on or before **August 25, 2025**.[5] Comments should refer to the specific WC Docket No. and Comp. Pol. File No. listed in the Appendix for the Section 214 Discontinuance Application. 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). *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.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.

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.

This proceeding(s) shall be treated as a "permit-but-disclose" proceeding(s) 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(s) should familiarize themselves with the Commission's *ex parte* rules.

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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] 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.

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/general/domestic-section-214-discontinuance-service.

– FCC –

Appendix

1) **Applicant(s): AT&T Services, Inc., on behalf of its affiliate Southwestern Bell Telephone Company, LLC, d/b/a AT&T Oklahoma**
WC Docket No. 25-231, Comp. Pol. File No. 2037
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2225-231%22))
Affected Service(s) – special access DS1 and DS3 services
Service Area(s) –in two wire centers located in Oklahoma, as specified in the application
Authorized Date(s) – on or after October 1, 2025
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson.gov, of the Competition Policy Division, Wireline Competition Bureau
Note - AT&T plans to grandfather the affected services as follows: On or after October 1, 2025, current customers will be able to retain their existing service, but AT&T will no longer allow new orders, renewal of service agreements, or requests for physical changes to a customer's service (including moves to different service addresses), unless a contract expressly allows such orders or changes. AT&T states that following the expiration of any current term agreement, it will only allow renewal of service agreements upon terms it specifies, subject to its right to change the rates, terms, and conditions of the service upon notification. AT&T plans to discontinue the affected services on or after June 30, 2026.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-669
Released: July 28, 2025

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF TEMPLETON TELEPHONE COMPANY BY CORN BELT TELEPHONE COMPANY

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 25-163

Comments Due: August 11, 2025
Reply Comments Due: August 18, 2025

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by Templeton Telephone Company (TTC) and Corn Belt Telephone Company (CBT) (together, Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended, and section 63.04 of the Commission's rules,[1] requesting Commission consent for the transfer of TTC's assets and customers to CBT.[2]

TTC, an Iowa corporation and an incumbent local exchange carrier (LEC), provides local, long distance, and other services in the Templeton local exchange in the south central quarter of Carroll County, Iowa.[3] TTC is designated as an eligible telecommunications carrier (ETC) in Iowa.[4] TTC is authorized to receive $351,416 annually (until December 31, 2026) in Alternative Connect America Cost Model (A-CAM) support to serve 272 location in Study Area Code (SAC) 351308.[5] Applicants state that TTC is a community-based telecommunications company with no 10% or greater interest holders.[6]

CBT, an Iowa corporation, is an incumbent LEC that provides local and long distance service and

[1] *See* 47 U.S.C. § 214(a); 47 CFR § 63.04.

[2] Domestic Section 214 Application filed for the Assignment of Certain Assets of Templeton Telephone Company, to Corn Belt Telephone, WC Docket No. 25-163 (filed Apr. 22, 2025) (Application). Applicants filed a supplement to the Application on June 9, 2025. Letter from Donald L. Herman, Jr., Counsel for Corn Belt Telephone Company and Templeton Telephone Company, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 25-163 (filed June 9, 2025) (Supplement). Applicants also filed an application for the transfer of international authorizations. Any action on the Application is without prejudice to Commission action on other pending applications.

[3] Application at 2.

[4] *Id.* at 2.

[5] *See* Federal Communications Commission, Wireline Competition Bureau, ACAM Authorization Summary, CAF-ACAM 2.3.2 – Authorization Report Version 5.2, Authorized A-CAM Support & Obligations – to Date Offer Authorizations, Jan. 8, 2025. *See* https://docs.fcc.gov/public/ attachments/DOC-408741A1.pdf. TTC also participates in the Lifeline program. Application at 3.

[6] Supplement at 1. Applicants provided the names of TTC's Board of Directors, all of which are U.S. citizens. *Id.* at 2.

other services in the Wall Lake local exchange in the southeast half of Sac County, Iowa.[7] CBT is designated as an ETC and is authorized to receive $377,917 annually in Enhanced A-CAM support to serve 762 locations in the Wall Lake Exchange of SAC 351141.[8] In addition, the Bureau authorized CBT to receive $42,237 in Rural Digital Opportunity Fund (RDOF) support to deploy services to 38 locations in the east half of Sac County, Iowa, and in the southwest quarter of Calhoun County, Iowa (SAC 351141).[9] CBT is affiliated with Quad County Communications, LLC, which provides transport services and other services in Iowa.[10] Applicants state that CBT is a community-based company with no 10% or greater interest holders.[11]

Pursuant to the terms of the proposed transaction, CBT will acquire TTC's fiber-to-the-home local exchange network, customer base, and appropriate support.[12] Applicants maintain that the proposed transaction will not result in any changes to the services or to the terms and conditions of services provided to TTC's customers.[13] Applicants aver that the proposed transaction will create efficiencies in operations that will facilitate continued investment in the expansion of broadband availability and enhanced service offerings to customers in both TTC's and CBT's service areas.[14] Applicants state that Applicants maintain that "CBT will assume TTC's ETC status in the TTC service area and that CBT will continue to satisfy the managerial, technical, and financial qualifications required to operate as an ETC in the TTC service area."[15] Applicants further state that, in assuming TTC's ETC status, CBT will continue to fulfill its responsibilities as an ETC in the TTC service area and CBT will assume the A-CAM obligations of TTC in the transferring service area, specifically in SAC 351308.[16] Applicants contend that CBT will also continue to fulfill its responsibility as an ETC in CBT's Wall Lake Exchange and RDOF Area and will maintain its Enhanced A-CAM and RDOF obligations in those service areas.[17]

Applicants assert that a grant of the application would serve the public interest, convenience, and necessity.[18] Because the proposed transaction is more complex than those accepted for streamlined

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[7] Application at 3.

[8] Federal Communications Commission, Enhanced A-CAM – Authorization Report Version 1.2, available at https://docs.fcc.gov/public/attachments/DOC-412953A1.xlsx. *See* Supplement at 2, Application at 3. Pursuant to the *Enhanced A-CAM Order*, the Bureau must finalize Enhanced A-CAM deployment obligations and support amounts no later than December 31, 2025. Consistent with that process, the referenced support and obligations are subject to future adjustment. *See Connect America Fund; ETC Annual Reports and Certifications; Telecommunications Carriers Eligible to Receive Universal Service Support; Connect America Fund –Alaska Plan; Expanding Broadband Service Through the ACAM Program*, WC Docket Nos. 10-90, 14-58, 09-197, and 16-271; RM-1168, Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 38 FCC Rcd 7040, 7060, 7072-73, paras. 43, 77-78 (2023).

[9] *Rural Digital Opportunity Fund Support Authorized for 311 Winning Bids,* Public Notice, AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, 36 FCC Rcd 15809, 15828, Attach. (WCB 2021). *See* Supplement at 2; Application at 3.

[10] Supplement at 3.

[11] *Id.* at 1. Applicants provided the names of CBT's Board of Directors, all of which are U.S. citizens. *Id.* at 2.

[12] Application at 4-5.

[13] *Id.* at 5.

[14] *Id.* at 5-6.

[15] *Id.* at 4.

[16] *Id*. at 5.

[17] *Id.*

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

treatment, and in order to analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.[19]

Domestic Section 214 Application filed for the Acquisition of Certain Assets of
Templeton Telephone Company by Corn Belt Telephone,
WC Docket No. 25-163 (filed Apr. 22, 2025).

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.

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 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)

[19] 47 CFR § 63.03(c)(1)(v).

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.[20] A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

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

-FCC-

[20] *See* 47 CFR § 1.45(c).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-670
Released: July 29, 2025

WIRELINE COMPETITION BUREAU ANNOUNCES LUMEN TECHNOLOGIES, INC. AND COMMNET FOUR CORNERS, LLC OPEN RDOF CENSUS BLOCK GROUPS TO ELIGIBILITY FOR OTHER FUNDING PROGRAMS IN COLORADO, FLORIDA, IDAHO, MINNESOTA, MONTANA, NEBRASKA, OREGON, AND WASHINGTON

AU Docket No. 20-34
WC Docket No. 19-126
WC Docket No. 10-90

By this Public Notice, the Wireline Competition Bureau (WCB or Bureau) announces that certain Rural Digital Opportunity Fund (RDOF) census block groups (CBGs) are now eligible for other funding programs. Specifically, CenturyTel of Montana, Inc.; CenturyTel of Washington, Inc.; Embarq Florida, Inc.; and Qwest Corporation (collectively, Lumen) have notified the Commission of their decision to withdraw from the RDOF program in Colorado (study area code (SAC) 465102), Florida (SAC 210341), Idaho (SAC 475162), Minnesota (SAC 365142), Montana (SAC 482249), Nebraska (SAC 375143), Oregon (SAC 535163), and Washington (SAC 522408).[1] Additionally, Commnet Four Corners, LLC

[1] Letter from Joseph C. Cavender, Vice President & Deputy General Counsel, Lumen Technologies Inc. to Joseph Calascione, Chief, Wireline Competition Bureau, FCC, WC Docket No. 19-126 et al. (filed June 6, 2025). Lumen Technologies, Inc. (formerly CenturyLink, Inc.) (Lumen) assigned its Montana winning bids to its wholly-owned subsidiary, CenturyTel of Montana, Inc.; its Washington winning bids to its wholly-owned subsidiary CenturyTel of Washington, Inc; its Florida winning bids to its wholly-owned subsidiary Embarq Florida, Inc; and its Colorado, Idaho, Minnesota, Nebraska, and Oregon winning bids to its wholly-owned subsidiary Qwest Corporation. *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*). In May 2022, CenturyTel of Montana, Inc. was authorized to receive $28,379,920 in support over a 10-year term to offer voice and broadband service to 9,658 model-estimated locations in Montana; CenturyTel of Washington, Inc. was authorized to receive $45,838,633 in support over a 10-year term to offer voice and broadband service to 14,875 model-estimated locations in Washington; Embarq Florida, Inc was authorized to receive $5,039,442 in support over a 10-year term to offer voice and broadband service to 1,495 model-estimated locations in Florida; and Qwest Corporation was authorized to receive $69,046,650 in support over a 10-year term to offer voice and broadband service to 14,892 model-estimated locations in Idaho, Minnesota, Nebraska, and Oregon. *Rural Digital Opportunity Fund Support Authorized for 830 Winning Bids*; AU Docket No. 20-34 et al., Public Notice, 37 FCC Rcd 6072, Attach. A (WCB/OEA 2022) (*Lumen May 2022 Authorization Public Notice*). In June 2022, Qwest Corporation was authorized to receive a total of $7,482,178 in support over a 10-year term to offer voice and broadband service to 1,509 locations in Colorado. *Rural Digital Opportunity Fund Support Authorized for 513 Winning Bids, Bids Default Announced*, AU Docket No. 20-34 et al., Public Notice, 37 FCC Rcd 7271, Attach. A (WCB/OEA 2022) (*Lumen June 2022 Authorization Public Notice*). In September 2024, Qwest Corporation defaulted on certain CBGs in Colorado covering 1,331 model-estimated locations. Lumen also withdrew from RDOF in New Mexico, South Dakota, and Wyoming. *Wireline Competition Bureau Announces Lumen Technologies, Inc.'s Defaults on its RDOF Obligations in Four States and Also Announces Broadband Deployment Alignment Plan Procedures*, AU Docket No. 20-34, Public Notice, 39 FCC Rcd 10360 (WCB 2024).

(Commnet) has notified the Commission of its decision to withdraw from the RDOF program in Colorado (SAC 469011).[2] Both carriers will be subject to non-compliance measures, as described below. We also refer Commnet's default to the Enforcement Bureau for further consideration.

By announcing in this Public Notice that Lumen and Commnet will not meet their RDOF obligations in the identified states, we take the necessary step to formally announce that the eligible census blocks within the relevant CBGs are eligible for funding from other federal and state funding programs subject to the rules of the other programs,[3] furthering our responsibility to coordinate with other agencies to maximize the deployment of high-quality broadband service across the United States.[4] 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.[5] This announcement avoids leaving these areas unserved for the duration of the RDOF

[2] Letter from Mary Mabey, General Counsel, Commnet Four Corners, LLC, to Joseph S. Calascione, Chief, Wireline Competition Bureau, FCC, WC Docket No. 19-126 et al. (filed June 26, 2025). Commnet Wireless, LLC assigned its Colorado winning bids to its wholly-owned subsidiary, Commnet. *Auction 904 Long-Form Applicants Public Notice*. In February 2022, Commnet was authorized to receive $3,368,990 in RDOF support over 10 years to serve 785 model-estimated locations in Colorado. *Rural Digital Opportunity Fund Support Authorized for 2,576 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, 37 FCC Rcd 1617, Attach A. (WCB/OEA 2022) (*Commnet Authorization Public Notice*).

[3] The minimum geographic unit for bidding for RDOF was a CBG containing one more eligible census blocks. *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). Accordingly, a default must occur at the CBG level. 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. *Id.*; *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 690-94, paras. 9-16 (2020) (*RDOF Order*).

[4] 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. In May 2024, the four agencies extended the interagency agreement for an additional four years. Federal Communications Commission, Memorandum of Understanding Between FCC, NTIA, USDA, and Treasury, https://www.fcc.gov/document/memorandum-understanding-between-fcc-ntia-usda-and-treasury (Jul. 23, 2024).

[5] *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, Notice of Funding Opportunity for the Community Connect Grant Program for Fiscal Year 2025, 90 Fed. Reg. 1946, 1947 (Jan. 10, 2025) ("Areas already receiving Federal funding to construct terrestrial facilities providing at least 10 Mbps downstream and 1 Mbps upstream service in the project PFSA 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)

(continued….)

deployment terms,[6] because providers may now have access to alternative funding to serve these areas.

We consider Lumen and Commnet to have defaulted on their RDOF service milestones in the identified states. Lumen and Commnet will receive no further RDOF auction support payments[7] and are subject to support recovery and non-compliance measures consistent with the Commission's rules.[8] We will also remove Lumen and Commnet's RDOF service areas from the Broadband Funding Map in the identified states.[9]

Lumen and Commnet remain subject to all eligible telecommunications carrier obligations unless and until they follow the relevant procedures to relinquish their designations.[10] Additionally, they cannot discontinue voice service without Commission approval.[11]

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(Continued from previous page)
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.").

[6] 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. *RDOF Order*, 35 FCC Rcd at 709, para. 45. 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.

[7] *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 Lumen May 2022 Authorization Public Notice*, 37 FCC Rcd at 6072-79; *Lumen June 2022 Authorization Public Notice*, 37 FCC Rcd at 7271-78; *Commnet Authorization Public Notice*, 37 FCC Rcd at 1617-25 (providing a non-comprehensive summary of the RDOF requirements). After Lumen and Commnet notified WCB of their intent to withdraw from the RDOF support program in the identified states, WCB instructed USAC to suspend their RDOF support payments. 47 CFR §§ 54.320(c), 54.806(b).

[8] 47 CFR §§ 54.804(c)(4), 54.320, 54.806(c). Lumen and Commnet's decision to withdraw from the RDOF support program in the identified states and not pursue further support constitutes notification that they will not meet the final service milestone and that they 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.

[9] The census blocks covered by Lumen and Commnet's authorized winning bids are available on the "Results" tab of the Auction 904 website at https://www.fcc.gov/auction/904 in the document "Historical Authorized Auction 904 Long-Form Applicants Data."

[10] 47 U.S.C. § 214(e)(4).

[11] 47 U.S.C. § 214(a); 47 CFR § 63.71.

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 25-671
Released: July 29, 2025

MEDIA BUREAU WAIVES REQUIREMENT FOR BROADCASTERS TO FILE BIENNIAL OWNERSHIP REPORTS FOR 18 MONTHS

By this Public Notice, the Media Bureau waives the requirement for broadcast licensees to file their biennial ownership reports on FCC Form 323 or 323-E for a period of 18 months.

Pursuant to the Commission's rules, licensees of commercial and non-commercial full power television, Class A television, low power television, AM radio, and FM radio stations must file biennial ownership reports with the Commission in odd-numbered years.[1] The next filing window for biennial ownership reports is scheduled to open on October 2nd of this year, with reports due by December 1st. In the Commission's proceeding "In re: Delete, Delete, Delete,"[2] multiple commenters have urged the Commission to revisit the current biennial ownership filing requirement, which they maintain is a costly and burdensome requirement without a sufficient offsetting public benefit.[3] With the next filing window approaching, we find there is good cause to waive the biennial ownership report filing requirement for a period of 18 months and set a new filing deadline of June 1, 2027 or until further notice, whichever comes first.[4]

This Public Notice does not pause requirements applicable to commercial and non-commercial full power television, AM radio, and FM radio stations to file a non-biennial ownership report in other instances required by section 73.3615 of the Commission's rules, namely after the granting of an application for an original construction permit, with an

[1] *See* 47 CFR §§ 73.3615(a), (d); 73.6026(j); 74.797. Biennial ownership reports must contain information that is current as of October 1 of the filing year. *Id.* §§ 73.3615(a), (d); 74.797. In addition, reports must provide all information required by, and comply with all requirements set forth in, the current version of the relevant broadcast ownership report form (FCC Form 323 or 323-E). *Id.* §§ 73.3615(a), (d); 74.797.

[2] *See In Re: Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, DA 25-219 (Mar. 12, 2025).

[3] *See, e.g.*, America's Public Television Stations and Public Broadcasting Service Comments, GN Docket No. 25-133, at 3-4; Four Affiliates Associations Reply Comments, GN Docket No 25-133, at 11-12; Gray Media, Inc. Comments, GN Docket No 25-133, at 18-19; National Association of Broadcasters Comments, GN Docket No. 25-133, at 25-26; State Broadcasters Association Comments, GN Docket No. 25-133, at 26; Times Shamrock, L.P. Reply Comments, GN Docket No. 25-133, at 3.

[4] *See* 47 CFR §§ 1.3; 0.283; 0.61; *see also Promoting Diversification in the Broadcasting Services*, Order, 24 FCC Rcd 14628 (Dec. 23, 2009) (suspending, at the Bureau level, the filing requirement for the 2009 biennial reports).

application for a station license, and after the consummation of authorized assignments or transfers of permits and licenses.[5]

– FCC –

[5] *See* 47 CFR §§ 73.3615(b)(1), (b)(2), (c), (e)(1), (e)(2), (f).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-672
Released: July 30, 2025

MEDIA BUREAU ESTABLISHES PLEADING CYCLE FOR ASSIGNMENT APPLICATIONS BETWEEN GRAY AND SCRIPPS

Petition to Deny Date: August 29, 2025
Opposition Date: September 15, 2025
Reply Date: September 25, 2025

On July 30, 2025, the Federal Communications Commission (Commission) accepted for filing applications seeking consent to two sets of proposed broadcast television station assignments: (1) the assignment of the licenses for three full-power stations, four low-power stations, and seven translator stations from Gray Television Licensee, LLC to ION Television License, LLC, and (2) the assignment of the licenses for two full-power stations from Scripps Broadcasting Holdings LLC to Gray Television Licensee, LLC (collectively, the Applicants) (together, the Transactions).[1]

The National Television Multiple Ownership Rule prohibits a single entity from owning television stations that, in the aggregate, reach more than 39 percent of the total television households in the United States after taking into account a 50 percent discount to UHF stations.[2] The Applicants state that grant of the Applications "will create a net reduction in the national reach of each of Gray and Scripps."[3]

The Commission's Local Television Ownership Rule[4] generally prohibits common ownership of two or more of the top four ranked stations with overlapping contours in the same market, subject to certain exceptions (the Top-Four Prohibition).[5] The Applicants provide that in the Lafayette, Louisiana DMA, Gray's proposed acquisition of KATC(TV) complies with the Local Television Ownership Rule because Gray does not own another station in the market. With respect to the Lansing DMA, the Applicants state that the proposed Transactions will create a Top-Four combination for Gray. And, with respect to the Grand Junction-Montrose, Colorado Springs-Pueblo, and Twins Falls, Idaho DMAs, the Applicants note that the proposed Transactions will create Top-Four combinations for Scripps. The Applicants provide case-by-case showings to argue that the Top-Four Prohibition should not apply to the Top-Four combinations that will result in the Transactions.[6]

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[1] A list of the applications (collectively, the Applications) can be found in the Attachment to this Public Notice. Copies of the Applications are available in the Commission's Licensing and Management System (LMS). We refer to Gray Local Media, Inc. and Gray Television Licensee, LLC collectively as Gray; and to Scripps Media, Inc., Scripps Broadcasting Holdings, LLC, and ION Television License, LLC collectively as Scripps.

[2] *See* 47 CFR § 73.3555(e)(1)-(2).

[3] Applications, Comprehensive Exhibit at 1.

[4] 47 CFR § 73.3555(b).

[5] 47 CFR § 73.3555(b)(1)(ii).

[6] Applications, Comprehensive Exhibit at 9.

On July 23, 2025, the United States Court of Appeals for the Eighth Circuit issued a decision vacating and remanding certain portions of the Local Television Ownership Rule, including the Top-Four Prohibition.[7] The court withheld the mandate on that portion of its decision for 90 days.[8] On July 24, 2025, Applicants requested that the Commission "either (i) approve the Applications pursuant to the case-by-case review of the proposed Top Four combinations in accordance with past Commission practice, (ii) grant the Applications upon issuance of the Eighth Circuit's mandate eliminating the Top Four Prohibition and the modification of Note 11, or (iii) consent to the Applications in light of the Eight Circuit's Opinion pursuant to the Commission's precedents granting temporary waivers of its rules pending related judicial proceedings."[9]

GENERAL INFORMATION

The applications for assignment of licenses referred to in this Public Notice have been accepted for filing upon initial review. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Interested persons must file petitions to deny no later than August 29, 2025. Oppositions to petitions to deny must be filed no later than September 15, 2025. Replies must be filed no later than September 25, 2025. Persons and entities that file petitions to deny become parties to the proceeding.

To allow the Commission to consider fully all substantive issues regarding the applications in as timely and efficient a manner as possible, petitioners should raise all issues in their initial filings. Replies should only address matters raised in oppositions.[10]

All filings concerning matters referenced in this Public Notice should refer to the specific file numbers of the individual applications or other matters to which the filings pertain.

Submissions in this matter must be filed electronically (*i.e.*, through LMS).

In addition, one copy of each submission must be sent to the following:

- David Brown, Deputy Chief, Video Division, Media Bureau, e-mail David.Brown@fcc.gov
- Jeremy Miller, Video Division, Media Bureau, e-mail Jeremy.Miller@fcc.gov

Availability of Documents. Documents in this proceeding are available electronically through the FCC's Licensing and Management System at the file numbers in the attachment.

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

For further information, contact David Brown at (202) 418-1645 or Jeremy Miller at (202) 418-1507. For press inquiries, contact Nancy Murphy at (202) 418-1043.

[7] *Zimmer Radio of Mid-Missouri, Inc. v. FCC, et al*., No. 24-1380 (8th Cir. July 23, 2025).

[8] *Id*. at 41.

[9] Applications, Amendment at 2.

[10] 47 CFR § 1.45(c).

This action is taken by the Acting Chief, Media Bureau, pursuant to authority delegated by sections 0.61 and 0.283 of the Commission's rules.[11]

- FCC -

[11] 47 CFR §§ 0.61 and 0.283.

Attachment

Proposed License Assignment from Gray Television Licensee, LLC to ION Television License, LLC

Call Sign	Facility ID No.	LMS File No.	Community of License
KKTV	35037	0000275451	COLORADO SPRINGS, CO
K30QH-D	167733	0000275452	BURLEY, ETC., ID
K13ZI-D	35036	0000275453	COLORADO SPRINGS, CO
KMVT	35200	0000275454	TWIN FALLS, ID
K32OG-D	185447	0000275455	PUEBLO, CO
KKCO	24766	0000275456	GRAND JUNCTION, CO
K19NE-D	186350	0000275457	GATEWAY, CO
K25FZ-D	70103	0000275458	GRAND JUNCTION, CO
K28AD-D	52575	0000275459	MONTROSE, CO
KSVT-LD	167735	0000275460	TWIN FALLS, ID
KJCT-LP	128473	0000275461	GRAND JUNCTION, CO
K23NW-D	167155	0000275462	MONTROSE, CO
K31IV-D	35038	0000275463	ROMEO, CO
K21JK-D	168357	0000275464	MONTROSE, CO

Proposed License Assignment from Scripps Broadcasting Holdings LLC to Gray Television Licensee, LLC

Call Sign	Facility ID No.	LMS File No.	Community of License
KATC	33471	0000275465	LAFAYETTE, LA
WSYM-TV	74094	0000275466	LANSING, MI

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 Number: 25-674
Report No. TEL-02609 **Thursday July 31, 2025**

International Authorizations Granted

Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)

The following applications have been granted pursuant to the Commission's processing procedures set forth in sections 63.12, 63.20 of the Commission's rules, 47 CFR §§ 63.12, 63.20, other provisions of the Commission's rules, or procedures set forth in an earlier public notice listing the applications as accepted for filing.

Unless otherwise noted, these grants authorize the applicants: (1) to become a facilities-based international common carrier subject to 47 CFR §§ 63.21, 63.22; and/or (2) to become a resale-based international common carrier subject to 47 CFR §§ 63.21, 63.23; (3) to assign or transfer control of international section 214 authority in accordance with 47 CFR § 63.24; or (4) to 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 thirty days of this public notice (see 47 CFR § 1.4(b)(2)).

SURRENDER:

ITC-214-20070928-00397 T252380 Super-Net Inc.
Date filed: 2007-09-28
International Telecommunications Authorizations
Surrender of Authorization

Date of Action: 2025-07-16

Service:
- Global Resale Authority pursuant to section 63.18(e)(2) of the Commission's rules.

On July 16, 2025, Super-Net Inc. notified the Commission of its intent to surrender its international section 214 authorization, ITC-214-20070928-00397.

ITC-214-20240729-00148 T256773 BT Quartz Paddington, LLC
Date filed: 2024-07-29
International Telecommunications Authorizations
Surrender of Authorization

Date of Action: 2025-07-22

Services:
- Global Facilities-Based Authority pursuant to section 63.18(e)(1) of the Commission's rules.
- Global Resale Authority pursuant to section 63.18(e)(2) of the Commission's rules.

On July 22, 2025, BT Quartz Paddington, LLC notified the Commission that it surrenders its international section 214 authorization, ITC-214-20240729-00148.

INFORMATIVE:

ITC-STA-20250626-00022 T257710 Verscom, Inc.
Date filed: 2025-06-30
Special Temporary Authority
Grant of Authority

Date of Action: 2025-07-30

On July 30, 2025, we granted the request for special temporary authority (STA) filed by Verscom Inc. (Verscom), a Delaware corporation that holds an international section 214 authorization to provide global facilities-based and global resale service (ITC-214-20050223-00074), for an extension of its STA to continue to provide international service to its customers at its own risk while the Commission considers Verscom's application for the transfer of control of Verscom to Hidayet Didem Zapsu Bilyay upon the death of her husband, Gokce Bilyay. See ITC-T/C-20240119-00012. The current STA (ITC-STA- 20250106-00001) expires on August 11, 2026.

Verscom 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 new STA begins on August 11, 2026, the expiration date of the current STA, and expires on February 7, 2026.

ITC-214-20240730-00126 T256877 GloTell US Corp.
Date filed: 2024-07-30
International Telecommunications Authorizations
Withdrawn

Date of Action: 2025-07-23

Service:
- Global Resale Authority pursuant to section 63.18(e)(2) of the Commission's rules.

On July 23, 2025, GloTell US Corp. notified the Commission of the withdrawal of its international section 214 application.

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.

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, (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

DA Number: 25-675
Report No. SCL-00564NS **Thursday July 31, 2025**

Non-Streamlined Submarine Cable Landing License Applications

Accepted For Filing

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing. Pursuant to the Submarine Cable Landing License Act, 47 U.S.C. §§ 34-39, and Executive Order No. 10530, reprinted as amended in 3 U.S.C. § 301, each applicant seeks: (a) the grant of a submarine cable landing license; (b) the modification of a submarine cable landing license; and/or (c) the assignment or transfer of control of an interest in a submarine cable landing license. These applications are not subject to the streamlined processing procedures set forth in Section 1.767 of the Commission's rules, 47 CFR § 1.767. Pursuant to section 1.1910(b)(2) of the rules, action will be withheld on any application by any entity found to be delinquent in its debts to the Commission. Applicants should check the Red Light Display System's website at www.fcc.gov/redlight to determine if they are delinquent in a debt to the Commission and for information on how to pay the debt. 47 CFR § 1.1910(b)(2).

Unless otherwise specified, filings relating to these applications must be received within 14 days of this notice. Ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 CFR § 1.1206. All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

These applications are being coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 CFR §1.767(b), and consistent with procedures established with the Department of State. 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).

Pursuant to its decision in Review of Commission Consideration of Applications under the Submarine Cable Landing License Act, IB Docket No. 00-106, FCC 01-332, 16 FCC Rcd 22167 (2001), and section 1.767 of the rules, the Commission will take action upon these applications within ninety (90) days after release of this public notice, unless it determines that additional time is needed.

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).

INFORMATIVE:

SCL-LIC-20241115-00046 S250410 Starfish Infrastructure Inc.
Date filed: 2024-11-15
Submarine Cable Landing License

On July 28, 2025, the Chair of Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) notified the Commission that the Committee granted the Applicant a 2-week extension and thus is extending its initial review period for the application for the Bulikula cable system to conclude on or before October 6, 2025, pursuant to Executive Order 13913 (85 Fed Reg 19643 (April 8, 2020)).

SCL-LIC-20241210-00048 S250475 Starfish Infrastructure Inc.
Date filed: 2024-12-10
Submarine Cable Landing License

On July 25, 2025, the National Telecommunications and Information Administration, 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 Authorization and License regarding the application. The Committee has no objection to the Commission granting the application for the Taihei cable system provided that the Commission conditions its approval on the assurances of Starfish Infrastructures, Inc. and Google LLC to abide by the commitments and undertakings set forth in the July 18, 2025, National Security Agreement (NSA) by and between Starfish and Google on the one hand, and the Committee, represented by DHS, the Department of Justice, and the Department of Defense, on the other hand.

On July 28, 2025, the Commission referred the application to the Department of State (State) pursuant to the Submarine Cable Landing License Act of 1921 and Executive Order No. 10530. 47 U.S.C. §§ 34-39, Executive Order No. 10530 (reprinted as amended in 3 U.S.C. § 301). That began the 10-day State review process set out in the letter from the Under Secretary of State for Economic, Business, and Agricultural Affairs to the Chair, Federal Communications Commission (Feb. 23, 2022). *See* 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).

REMINDER:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 CFR §§ 1.2001-.2003.

By this notice, we inform the public that submarine cable landing license applications that are part of larger transactions involving multiple Commission licenses or authorizations may involve "extraordinary circumstances" as referenced in Review of Commission Consideration of Applications under the Submarine Cable Landing License Act, Report and Order, 16 FCC Rcd 22167 (2001) and Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997), paras. 327-28, Order on Reconsideration, 15 FCC Rcd 18158 (2000). Additionally, extraordinary circumstances result where Executive Branch agencies petition the Commission to defer action on an application pending the resolution of potential national security, law enforcement, foreign policy and trade policy issues. Accordingly, these applications may not be acted on within the 90-day review period that the Commission has established as the period of time normally required to reach a decision on non-streamlined submarine cable landing licenses. This notice shall serve as public notice to applicants that, in these circumstances, additional time may be required for Commission review and final action. No additional formal public notice will be provided routinely with respect to specific applications in the event that the applicable review period extends beyond 90 days

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 Number: 25-676
Report No. SCL-00565S **Thursday July 31, 2025**

Streamlined Submarine Cable Landing License Applications

Accepted for Filing

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing and subject to the streamlined processing procedures set forth in section 1.767 of the Commission's rules, 47 C.F.R. § 1.767. Pursuant to the Submarine Cable Landing License Act, 47 U.S.C. §§ 34-39, and Executive Order No. 10530, reprinted as amended in 3 U.S.C. § 301, each applicant seeks: (a) the grant of a submarine cable landing license; (b) the modification of a submarine cable landing license; and/or (c) the assignment or transfer of control of an interest in a submarine cable landing license.

Pursuant to its decision in Review of Commission Consideration of Applications under the Submarine Cable Landing License Act, IB Docket No. 00-106, FCC 01-332, 16 FCC Rcd 22167 (2001), and section 1.767 of the rules, the Commission will take action upon these applications within forty-five (45) days after release of this public notice, unless upon further examination an application is deemed ineligible for streamlined processing.

Ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 C.F.R. § 1.1206. Unless otherwise specified, interested parties may file comments with respect to these applications within 14 days of this notice. Such filings will not necessarily result in an application being deemed ineligible for streamlined processing.

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). All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

INFORMATIVE:

SCL-LIC-20250423-00013 S250477 Telxius Cable USA, Inc.
Date filed: 2025-04-23
Submarine Cable Landing License

On July 29, 2025, the Commission referred the application to renew the cable landing license for the South America-1 submarine cable system (SAm-1) for a new 25-year term to the Department of State (State) pursuant to the Submarine Cable Landing License Act of 1921 and Executive Order No. 10530. 47 U.S.C. §§ 34-39, Executive Order No. 10530 (reprinted as amended in 3 U.S.C. § 301). That began the 30-day State review process set out in the letter from the Under Secretary of State for Economic, Business, and Agricultural Affairs to the Chair, Federal Communications Commission (Feb. 23, 2022). *See* 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).

REMINDERS:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See C.F.R. §§ 1.2001-1.2003.

By this notice, we inform the public that submarine cable landing license applications that are part of larger transactions involving multiple Commission licenses or authorizations may involve "extraordinary circumstances" as referenced in Review of Commission Consideration of Applications under the Submarine Cable Landing License Act, Report and Order, 16 FCC Rcd 22167 (2001) and Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997), paras. 327-28, Order on Reconsideration, 15 FCC Rcd 18158 (2000). Additionally, extraordinary circumstances result where Executive Branch agencies petition the Commission to defer action on an application pending the resolution of potential national security, law enforcement, foreign policy and trade policy issues. Accordingly, these applications may be removed from streamlined processing and may not be acted on within the 90-day review period that the Commission has established as the period of time normally required to reach a decision on non-streamlined submarine cable landing licenses. This notice shall serve as public notice to applicants that, in these circumstances, additional time may be required for Commission review and final action. No additional formal public notice will be provided routinely with respect to specific applications in the event that the applicable review period extends beyond 90 days.

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 Number: 25-677
Report No. SCL-00566 **Thursday July 31, 2025**

Section 1.767(a) Submarine Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Submarine Cable Landing Licenses (47 C.F.R. § 1.767(a))

Actions Taken Under Submarine Cable Landing License Act

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 (Submarine 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, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this public notice.

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, 47 CFR § 1.767(b), and consistent with procedures established with the Department of State. 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 submarine cable landing licensee's Submarine 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. Submarine 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-20241030-00042 S250468 Starfish Infrastructure Inc.
Date filed: 2024-10-30
Submarine Cable Landing License
Grant of Authority Date of Action: 2025-07-30

Starfish Infrastructure Inc. (Starfish) filed an application for a license to construct, land, and operate the

Honomoana cable system, a non- common carrier fiber-optic submarine cable system that will connect the United States to French Polynesia, New Zealand, and Australia. On December 6, 2024, the application was placed on Public Notice. *See* SCL-LIC-20241030-00042, Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00501S, Public Notice (OIA Dec. 6, 2024). On December 18, 2024, Starfish filed a supplement. On July 21, 2025, Lockheed Martin Corporation submitted a late filed comment stating that it is a U.S. licensee for polymetallic nodules in the Pacific Ocean's Clarion Clipperton Zone, an area likely to be traversed by the Honomoana cable system, and stressed the importance of interagency coordination for these licensed activities.

Executive Branch Review.

On December 20, 2024, the Department of Homeland Security (DHS) notified the Commission that it was reviewing the application and requested that the Commission defer action on the application until it completes its review. Pursuant to Commission practice, the Application was referred to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) for its views on any national security, law enforcement, foreign policy or trade policy concerns related to the foreign ownership of the Applicants. Non-Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00506NS, Public Notice (OIA Dec. 27, 2024). *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). On December 30, 2024, the Committee notified the Commission that it was reviewing the application. *See* SCL-LIC-20241030-00042, Non-Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00507NS, Public Notice (OIA Jan. 2, 2025).

On July 16, 2025, the National Telecommunications and Information Administration (NTIA), on behalf of the Committee, filed a Petition to Adopt Conditions to Authorization and License. The Committee states that it has no objection to the Commission approving authority to land and operate the Honomoana cable system, provided that the Commission conditions its approval on the assurances of Starfish and Google, LLC (Google) to abide by the commitments and undertakings of the July 11, 2025 National Security Agreement between Starfish and Google on the one hand, and the Committee, represented by DHS, the U.S. Department of Justice, and the U.S. Department of Defense, on the other hand (July 11, 2025 NSA).

Following the completion of the Committee review of the Application, the Office of International Affairs coordinated the Application 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, DA 22-435 (rel. Apr. 19, 2022). *See* SCL-LIC-20241030-00042, Non-Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00563NS, Public Notice (OIA July 25, 2025).

Actions Taken.

1. Grant of a Cable Landing License to Starfish Infrastructure Inc. for the purpose of constructing, landing and operating the Honomoana cable system, a non-common carrier fiber-optic submarine

cable system connecting the United States to French Polynesia, New Zealand, and Australia;

2. Grant of the request for waiver of section 1.767(h)(1) of the Commission's rules in connection with the license; and

3. Grant of the Petition to Adopt Conditions to Authorization and License filed by the National Telecommunications and Information Administration on July 16, 2025.

Licensee Ownership Information.

Starfish is an indirect wholly owned subsidiary of Google LLC, both Delaware entities. As of June 30, 2024, the 10% or greater direct or indirect interest holders of Starfish are: (1) Sea Coral Holdings LLC, a Delaware company (100% equity and voting interest in Starfish); (2) Google LLC (100% equity and voting interest in Sea Coral Holdings LLC); (3) XXVI Holdings Inc. (XXVI Holdings), a Delaware company (100% equity and voting interest in Google LLC); (4) Alphabet Inc. (Alphabet), a Delaware company (approximately 100% equity interest and more than 99% voting interest in XXVI Holdings); (5) Larry Page, a U.S. citizen (26.8% voting interest in Alphabet through ownership of 44.9% of Alphabet's Class B common stock); and (6) Sergey Brin, a U.S. citizen (25% voting interest in Alphabet through ownership of 41.9% of Alphabet's Class B common stock). Alphabet's shares are publicly traded on the NASDAQ stock market. As of June 30, 2024, no other entity or individual holds a 10% or greater direct or indirect equity or voting interest in either Alphabet or Starfish.

Cable System Design and Capacity.

The Honomoana cable system will consist of five segments: (1) the Transpacific Segment between San Diego County, California, and Victoria, Australia, a length of approximately 14,215 kilometers; (2) the Tahiti Nui Segment connecting Tahiti Nui in French Polynesia, to a branching unit on the Transpacific Segment, a length of approximately 115 kilometers; (3) the Tahiti Iti Segment connecting Tahiti Iti in French Polynesia, to a branching unit on the Transpacific Segment, a length of approximately 156 kilometers; (4) the New Zealand Segment connecting the North Island of New Zealand to a branching unit on the Transpacific Segment, a length of approximately 265 kilometers; and (5) the New South Wales Segment connecting New South Wales, Australia, to a branching unit on the Transpacific Segment, a length of approximately 464 kilometers. Each segment will have 16 fiber pairs and each fiber pair on the system will have a minimum design capacity of approximately 16.2 Terabits per second (Tb/s).

Starfish states that the Honomoana cable system will be the first system that provides a new direct connection between the continental U.S and Victoria, Australia. According to Starfish, the system will have two landing points in French Polynesia, providing path diversity and redundancy in island connectivity in case of a single branch failure.

Further, Starfish claims that the cable design will also provide resiliency by increasing the number of single end feeding configurations, provide better tolerance to shunt faults, and provide a landing in San Diego County that is physically diverse from other systems.

Ownership of the Cable System.

Starfish and its affiliates will own and control the Honomoana cable system as follows: (1) Starfish will hold 100% of the equity and voting interests in the portion in U.S. territory; (2) Sea Fan Singapore Infrastructure Pte. Ltd. (Sea Fan), a Singapore company, will hold 100% of the equity and voting interests in the portion in international waters; (3) Octopus Infrastructure SAS (Octopus), a French company, will hold 100% of the equity and voting interests in the portion in French Polynesian territory; (4) Snapper Infrastructure Limited (Snapper), a New Zealand company, will hold 100% of the equity and voting interests in the portion in New Zealand territory; and (5) Perch Infrastructure Pty Ltd (Perch), an Australian company, will hold 100% of the equity and voting interests in the portion in Australian territory. Starfish, Sea Fan, Octopus, Snapper, and Perch are all indirect, wholly owned subsidiaries of Google LLC. Starfish states that because Sea Fan, Octopus, Snapper, and Perch will not use the U.S. endpoint of the system, none of these entities is required by section 1.767(h)(2) of the Commission's rules to be an applicant for the cable landing license. 47 CFR § 1.767(h)(2).

Ownership of Landing Stations.

The Honomoana cable landing stations will be located in San Diego County, California; Tahiti Nui and Tahiti Iti, French Polynesia; North Island, New Zealand; New South Wales, Australia; and Victoria, Australia. The cable landing stations are owned and controlled as follows: (1) San Diego County, California: Elkhorn Services LLC (Elkhorn), a California company, will own a newly constructed cable landing station and Starfish will be the U.S. landing party and control the cable landing station; (2) Tahiti, Nui, French Polynesia and Tahiti Itit, French Polynesia: Sea Turtle Services (Sea Turtle), a French company, will own the two new cable landing stations, and Octopus will be the landing party and control both cable landing stations; (3) North Island, New Zealand: CDC Data Centres NZ Limited (CDC Data Centres), a New Zealand company, will own an existing cable landing station and Snapper will be the landing party and control the cable landing station; (4) New South Wales, Australia: Equinix Australia Pty Limited, an Australian company, will own an existing cable landing station, and Perch will be the landing party and control the cable landing station; and (5) Victoria, Australia: Barramundi Services Pty Ltd (Barramundi), an Australian company, will own a newly constructed cable landing station, and Perch will be the landing party and control the cable landing station. Starfish will file a more specific description of each landing point no later than 90 days prior to construction pursuant to section 1.767(a)(5) of the Commission’s rules. 47 CFR § 1.767(a)(5); *see* also 47 CFR § 1.767(g)(8). Elkhorn, Sea Turtle, and Barramundi are all indirect wholly owned subsidiaries of Google. Waiver of 47 CFR § 1.767(h)(1).

Starfish requests a waiver of section 1.767(h)(1) of the Commission’s rules so that Elkhorn is not required to be an applicant for a U.S. cable landing license for the Honomoana cable system. Section 1.767(h)(1) requires that "[a]ny entity that owns or controls a cable landing station in the United States" shall be "applicants for, and licensees on, a cable landing license." 47 CFR § 1.767(h)(1). Starfish asserts that Elkhorn will have no independent ability to affect the Honomoana cable system’s operation and including Elkhorn as an applicant is not necessary to ensure compliance by Starfish with the Cable Landing License Act, the Commission’s cable landing license rules, or the terms of any cable landing license. According to Starfish, Elkhorn is expected to provide certain limited services at the U.S. cable station that would not enable it to significantly affect the Honomoana cable system’s operation, as these services will be provided at Starfish’s direction and under its supervision.

Starfish intends to contract with Elkhorn for the right to use separately caged collocation space at the San Diego County cable landing station, and for the provision of certain operation and maintenance services at the cable landing station. Starfish states that Elkhorn is not expected to have access to Starfish's space, except: (i) to perform certain operation and maintenance services as per Starfish's direction and instructions; (ii) to conduct work in the space unrelated to the system, after providing Starfish advance notice and opportunity to supervise any such work; or (iii) in cases of emergency. The agreement with Elkhorn is expected to have an initial term of 25 years.

The purpose of the 1.767(h)(1) requirement is to ensure that entities with a significant ability to affect the operation of the cable system become licensees so that they are subject to the conditions and responsibilities associated with the license. *See* Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22194-95, paras. 53-54. Although Elkhorn will own a newly constructed cable landing station in San Diego County, California, we find, based on the record in this proceeding that Elkhorn will not have the ability to affect significantly the operation of the cable system. Accordingly, we grant the Applicant a waiver of section 1.767(h)(1) and do not require Elkhorn to become an applicant/licensee for the Honomoana cable system.

Regulatory Status.

Starfish proposes to operate the Honomoana cable system on a non-common carrier basis. Starfish states that the system's capacity will be provided to affiliates pursuant to inter-affiliate agreement or made available to third parties pursuant to individually negotiated indefeasible rights of use (IRUs), the terms of which will vary depending on the characteristics and needs of the particular capacity purchase. Starfish states that it intends to install and test the Honomoana system in U.S. waters in the first quarter of 2026 and commence commercial operation of the U.S. landing point of the system in the fourth quarter of 2026.

Starfish asserts that there are sufficient alternative facilities serving the U.S.-Australia and Central Pacific routes to preclude the system from becoming a bottleneck facility. Specifically, Honomoana will compete with other existing and planned cable systems connecting the continental U.S. to Australia, including Southern Cross NEXT, Hawaiki, and Tabua. Starfish states that each of Southern Cross NEXT and Hawaiki also includes landings in New Zealand, and that systems connecting Guam or Hawaii to French Polynesia include the Honotua, Bulikula, and Halaihai cables.

The Applicant has 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, 20815-18, paras. 62-67 (2000).

Conditions and Requirements.

Starfish shall comply with the routine conditions specified in section 1.767(g) of the Commission's rules. 47 CFR § 1.767(g).

We grant the Petition to Adopt Conditions to Authorization and License (Petition) filed in this proceeding by NTIA, on behalf of the Committee, on July 16, 2025. Accordingly, we condition grant of

the application on Starfish and Google abiding by the commitments and undertakings set forth in the July 16, 2025 NSA. A copy of the Petition and July 16, 2025 NSA are publicly available and may be viewed on the FCC website through the International Communications Filing System (ICFS) by searching SCL-LIC-20241030-00042 and accessing the “Pleadings & Comments” tab in 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. 47 CFR § 1.767(g)(15). The in-service notification must be filed in ICFS through the “Pleadings and Comments” for file number SCL-LIC-20241030-00042.

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 25-678
Released: July 31, 2025

FCC ANNOUNCES AN AMENDMENT TO CSRIC IX TASK ON ENSURING CONSUMER ACCESS TO 911 ON ALL AVAILABLE NETWORKS AS TECHNOLOGY EVOVLES

This Public Notice serves as an announcement that, consistent with the Federal Advisory Committee Act,[1] the Federal Communications Commission (FCC or Commission) is amending the task assigned to its federal advisory committee, the Communications Security, Reliability, and Interoperability Council IX (CSRIC IX) on Ensuring Consumer Access to 911 on All Available Networks As Technology Evolves. The Commission has amended the task by adding the following language:

> Additionally, CSRIC IX shall include a discussion of PSAPs' needs with regard to class-of-service (CoS) categories to effectively process 911 calls and reconcile the current CoS designations provided to PSAPs with expanding back-up network options, including detailing any needed modifications to these designations and recommending next steps. Further, CSRIC IX should consider any 911 and NG911 technical changes that would be required for PSAPs to display and process new CoS designations and provide the Commission with recommendations for implementation.

In March 2026, the FCC anticipates a second report on this topic from CSRIC IX that should include the results of this additional line of inquiry.

More information on CSRIC IX, including the full set of tasks assigned by the FCC, can be 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 CSRIC@fcc.gov.

–FCC–

[1] 5 U.S.C. §§ 1001-1014.

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 25-679
Released: July 31, 2025

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON JOINT PETITION OF MICHIGAN BELL TELEPHONE COMPANY, LLC AND UP FIBER, INC. FOR WAIVER OF PART 36 AND SECTION 61.41(C)(2) OF THE COMMISSION'S RULES

WC Docket No. 25-181

CC Docket No. 96-45

Comments Due: September 2, 2025
Reply Comments Due: September 17, 2025

The Wireline Competition Bureau (Bureau) seeks comment on the joint petition of Michigan Bell Telephone Company, LLC (Michigan Bell), an indirect wholly-owned company of AT&T, Inc., and UP Fiber, Inc. (UP Fiber) (together, Petitioners) for waiver of the definition of "study area" contained in the Appendix-Glossary of part 36 of the Commission's rules.[1] The Petitioners state the purpose of the waiver is to permit the assignment of 40 wire centers in 42 exchanges and the associated customer base in price cap areas in Michigan from the Michigan Bell study area to a newly designated study area for UP Fiber.[2] UP Fiber also requests a waiver of section 61.41(c)(2) of the Commission's price cap rules, which requires non-price cap companies, and the telephone companies with which they are affiliated, to become subject to price cap regulation after acquiring a price cap company or any part thereof.[3]

In the *USF/ICC Transformation Order*, the Commission streamlined its rules governing part 36 study area waiver requests, creating a method similar to the Bureau's processing of routine section 214

[1] *See* 47 CFR Part 36, Appendix; Joint Petition for Waiver by Michigan Bell and UP Fiber, CC Docket No. 96-45 and WC Docket No. 25-181 (filed May 23, 2025) (Petition for Waiver); Supplement to Joint Petition for Waiver, CC Docket No. 96-45 and WC Docket No. 25-181 (filed July 14, 2025) (Petition Supplement). Effective November 15, 1984, the Commission froze all study area boundaries to prevent incumbent local exchange carriers from establishing separate study areas made up only of high-cost exchanges in order to maximize their receipt of high-cost universal service support. *See MTS and WATS Market Structure*; *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, Decision and Order, FCC 84-637, 50 Fed. Reg. 939 (1985). A carrier must therefore apply to the Commission for a waiver of the study area boundary freeze if it wishes to assign or acquire additional exchanges. The Petition for Waiver was concurrently filed with an application, pursuant to section 214(a) of the Communications Act of 1934, as amended, and sections 63.04 of the Commission's rules, requesting Commission approval for the acquisition of 40 wire centers and other related assets of Michigan Bell by UP Fiber. *See* 47 U.S.C. § 214(a); 47 CFR § 63.04; Domestic Section 214 Application for the Acquisition of Certain Assets of Michigan Bell Telephone Company, LLC, by Up Fiber, Inc., WC Docket No. 25-181 (filed May 23, 2025). Any action on the Petition for Waiver is without prejudice to Commission action on other pending applications or proceedings.

[2] *See* Petition for Waiver at 1.

[3] *See* 47 CFR § 61.41(c)(2); Petition Supplement at 2.

transfer of control applications.[4] In the past, the procedures for addressing petitions for study area waivers required the Bureau to issue an order either granting or denying the request after issuing a public notice. Under the revised process, upon determination that a petitioner has filed a complete petition and that the petition is appropriate for streamlined treatment, the Bureau will issue a public notice seeking comment on the petition, and the petition will be deemed granted 60 days after the reply comment due date absent further action by the Bureau.[5] Based on an initial review of this request, however, the Bureau finds that because of the policy issues raised by the Petition for Waiver, it is inappropriate for streamlined treatment and should be subject to further analysis and review. Accordingly, the Bureau will issue an order either granting or denying the Petition for Waiver after considering the record, including any comments filed in response to this Public Notice.

Filing Requirements. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). All filings must refer to **WC Docket No. 25-181 and CC Docket No. 96-45**.[6]

- *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.

Availability of Documents. Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS.[7]

Permit but Disclose Ex Parte Communications. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[8]

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[4] *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, 17763, paras. 266-67 (2011) (*USF/ICC Transformation Order*).

[5] *See id*.; 47 CFR § 36.4.

[6] All filings relating to this Public Notice should refer *only* to the dockets listed above.

[7] Documents will generally be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

[8] 47 C.F.R. §§ 1.1200 *et seq.*

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 William Layton, Telecommunications Access Policy Division, Wireline Competition Bureau at william.layton@fcc.gov or Simon Solemani, Pricing Policy Division, Wireline Competition Bureau at simon.solemani@fcc.gov.

- FCC -

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

In the Matter of	)	
	)	
University of Utah Request for Waiver of Part 96 of the Commission's Rules	)	WT Docket No. 22-257
	)	
	)	

ORDER

Adopted: July 31, 2025 **Released: July 31, 2025**

By the Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. By this Order, the Wireless Telecommunications Bureau (the Bureau) conditionally grants the request of the University of Utah (the University) for waiver of section 96.39(g) of the Commission's rules.[1] We also waive section 96.49 of the Commission's rules on our own motion. The University operates a research tool using an experimental license over a small geographic area in Salt Lake City. With a conditional waiver of the security and equipment authorization requirements required by these rule sections, the University can engage in valuable, innovative research using mid-band spectrum in its experimental sand box, with little risk of causing harmful interference to commercial users.[2] For the reasons discussed in more detail below, the Bureau finds that the University has satisfied the requirements of section 1.925(b)(3) of the Commission's rules and, accordingly, grants the University's waiver request to facilitate operations on a General Authorized Access (GAA) basis, subject to the conditions set forth herein.

II. BACKGROUND

2. *Citizens Broadband Radio Service.* The Citizens Broadband Radio Service is characterized by a sharing regime in which Spectrum Access Systems (SASs) coordinate access among three tiers of users in the 3.55-3.7 GHz band (3.5 GHz band): incumbents (federal radar systems and grandfathered fixed satellite service operations), holders of Priority Access Licenses (PALs), and GAA users.[3] Citizens Broadband Radio Service Devices (CBSDs) are subject to various requirements to ensure that SASs are able to minimize harmful interference. These requirements relate to, in relevant part: geo-location and reporting capability, registration with a SAS, frequency reporting, and device security, and

[1] Request of University of Utah for Waiver of the Commission's Citizen's Band Radio Service Rules to Authorize Use of Software-Defined Radio Equipment to Interact with the Spectrum Access System, WTB No. 22-257, (filed Mar. 31, 2022), https://www.fcc.gov/ecfs/document/1070768678652/1 (Waiver Request).

[2] *See* Waiver Request at 2-3, 9-10.

[3] *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, 3975-80, paras. 44-59 (2015); *see also* 47 CFR §§ 96.53-96.66.

each is addressed in section 96.39 of the Commission's rules.[4] Section 96.49 requires that CBSDs receive equipment authorization.[5]

3. *POWDER Platform.* The University currently holds program experimental authorizations to operate the POWDER platform on campus and also, under that authorization, operates in the Salt Lake City Innovation Zone, an area of approximately four square miles (less than 25 by 10 city blocks), including the University campus, a small portion of downtown, and a corridor connecting the campus to downtown.[6] POWDER is a research tool made up of both fixed and mobile radio systems, including software-defined radios (SDRs).[7] According to the University, the primary objective of the POWDER platform is to enable innovation and research associated with wireless systems and spectrum use.[8] Program experimental licenses like the one held by the University are, available only to certain colleges and universities, manufacturers, and other qualified institutions,[9] and they require a "stop buzzer" point of contact who can address interference concerns and cease all transmissions immediately if interference occurs.[10] Experimental licenses are also subject to a general non-interference criterion, which requires that such licensees may not cause harmful interference to any station operating in accordance with the Table of Frequency Allocations and shall immediately cease transmissions if harmful interference occurs.[11]

4. *Waiver Request.* In 2022, the University filed a request to waive portions of section 96.39 of the Commission's rules to allow its POWDER platform to operate in the Citizens Broadband Radio Service.[12] The University asserts that it must operate the platform with GAA or PAL status under part 96 because spectrum that is available under part 5 on an experimental, non-interfering basis is too limited for POWDER's mid-band studies and such spectrum will likely become even more scarce as Citizens Broadband Radio Service operations expand.[13] Therefore, the University asks that POWDER be permitted to interface with a SAS, receive frequency and channel assignments, and operate as a GAA or PAL user may.[14] The University submits that SDRs operating on the POWDER platform would not themselves comply with section 96.39's CBSD requirements because they would not connect directly with a SAS.[15] Instead, a Domain Proxy would interface with the SAS and with POWDER's Spectrum Control equipment.[16] POWDER Spectrum Control would monitor and control the SDRs on the platform,

[4] *See* 47 CFR §§ 96.39(a) (Geo-location and reporting capability), (c) (Registration with SAS), (e) (Frequency reporting), (g) (Device security).

[5] *See id*. § 96.49.

[6] The Office of Engineering and Technology created the Innovation Zone for Salt Lake City to provide opportunities for qualified licensees to test new advanced technologies and protype networks. *Office of Engineering and Technology Announces First Innovation Zones for Program Experimental Licenses*, ET Docket No. 19-257, Public Notice, 34 FCC Rcd 8130, 8130-32 (OET 2019) (*Innovation Zone Public Notice*).

[7] *See* Waiver Request at 2-3, Exhibit A.

[8] *See id*. at 2.

[9] 47 CFR § 5.302.

[10] *Id*. § 5.308.

[11] *Id*. § 5.84.

[12] *See* Waiver Request at 6-9. The University initially sought waiver of 47 CFR §§ 96.39 (a), (c), (d), (e), and (g) but later withdrew its request for waiver of section 96.39(d). *See* University Reply Comments at 6.

[13] *See* Waiver Request at 3-4.

[14] *See id*.

[15] *Id*. at 4.

[16] *See id*. at Exhibit B.

and would terminate transmissions that violate SAS authorization and fail to make necessary adjustments within 50 seconds.[17]

5. The University requests that the Commission waive the CBSD requirements in subparts (a), (c), (e), and (g) of section 96.39, so that it may use SDR equipment to operate in the 3.5 GHz band within the POWDER Platform Innovation Zone on either a GAA or PAL basis.[18] Alternatively, the University requests that the Commission clarify that the POWDER platform's Domain Proxy, by virtue of its interactions with POWDER SDRs via POWDER Spectrum Control, meets the definition of a multi-nodal CBSD, satisfies the requirements of sections 96.39(a), (c), and (e), and therefore requires no waiver of those provisions.[19] In either case, the University asks the Commission to waive section 96.39(g) to allow researchers using the platform to update software and firmware for the CBSD equipment, a key element of their experiments.[20] The University proposes that, if it is granted, we impose several conditions on the waiver.[21]

6. The Bureau sought comment on the University's request in July 2022.[22] Three parties filed comments and the University filed reply comments.[23] Federated Wireless, a SAS administrator, contends that POWDER appears to comply with the Commission's rules governing Domain Proxies and suggests that the requested waiver may not be necessary.[24] NCTA argues that the request lacks sufficient information regarding the University's operations, including the risk of interference to PALs and GAA users, whether the SDRs would all be used as CBSDs and operate within their authorizations, and what signal level information the University would report to a SAS.[25] NCTA requests that, if granted, the waiver be narrow, with appropriate safeguards to prevent interference, and be limited in time and in scope; NCTA endorses the University's proposed conditions and suggests additional conditions as well.[26] The OnGo Alliance noting concerns regarding the interactions between the SAS and the Domain Proxy and CBSDs, says that the waiver request did not clarify whether the CBSDs or the Domain Proxy would be certified and have a valid FCC ID, and questions whether POWDER will comply with other rules governing CBSD requirements and SAS connectivity.[27]

7. In reply comments, the University emphasizes that POWDER's Domain Proxy and SDRs would register with a SAS as CBSDs and says that POWDER would comply with all part 96 rules, except where the University specifically requests waiver.[28] The University proposes to confine POWDER's

[17] *See id*. at 6-8.

[18] *See id*. at 4-6.

[19] *See id*. at 5.

[20] 47 CFR § 96.39(g); *see* Waiver Request at 8.

[21] *See* Waiver Request at 12; Letter from Seth L. Williams, Counsel for the University of Utah, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-257 (filed Oct. 21, 2022) (October 2022 *Ex Parte*); Letter from Seth L. Williams, Counsel for the University of Utah, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-257 (filed March 20, 2025) (March 2025 *Ex Parte*).

[22] *Wireless Telecommunications Bureau Seeks Comment on the University of Utah's Request to Waive Section 96.39 of the Commission's Rules*, WT Docket No. 22-257, Public Notice, 37 FCC Rcd 7787 (WTB 2022).

[23] The parties filing comments included Federated Wireless, NCTA – The Internet & Television Association, and the OnGo Alliance.

[24] *See* Federated Wireless Comments at 1-3.

[25] *See* NCTA Comments at 2-4.

[26] *See id*. at 5-6.

[27] *See* OnGo Alliance Comments at 1-4.

[28] *See* University Reply Comments at 1-3.

operation to the Salt Lake City Innovation Zone and to provide a point of contact for interference complaints and "stop buzzer" procedures.[29] The University acknowledges Federated Wireless's observation that POWDER may comply with the requirements of sections 96.39(a), (c), and (e) through its use of the Domain Proxy.[30] The University maintains that waiver of section 96.39(g) remains necessary because POWDER experimenters must be able to modify CBSD software and firmware to conduct their research.[31]

III. DISCUSSION

8. Section 1.925(b)(3) of the Commission's rules states that the Commission may grant a waiver when the Commission finds that 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."[32] After consideration of the University's waiver request and the record in this proceeding, we find that the University has satisfied the requirements of section 1.925(b)(3) and, accordingly, we waive section 96.39(g) of the Commission's rules, subject to the conditions set forth below.[33]

9. First, we find that the purpose of section 96.39(g) would not be served by its strict application in this case, and that waiver is in the public interest. The Commission adopted the rule as part of its effort to ensure data security in the Citizens Broadband Radio Service; namely, CBSDs must be equipped with sufficient features to protect their firmware and software against modification by unauthorized parties.[34] In its request, the University asserts that a waiver of section 96.39(g) is necessary to permit operators using the POWDER platform to modify the SDRs that will operate as their CBSDs. The University argues that the use and modification of SDRs is an essential part of the innovative development work that it is conducting in the Salt Lake City Innovation Zone.[35] According to the University, this work will support valuable mid-band experimentation and further the development of new wireless technologies. In support of its request, the University cites several aspects of its proposed operations that would minimize the types of security concerns addressed in 96.39(g). Notably, consistent with the terms of the University's program experimental license, the POWDER platform is not available to the general public and its users must be authorized by the University.[36] The University has confirmed that its devices will only operate within the geographic confines of the Salt Lake City Innovation Zone.[37] The University also confirmed with the National Telecommunications and Information Administration

[29] *See id*. at 3-4.

[30] *See id.* at 5-6; *see also* 47 CFR §§ 96.39(a), (c), (e).

[31] *See* University Reply Comments at 5-6; *see also* 47 CFR § 96.39(g).

[32] 47 CFR § 1.925(b)(3).

[33] Based on the submissions of the University and Federated Wireless, it appears that the University's planned CBSDs and Domain Proxy may otherwise comply with the Commission's rules (with the exception of section 96.39(g)), obviating the need for a waiver of sections 96.39(a), (c), or (e). *See* University Reply Comments at 5-6; Federated Wireless Comments at 1-3. If the University is unable to successfully commence operations under the terms of this waiver order, it may submit a new or modified request for relief.

[34] *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, 4033-34, paras. 238-40 (2015); *see also* 47 CFR § 96.39(g).

[35] *See* Waiver Request at 1-3; University Reply Comments at 5-6.

[36] *See* Waiver Request at 12 & n.23.

[37] *See id*., Exhibit A.

(NTIA) that no federal incumbents operate in the vicinity of the platform's service area, but it suggests a regular renewal process to account for future changes in Citizens Broadband Radio Service user presence near Salt Lake City.[38] After consulting with the Commission and other stakeholders,[39] the University has encouraged us to adopt conditions to enforce these, and other, limitations on their operations to ensure that the waiver is as narrowly tailored as possible.

10. After review of the record, we find that the University's proposed operations, and the conditions imposed herein, will minimize security and interference risks and ensure that the purpose of section 96.39(g) is fulfilled.[40] We also find that the experiments conducted using the University's POWDER system are in the public interest as they may inform the development of new wireless technologies, including innovative approaches to spectrum management.[41] We also note that, consistent with the University's representations and the conditions described below, the University will be required to comply with all other rules governing operations in the Citizens Broadband Radio Service. For these reasons, we find that the University has satisfied the requirements of section 1.925(b)(3)(i).

11. For similar reasons, we also find that the POWDER platform presents unique circumstances, and that application of section 96.39(g) here would undermine the public interest. As noted above, the platform is confined to users that receive University authorization, they operate only in Salt Lake City, and the University's proposed conditions minimize security concerns that might otherwise arise from this waiver. Given the narrow scope of the request, our ability to mitigate any CBSD security risks with appropriate conditions, and the potential for POWDER platform experimentation to bolster our understanding of evolving wireless technologies, we find that the University's request also satisfies the requirements of section 1.925(b)(3)(ii).

12. On our own motion, we also find that requiring the University to request equipment authorization, as required by section 96.49, would be unduly burdensome in these unique circumstances.[42] Researchers can upload software and firmware that reprograms the SDRs used on the POWDER platform.[43] These SDRs are well suited for experimentation, but it would be an impediment to those efforts if the University were bound to seek authorization for every SDR configuration that its researchers might test.[44] As detailed above, the University is already authorized to use these devices for experimental operations under part 5 of the Commission's rules without separate equipment certification. The University has agreed that its use of such devices in the Citizens Broadband Radio Service will be subject to a variety of safeguards—including access limitations, constant system monitoring, and the use of a stop buzzer—that are largely consistent with the limitations placed on its experimental authorization.[45] The University has also agreed that, consistent with the requirements of its experimental authorization, it will not market or sell the equipment authorized by this waiver order.[46] As such, we find that requiring the University to obtain certification for this equipment would be unduly burdensome and would not advance the public interest. We therefore waive section 96.49, subject to the conditions imposed herein.

[38] The University initially maintained that we need not limit the duration of its waiver. University Reply Comments at 6-7. But it has since revised that position in order to ensure coexistence, and after consultation with NTIA. *See* October 2022 *Ex Parte* at 1-2, n.3.

[39] *See* Waiver Request at 3-5, 12; October 2022 *Ex Parte* at 2; March 2025 *Ex Parte* at 1.

[40] *See* Waiver Request at 10-12, Exhibit B; *see also* University Reply Comments at 2-4.

[41] *See* Waiver Request at 1-2, 9-10.

[42] *See* 47 CFR §§ 1.925(a), (b)(3)(ii); *see also* 47 CFR § 96.49.

[43] *See* Waiver Request at 3.

[44] *See id*. at 8-9.

[45] *See id*. at 12; October 2022 *Ex Parte* at 2; March 2025 *Ex Parte* at 1.

[46] *See* October 2022 *Ex Parte* at 2.

13. Finally, we find good cause to allow the University to operate the POWDER platform in the 3.5 GHz band on a GAA basis, subject to the conditions imposed by this order and the Commission's rules establishing the rights and obligations of GAA use.[47] GAA status will provide the University with sufficiently reliable access to the band to conduct their valuable research without increasing the risk of harmful interference to other operators in the 3.5 GHz band.[48] We again emphasize that this unique Citizens Broadband Radio Service use case is limited in its geographical scope, will include robust safeguards to prevent harmful interference, and has the potential to advance the state of knowledge of mid-band spectrum use.[49]

14. For the reasons discussed above, we grant the University of Utah's request for a waiver of section 96.39(g) and waive section 96.49 on our own motion to permit its POWDER platform to conduct operations in the 3.5 GHz band, subject to the following conditions:

(1) This waiver is granted for an initial term of one year, and may be renewed for four-year terms thereafter with the Bureau's approval.

(2) Service provided using the POWDER platform must be limited to users or researchers authorized by the University.

(3) The POWDER platform equipment installation and SDR modifications must be performed by platform operators or authorized researchers and technicians utilizing the platform.

(4) The Domain Proxy or POWDER Spectrum Control must interface with an appropriate SAS to maintain control over the POWDER network and must terminate transmissions in violation of SAS authorization within 50 seconds.

(5) The POWDER platform must be monitored at all times, and a stop buzzer procedure must be available as a safety backup for POWDER Spectrum Control.

(6) Operations conducted pursuant to this Order must comply with all applicable Part 96 rules except as specifically waived herein.

(7) POWDER platform equipment must remain under the control of the Domain Proxy or POWDER Spectrum Control at all times, and no commercial use, sale, or resale of POWDER platform equipment is permitted.

(8) POWDER platform operations must use inline RF monitoring to ensure that SDRs operate within SAS-authorized parameters while operating in the 3.5 GHz band, and that they maintain connectivity to the Domain Proxy.

(9) The University must report to the Commission within 14 days of any interference reported to the University regarding the POWDER platform's operations.

(10) Prior to initial operation, the University must consult with the Commission's Office of Engineering and Technology to ensure that the POWDER platform can successfully communicate with the SAS.

15. These conditions are similar to those that the University proposed after consultation with the Commission, NTIA, and commenting parties.[50] Based on the University's representations, these

[47] *See, e.g.*, 47 CFR § 96.35. The University does not hold any PALs and, as such, operation on a Priority Access basis is not currently possible.

[48] *See* Waiver Request at 3-6.

[49] 47 CFR § 96.35(e).

[50] *See* Waiver Request at 12; October 2022 *Ex Parte* at 1-2; March 2025 *Ex Parte* at 1.

conditions will enable operations using the POWDER platform without negative impacts on existing operations in the 3.5 GHz band.

IV. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED, pursuant to sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and section 1.925 of the Commission's rules, 47 CFR § 1.925, that the request filed by the University of Utah for waiver of section 96.39(g) of the Commission's rules is GRANTED with the conditions specified herein.

17. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and section 1.925 of the Commission's rules, 47 CFR § 1.925, that section 96.49 of the Commission's rules is WAIVED as to the University of Utah with the conditions specified herein.

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

FEDERAL COMMUNICATIONS COMMISSION

Joel Taubenblatt
Chief, Wireless Telecommunications Bureau

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L Street NE
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: http://www.fcc.gov

DA Number: 25-681
Report No. SAT-01939 **Friday August 1, 2025**

Satellite Licensing Division and Satellite Programs and Policy Division Information

RE: Actions Taken

The Commission, by its Space Bureau, took the following actions pursuant to delegated authority. The effective date of these actions is the release date of this Notice, except where an effective date is specified.

SAT-STA-20250128-00030 S00682 ICEYE US, Inc.
Date filed: 2025-01-28
Special Temporary Authority
Grant of Authority Date of Action: 2025-07-31

(Tranche 2) Granted

SAT-MOD-20240717-00154 S3165 ICEYE US, Inc.
Date filed: 2024-07-17
Modification
Grant of Authority Date of Action: 2025-07-25

Nature of Service: Earth Exploration-Satellite Service

(Tranche 2) Granted, With Conditions

SAT-MOD-20240830-00196 S2912 Planet Labs PBC
Date filed: 2024-08-30
Modification 2025-07-30 - 2029-02-28
Grant of Authority Date of Action: 2025-07-30

Nature of Service: Earth Exploration-Satellite Service

(Pelican) Granted, With Conditions

SAT-MOD-20250114-00009 S2789 Intelsat License LLC
Date filed: 2025-01-14
Modification
Grant of Authority Date of Action: 2025-07-24

Nature of Service: Fixed-Satellite Service

(Intelsat 15) Granted, With Conditions

SAT-MOD-20241220-00295 S2751 Intelsat License LLC
Date filed: 2024-12-20
Modification
Grant of Authority Date of Action: 2025-07-24

Nature of Service: Fixed-Satellite Service

(Intelsat 28) Granted, With Conditions

For more information concerning this Notice, contact the Satellite Licensing Division and Satellite Programs and Policy Division at (202) 418-0719.

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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	

ERRATUM

Released: August 1, 2025

By the Chief, Wireline Competition Bureau:

On March 31, 2023, the Wireline Competition Bureau released an *Order*, DA 23-274, in the above captioned proceeding. To correct the calculations and support recovery amount, this Erratum amends the released document as indicated below:

1. In paragraph 9, on page 3,replace "83.49%" with 83.84%", "93.94%" with "94.5%"; "98.9%" with "99.5%"; "1.1%" with "0.53%"; and on page 4, replace "$1.1 million" with "$1.0 million".

2. In footnote 30, replace "495,751" with "492,823"; "93.94%" with "94.5%"; and "98.9%" with "99.5%".

3. In paragraph 19, replace "$1,106,528.00" with "$1,005,034.00"

4. To amend the calculation based on the above changes, the **Appendix** of the *Order* is replaced in its entirety. See new **Appendix** attached.

FEDERAL COMMUNICATIONS COMMISSION

Joseph S. Calascione
Chief, Wireline Competition Bureau

APPENDIX

SUPPORT RECOVERY CALCULATIONS[1]

1. Where a recipient of high-cost support is unable to demonstrate compliance with a final performance testing milestone, section 54.320(d)(2) directs USAC to recover the percentage of 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, plus 10 percent of the eligible telecommunications carrier's total relevant high-cost support over the support term for that support area, the total of which will then be multiplied by the percentage of time since the carrier was last able to demonstrate compliance based on performance testing, on a quarterly basis.[2]

2. First, we calculate the total latency tests percentage for 2021. To do this, we take the total number of latency tests that met the performance measures criteria in 2021, which for Ziply was 465,716, and divide that by the total latency tests conducted by Ziply in 2021, which was 492,823.[3] That equals 94.50%. We then calculate the percentage of latency compliance using the 95-percent standard. To do this we divide the percentage of the carrier's testing hours' latency measurements at or below the required latency (i.e., 100 ms) by 95 percent.[4] Ziply had a total latency tests percentage of 94.50%, so this percentage is calculated by dividing 0.9450 by 0.95, which equals the 2021 annual latency compliance percentage of 99.47%, and therefore a non-compliance percentage of 0.53%.[5]

3. Ziply was required to deploy to 10,012 locations in Idaho and was authorized for $5,223,120.28 in support per year.[6] Ziply's average support per line in Idaho was $521.69, which we calculate by taking annual support of $5,223,120.28 and dividing it by 10,012 locations.

4. We then calculate support recovery by taking average amount of support per location received in the support area, $521.69, times the number of locations required, 10,012, times years of support, 7, times 1.89 times the performance measures non-compliance percentage, 0.53%, which equals $363,950.19. We then add 10% of total support received, which is annual support in the support area, $5,223,120.28, times years of support, 7, times 10%, which equals $3,656,184.20, for a total of $4,020,134.39 ($363,950.19 plus $3,656,184.20).

5. Next, we multiply the total support recovery calculation by the percentage of time since a carrier was last able to show full compliance with required performance testing requirements prior to the end of the support term on a quarterly basis.[7] Ziply's quarterly latency testing results for 2021 (the one year of testing) were as follows: 1Q: 97.48%, 2Q: 97.38%, 3Q: 97.51%, and 4Q: 83.84%. Accordingly, Ziply's performance testing in 2021 was not in compliance (below 95%) for the one preceding quarter of testing (4Q 2021) out of a total of four quarters in which it was in testing. We multiply the amount

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[1] For ease of presentation herein, all figures have been rounded. In the actual calculation of support recovery, no rounding was performed until the final dollar amount. *See* Appendix table.

[2] *See* 47 CFR § 54.320(d)(2); *and Performance Measures Reconsideration Order*, 34 FCC Rcd at 10136, para. 72, n.190.

[3] Annual Latency Tests met were 465,716. Annual Latency Tests not met were 23,357. Annual Latency Tests that were missing were 3,750. 465,716 plus 23,357 plus 3,750 equals 492,823.

[4] *See First Performance Measures Order*, 33 FCC Rcd at 6532, para. 61.

[5] *Id*.

[6] *Wireline Competition Bureau Authorizes Frontier Communications Corporation to Receive Over $283 Million in Connect America Phase II Support to Serve 1.3 Million Rural Americans in 28 States*, WC Docket No. 10-90, Public Notice, 30 FCC Rcd 6310 (WCB 2015).

[7] *See* 47 CFR § 54.320(d)(2); *Performance Measures Reconsideration Order*, 34 FCC Rcd at 10133, para. 73.

of support to be recovered, $4,020,134.39 by the percentage of time since the carrier was last able to demonstrate compliance based on performance testing, on a quarterly basis, here 1/4,[8] for a total support recovery of $1,005,033.60.

Description	Calculation	Result
Total Latency Test Percentage 2021	465,716 tests that met latency requirements divided by 492,823 total tests	94.4996479%
Annual Latency Compliance Percentage 2021	Annual compliance percentage 94.4996479% divided by 95%	99.4733136%
Annual Latency Non-Compliance Percentage 2021	100% minus 99.4733136% annual latency compliance percentage	0.5266864%
Required number of locations for Idaho deployment	*Wireline Competition Bureau Authorizes Frontier Communications Corporation to Receive Over $283 Million in Connect America Phase II Support to Serve 1.3 Million Rural Americans in 28 States*, WC Docket No. 10-90, Public Notice, 30 FCC Rcd 6310 (WCB 2015)	10,012
Annual support authorized in Idaho	*Wireline Competition Bureau Authorizes Frontier Communications Corporation to Receive Over $283 Million in Connect America Phase II Support to Serve 1.3 Million Rural Americans in 28 States*, WC Docket No. 10-90, Public Notice, 30 FCC Rcd 6310 (WCB 2015)	$5,223,120.28
Average annual support per line in Idaho	Annual support authorized in Idaho ($5,223,120.28) divided by required number of locations for deployment (10,012)	$521.686004794247

[8] *Id*.

Description	Calculation	Result
Total Support Recovery	Average amount of support per location received in the support area ($521.686004794247) times the number of locations required, (10,012) times years of support (7) times 1.89, times the performance measures non-compliance percentage (0.5266864%) = $363,950.2109744174 Plus: total support received, which is annual support, ($5,223,120.28), times years of support (7), times 10%, = $3,656,184.1960, Total= $4,020,134.406974417 ($363,950.2109744174 plus $3,656,184.1960) Amount of support to be recovered, ($4,020,134.40697443), times the percentage of time since the carrier was last in compliance based on performance testing on a quarterly basis, 1/4, = $1,005,033.6017436	$1,005,034.00[9]

[9] Total recovery is rounded to the nearest whole dollar amount.

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 25-683
Released: August 1, 2025

WIRELINE COMPETITION BUREAU ANNOUNCES UPDATED INTERIM ELIGIBLE LOCATIONS FILE FOR ENHANCED ALTERNATIVE CONNECT AMERICA MODEL MECHANISM

WC Docket No. 10-90

By this Public Notice, the Wireline Competition Bureau (Bureau) provides an updated interim list of locations that are eligible for Enhanced Alternative Connect America Cost Model (A-CAM) support. The updated file is available here: https://www.fcc.gov/wireline-competition/interim-eligible-locations-file-august-2025. This updated eligible location list incorporates all successful broadband availability challenges that were filed by August 1, 2024,[1] along with all adjudicated challenges to the broadband fabric, including challenges to unit count totals.[2] This list also reflects updated funding commitment data from the current version of the Broadband Funding Map. In all other respects, this file remains unchanged from the interim eligible location list that was released in June, 2025.[3]

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

[1] *See Wireline Competition Bureau Announces Guidance Regarding Locations and Broadband Coverage for Enhanced Alternative Connect America Model Mechanism*, WC Docket No. 10-90, Public Notice, 39 FCC Rcd 423, 425 (WCB 2024) (*Enhanced A-CAM Locations Public Notice*)

[2] *Wireline Competition Bureau Updated Guidance Regarding Locations and Broadband Coverage for Enhanced Alternative Connect America Model Mechanism*, WC Docket No. 10-90, Public Notice, 39 FCC Rcd 4206, 4207, n.8 (WCB 2024) (*Enhanced A-CAM Updated Locations Public Notice*).

[3] *Wireline Competition Bureau Announces Updated Interim Eligible Locations File for Enhanced Alternative Connect America Model Mechanism*, WC Docket No. 10-90, Public Notice, DA 25-561 (WCB rel. June 27, 2025).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 25-684
Released: August 1, 2025

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF BALTIMORE-WASHINGTON TELEPHONE COMPANY TO UPTOWN MOOSE, INC.

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 25-237

Comments Due: August 15, 2025
Reply Comments Due: August 22, 2025

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Voxology Group, Inc. (VGI) and Uptown Moose, Inc. (UM) (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 Baltimore-Washington Telephone Company (BWT) from VGI to UM.[2]

VGI, a Delaware corporation, wholly owns BWT, a Maryland corporation that provides competitive local and long distance telecommunications services in Maryland and New York.[3] BWT also holds authority to provide competitive telecommunications services in Nevada and Pennsylvania.[4] UM, an Illinois corporation, is wholly owned by Justin B. Newman, a U.S. citizen.[5] Justin Newman has been the chief executive of BWT since 2019, and involved in BWT's operations continuously since 2014.[6]

Pursuant to the terms of the proposed transaction, UM will acquire 100% of the shares of stock of BWT and, upon closing, BWT will become a wholly-owned subsidiary of UM. Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.[7] We accept the Application for streamlined processing under section 63.03(b)(2)(i) of the Commission's rules.[8]

> Domestic Section 214 Application Filed for the Transfer of Control of
> Baltimore-Washington Telephone Company to Uptown Moose, Inc.,
> WC Docket No. 25-237 (filed July 25, 2025).

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

[2] Domestic Section 214 Application for the Transfer of Control of Baltimore-Washington Telephone Company to Uptown Moose, Inc., WC Docket No. 25-237 (filed July 25, 2025) (Application). Any action on the Application is without prejudice to Commission action on other related, pending applications.

[3] Application at 5.

[4] *Id.*

[5] *Id.* at 5. Applicants state that Mr. Newman holds a 14% voting and equity interest in VGI. *Id.* at 4.

[6] *Id.* at 3.

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

[8] 47 CFR § 63.03(b)(2)(i).

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, interested parties must file comments using the Commission's Electronic Comment Filing System (ECFS): https://www.fcc.gov/ecfs.

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).

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.[9] 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, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1191.

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[9] *See* 47 CFR § 1.45(c).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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Internet: www.fcc.gov
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DA 25-686

Released: August 1, 2025

MEDIA BUREAU AND OFFICE OF ECONOMICS AND ANALYTICS ACTION

FIRST QUARTER 2025 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 26, 2025.[2]

Operators filing FCC Form 1240 may make an adjustment based on quarterly figures. The first quarter 2025 inflation factor for operators using FCC Form 1240 is 3.76%. The adjustment factor of 3.76% is a measure of the annualized change in prices occurring over the period from January 1, 2025 to March 31, 2025. The inflation adjustment factor is calculated by dividing the GNP-PI for the first quarter of 2025 (127.348) by the GNP-PI for the fourth quarter of 2024 (126.178). 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 2025 should enter the inflation factor on the appropriate lines of Worksheet 1 of FCC Form 1240 as "0.0376." 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 "1.0376".

Each quarter the Commission releases a quarterly inflation factor for use with FCC Form 1240. The following table lists these factors beginning in 2019.[3]

---

[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] All previously released inflation factors can be found at Federal Communications Commission, *Inflation Updates for Forms 1210 and 1240*, https://www.fcc.gov/general/inflation-updates-forms-1210-and-1240 (last visited July 21, 2025).

Year	Quarter	Dates Covered	Inflation Factor
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%
2024	Second	Apr. 1, 2024 – Jun. 30, 2024	2.52%
2024	Third	Jul. 1, 2024 – Sep. 30, 2024	1.94%
2024	Fourth	Oct. 1, 2024 – Dec. 31, 2024	2.34%
2025	First	Jan. 1, 2025 – Mar. 31, 2025	3.76%

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 Ty Bream, ty.bream@fcc.gov, (202) 418-0644 or Zaira Gonzalez, zaira.gonzalez@fcc.gov, (202) 418-2743.

TTY: (202) 418-0432 or 1 (888) 835-5322

–FCC–

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

In the Matter of	)	
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
	)	
Applications of T-Mobile US, Inc. and United States Cellular Corporation for Consent to Transfer Control of Licenses, Authorizations, and Leases	)	GN Docket No. 24-286
	)	
	)	

ORDER

Adopted: August 1, 2025 **Released: August 1, 2025**

By the Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this Order, the Telecommunications Access Policy Division, Wireline Competition Bureau approves a request filed by United States Cellular Corporation (UScellular) to relinquish its eligible telecommunications carrier (ETC) designations in New Hampshire, North Carolina, Tennessee, and Virginia that have been issued by the Federal Communications Commission (Commission).[1] UScellular submitted this request in connection with the approval of a transaction—consummated on August 1, 2025—whereby T-Mobile US, Inc. (T-Mobile) acquired UScellular's wireless business operations and select spectrum holdings (UScellular/T-Mobile Transaction).[2] T-Mobile's Assurance Wireless brand is currently designated an ETC in the states at issue—New Hampshire, North Carolina, Tennessee, and Virginia.[3] UScellular indicates that T-Mobile commits to providing continued service to UScellular's eligible Lifeline customers in those states.[4]

[1] United States Cellular Corporation Petition for Relinquishment of Eligible Telecommunications Carrier Designations, WC Docket No. 09-197, GN Docket No. 24-286 (filed Apr. 30, 2025) (UScellular Relinquishment Notice); *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834, 8886–87, Appx. B, para. 43 (2008) (granting UScellular's petition for designation as an eligible telecommunications carrier in certain states).

[2] *See* UScellular Relinquishment Notice at 1-2; *Applications of T-Mobile Inc. and United Cellular Corporation for Consent to Transfer Control of Licenses, Authorizations and Leases*, GN Docket No. 24-286, Memorandum Opinion and Order, DA 25-605 (WTB/OIA July 11, 2025) (*UScellular/T-Mobile Transfer Approval Order*); Press Release, UScellular, UScellular Completes Sale of Wireless Operations (Aug. 1, 2025), https://investors.uscellular.com/news/news-details/2025/UScellular-Completes-Sale-of-Wireless-Operations/default.aspx.

[3] *See* UScellular Relinquishment Notice at 2, 4; Letter from David A. LaFuria, Counsel for United States Cellular Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1–6 (July 12, 2025), https://www.fcc.gov/ecfs/document/10712629409248/1 (UScellular Letter). UScellular notes that Assurance Wireless does not have ETC designations in federally recognized Tribal areas in these states, but that UScellular also does not have any customers in the Tribal areas of these states. UScellular Letter at 3, 6.

[4] *See* UScellular Relinquishment Notice at 2; UScellular Letter at 1–2, 4.

2. Section 214(e)(6) of the Communications Act of 1934, as amended (the Act), authorizes the Commission to designate a carrier as an ETC when a state commission lacks jurisdiction.[5] Section 214(e)(4) of the Act provides that the Commission "shall permit" an ETC to relinquish its designation "in any area served by more than one" ETC so long as "the remaining [ETCs] ensure that all customers served by the relinquishing carrier will continue to be served."[6] Consistent with this statutory requirement, once the requesting ETC makes the requisite showing under section 214(e)(4), a state commission or this Commission grants the request for relinquishment.

3. Pursuant to section 214(e) of the Act, UScellular filed advance notice of its intent to relinquish its Commission-issued ETC designations.[7] UScellular states that various carriers, in addition to T-Mobile's Assurance Wireless brand, are designated as ETCs in the areas in which it seeks to relinquish its designations,[8] which includes areas formerly eligible to receive mobile legacy high-cost support.[9] UScellular also indicates that to the best of its knowledge, none of the other ETCs serving the relinquished areas need time to purchase or construct additional facilities to continue to serve consumers.[10] UScellular also indicates that after the transaction is consummated, its customers will continue to receive Lifeline service through Assurance Wireless, and T-Mobile will provide notice to each of its current Lifeline customers, advising the customer that although UScellular is discontinuing the provision of Lifeline service, customers may choose to continue with Assurance Wireless or switch to another provider.[11] Additionally, UScellular states that following the UScellular/T-Mobile Transaction, T-Mobile will not impose an early termination fee on any Lifeline customer who changes to another service provider.[12] Based on these circumstances, including our finding that UScellular has demonstrated that various carriers designated as ETCs in the areas in which it seeks to relinquish its designation will continue to serve UScellular's customers, we conclude that it is appropriate to grant UScellular's request to relinquish its ETC designations.[13]

4. Accordingly, IT IS ORDERED that, pursuant to the authority contained in section 214(e)(4) of the Communications Act of 1934, as amended, 47 U.S.C. 214(e)(4), and the authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, the ETC

[5] 47 U.S.C. § 214(e)(6).

[6] 47 U.S.C. § 214(e)(4).

[7] *See* UScellular Relinquishment Notice at 6.

[8] *See* UScellular Relinquishment Notice at 5–6; UScellular Letter at 1–2, 4.

[9] UScellular has stopped receiving mobile legacy high-cost support for periods occurring after the approval of the UScellular/T-Mobile Transaction, and T-Mobile does not receive mobile legacy high-cost support. *UScellular/T-Mobile Transfer Approval Order* at 69, para.131; *see also id*. at 68, para. 130 n.461 (explaining that T-Mobile is not a high-cost ETC in the areas where UScellular receives support and does not request transfer of UScellular's high-cost support to T-Mobile). The *UScellular/T-Mobile Transfer Approval Order* already addressed Rural Wireless Association comments on UScellular's petition for relinquishment and so we do not address those comments again here. *See id.* at 67–70, paras. 128–35

[10] UScellular Relinquishment Notice at 7.

[11] UScellular Letter at 1–2 (stating that Assurance Wireless will contact each customer regarding options going forward). At the time of filing its petition, UScellular indicated that advance notice to its customers was unnecessary because its customers would continue on their current plan with Assurance Wireless without needing to take any action and that such notice would confuse customers due to the lack of a definitive closing date for UScellular's acquisition by T-Mobile at that time. UScellular Relinquishment Notice at 6 n.15.

[12] UScellular Letter at 6.

[13] UScellular Relinquishment Notice at 1; 47 U.S.C. § 214(e)(4).

designations of UScellular in New Hampshire, North Carolina, Tennessee, and Virginia, as provided herein, ARE RELINQUISHED, effective upon release.[14]

5. IT IS FURTHER ORDERED that UScellular SHALL TRANSMIT a copy of this Order to the Universal Service Administrative Company and the relevant state commissions in New Hampshire, North Carolina, Tennessee, and Virginia.

6. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Nicholas E. Page
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

[14] USAC shall discontinue the eligibility of the study area codes assigned to UScellular in New Hampshire, North Carolina, Tennessee, and Virginia.

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

In the Matter of	)	
	)	
Reducing Barriers to Network Improvements and Service Changes	)	WC Docket No. 25-209
	)	
	)	
Accelerating Network Modernization	)	WC Docket No. 25-208
	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: July 24, 2025 **Released: July 25, 2025**

Comment Date: 30 days after Federal Register publication
Reply Comment Date: 60 days after Federal Register publication

By the Commission: Chairman Carr, Commissioner Gomez, and Commissioner Trusty issuing separate statements.

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APPENDIX A – PROPOSED RULES
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I. INTRODUCTION

1. When providers are able to invest in new, high-speed infrastructure builds, communities across the country benefit from greater access to modern broadband service. Broadband use permeates our daily lives, touching everything from banking to education to healthcare and beyond. But for broadband to be available for use, providers must first have the incentive to deploy the facilities over which broadband can be provisioned. And providers whose resources are tied up with maintaining outdated and deteriorating legacy networks and obsolete services will not be as focused on developing and deploying the next-generation networks and advanced communications services on which consumers and businesses rely.

2. This Notice of Proposed Rulemaking (Notice) seeks comment on deregulatory options to encourage providers to build, maintain, and upgrade their networks such that all consumers and businesses can benefit from technological strides in the communications marketplace, while safeguarding consumers' access to critical emergency services such as 911. Today's actions propose to reduce regulatory barriers that prevent much-needed investment in and deployment of broadband and thus hinder the transition to all-IP networks offering a plethora of advanced communications services, and seek comment on ways to further fast-track the delivery of services to consumers through modernized networks while protecting public safety.

3. Specifically, we propose to eliminate all filing requirements in the Commission's network change disclosure rules, thus codifying the recent temporary relief granted by the Wireline Competition Bureau (the Bureau).[1] We also seek comment on the alternative of forbearing from all of the Commission's network change disclosure requirements.

4. We next take a long overdue comprehensive look at our rules implementing section 214(a) of the Communications Act of 1934, as amended (the Act).[2] We propose simplifying the process for technology transitions discontinuance applications by replacing the existing rules applicable to such applications with one consolidated rule. We then seek comment on alternative actions we could take, including (1) granting forbearance relief from discontinuance obligations under section 214(a) of the Act and our implementing rules, or (2) revising the rules applicable to technology transitions discontinuance applications in a more targeted fashion, including by codifying the recent relief granted by the Bureau.[3]

5. We next lay out a number of ways in which we might further revise our rules implementing the discontinuance requirements imposed by section 214(a) of the Act. First, we propose to eliminate the requirement that a carrier seeking to grandfather a legacy service or interconnected VoIP service provisioned over copper lines file a section 214(a) discontinuance application with the Commission, thus codifying the recent relief granted by the Bureau;[4] in the alternative, we seek comment on extending that relief to all situations in which a carrier intends to grandfather any service. We next

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[1] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-252 (WCB Mar. 20, 2025) (*NCD Waiver Order*).

[2] 47 U.S.C. § 214(a). Section 214(a) of the Act provides that a carrier may not discontinue, reduce, or impair a telecommunications service without Commission authorization. Unless otherwise noted, this Notice uses the term "discontinue" or "discontinuance" as a shorthand for the statutory language "discontinue, reduce, or impair."

[3] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-248 (WCB Mar. 20, 2025) (*Stand-Alone and Single-Service Waiver Order*); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-250 (WCB Mar. 20, 2025) (*Testing Clarification Order*).

[4] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-251 (WCB Mar. 20, 2025) (*March 2025 Grandfathering Order*); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-459 (WCB May 29, 2025) (*May 2025 Grandfathering and Technical Appendix Order*).

seek comment on forbearing from all discontinuance requirements for all lower-speed data telecommunications services .[5] We also propose to expand the 31-day automatic grant period applicable to applications to discontinue a service for which the discontinuing carrier is non-dominant to apply to all discontinuance applications eligible for streamlined processing regardless of the carrier's classification as dominant or non-dominant in the provision of that service. We next propose to forbear from the requirement that domestic carriers notify the relevant state Governor and the U.S. Secretary of Defense when seeking to discontinue a service. And we seek comment on revising section 63.63 of our rules[6] to explicitly permit carriers that previously filed for emergency discontinuance authority under that rule to permanently discontinue service where the carrier has had no customers for the relevant service or requests for that service during the preceding 60 days. Finally, we take the opportunity to look more broadly at our discontinuance rules to see whether there are any rules that are obsolete, irrelevant, or redundant and that we should thus eliminate.

II. BACKGROUND

6. Telephone networks have been a part of Americans' lives for over a century, but those early networks operated independently of and did not interconnect with one another.[7] The government allowed, and even encouraged, monopoly operation of those networks for many years, believing that "service could be provided at the lowest cost to the maximum number of consumers through a regulated monopoly network."[8] Indeed, section 214(a) of the Act[9] was intended "to prevent useless duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers,"[10] and the discontinuance requirements of section 214(a) were aimed at "preventing a loss or impairment of a service offering to a community or part of a community without adequate public interest safeguards," particularly during times of war.[11] The Act paved the way for telephone ownership and use to become nearly ubiquitous.[12]

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[5] As the Commission noted in the *Second Wireline Infrastructure Order*, "section 214(a)'s discontinuance obligations apply to interstate voice and data telecommunications services, and to interconnected VoIP service to which the Commission has extended section 214(a)'s discontinuance requirements. They do not apply to any carrier's provision of information services, to data or other services offered on a private carriage basis, or to any other communications or non-communications lines of business in which a carrier is engaged that do not come within the purview of Title II of the . . . Act . . . ." *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Report and Order, 33 FCC Rcd 5660, 5662, para. 6 (2018) (*Second Wireline Infrastructure Order*).

[6] 47 CFR § 63.63.

[7] *See Technology Transitions et al.*, GN Docket Nos. 13-5 et al., Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, 29 FCC Rcd 1433, 1438, para. 12 (2014) (noting that "[b]y the early 1900s, Bell System local exchanges competed briskly for customers with rival, non-interconnecting local exchanges") (*2014 Technology Transitions Order*).

[8] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 et al.*, First Report and Order, 11 FCC Rcd 15499, 15505, para. 1 (1996) (*First Local Competition Order*) (subsequent history omitted).

[9] 47 U.S.C. § 214(a).

[10] *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996*; *Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, CC Docket No. 97-11, AAD File No. 98-43, Report and Order in CC Docket No. 97-11, Second Memorandum Opinion and Order in AAD File No. 98-43, 14 FCC Rcd 11364, 11366, para. 3 (1999) (*Blanket Entry Authority Order*).

[11] *Western Union Tel. Co. Petition for Order to Require the Bell System to Continue to Provide Group/Supergroup Facilities*, Memorandum Opinion and Order, 74 F.C.C.2d 293, 296, para. 6 and n.4 (1979) (discussing legislative history surrounding 1943 amendment to section 214(a) adding discontinuance requirements); *see also Blanket Entry Authority Order*, 14 FCC Rcd at 11368, para. 5.

7. Because of changes in the communications marketplace in the intervening decades, in which beneficial competition in the telephone service marketplace began to emerge but was hindered by the monopoly-era regulatory scheme, Congress sought to reduce regulatory burdens and barriers to competition.[13] Through the Telecommunications Act of 1996,[14] Congress took steps to "affirmatively promote efficient competition" by requiring incumbent local exchange carriers (LECs) "to open their networks to competition."[15] As the Commission noted in its first order implementing the 1996 Act: "The opening of all telecommunications markets to all providers will blur traditional industry distinctions and bring new packages of services, lower prices and increased innovation to American consumers. The world envisioned by the 1996 Act is one in which all providers will have new competitive opportunities as well as new competitive challenges."[16]

8. The years since Congress adopted the 1996 Act have seen the "new packages of services, lower prices and increased innovation" the Commission foretold.[17] Incumbent LECs once "controlled more than 99% of the local voice marketplace because of their 'virtually ubiquitous' networks and subsequently low relative incremental costs."[18] But they have seen their share of the fixed voice marketplace drop to 25% as of June 2024, with the balance largely represented by non-incumbent LEC interconnected VoIP subscriptions.[19] And by the end of 2023, there were more mobile subscriptions in the United States than people, and more than 75 percent of adults in this country lived in wireless-only households.[20] Recognizing these significant trends, the Commission took several actions in 2017 and

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[12] *See* United States Census Bureau, *Historical Census of Housing Tables: Telephones* (2000), https://www.census.gov/data/tables/time-series/dec/coh-phone.html; Michael DeGusta, *Are Smart Phones Spreading Faster than Any Technology in Human History?*, MIT Technology Review (May 9, 2012), https://www.technologyreview.com/2012/05/09/186160/are-smart-phones-spreading-faster-than-any-technology-in-human-history; *2014 Technology Transitions Order*, 29 FCC Rcd at 1438, para. 12 (noting that "by 1983, more than 90 percent of America's 85.8 million households had a telephone").

[13] S. Rep. 104-23, at 9-10 (1995).

[14] The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. § 151 *et seq.*) (the 1996 Act).

[15] *First Local Competition Order*, 11 FCC Rcd at 15505, para. 1.

[16] *Id.* at 15506, para. 4.

[17] *See, e.g.*, Petition of USTelecom—The Broadband Association for Limited Waiver, WC Docket No. 17-84 (filed Feb. 27, 2025) (USTelecom Petition); Jim Gustke, *Why Your Landline Home Phone Is Getting More Expensive and Less Reliable*, OOMA Home Phone Blog (Feb. 6, 2024), https://www.ooma.com/blog/home-phone/landline-home-phone-is-getting-more-expensive.

[18] *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, WC Docket No. 19-308, Report and Order, 35 FCC Rcd 12425, 12427, para. 5 (2020); *see also id*. at 12434, para. 22.

[19] FCC, Industry Analysis Division, Office of Economics and Analytics, Voice Telephone Services: Status as of June 30, 2024 at 3 fig.2 (May 2025) (May 2025 Voice Telephone Services Report) (reporting that, across both residential and business markets, incumbent LECs hold 25% of the market share of total wireline retail voice telephone service connections including interconnected VoIP service connections, while non-incumbent LECs hold the remaining 75% of the market share, and also reporting that only 29% of incumbent LECs' total wireline retail voice telephone service connections are interconnected VoIP while 95% of non-incumbent LECs total wireline retail voice telephone service connections are interconnected VoIP). The Commission's rules define "interconnected VoIP service" as a service that (i) enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires Internet protocol-compatible customer premises equipment (CPE); and (iv) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. 47 CFR § 9.3.

[20] *Communications Marketplace Report*, GN Docket No. 24-119, 2024 Communications Marketplace Report, FCC 24-136, at 119, para. 158 (Dec. 30, 2024) (*2024 Communications Marketplace Report*) (reporting approximately 386.1 million mobile subscriptions in the U.S. based on December 2023 FCC Form 477 data); U.S. Census Bureau, Quick

(continued….)

2018 to streamline and expedite approval processes for section 214 discontinuance applications and other requirements in order to begin a process to bring new services to consumers quickly while avoiding unnecessary costs and delay in carriers' transitions from legacy to next-generation, IP-based infrastructure and services.[21]

III. DISCUSSION

A. Copper Retirement (and Other Network Change Disclosures)

9. Section 251(c)(5) of the Act, which establishes incumbent LECs' obligations when making changes that could affect the interoperability of their facilities or networks, is a notice-only provision.[22] An incumbent LEC may thus make changes to its network, including switching from copper facilities to fiber or other next-generation facilities, without the need to receive prior Commission authorization so long as it provides "reasonable public notice"—a requirement the Commission historically has reflected in its implementing rules.[23] Section 251(c)(5) reflects the decision by Congress that a notice-based network change process best serves the public by striking a balance between allowing incumbent LECs to make changes to their networks without undue regulatory burdens and giving competitive LECs time to account for those changes.[24] Accordingly, the Commission has periodically reviewed its rules to determine whether they appropriately reflect this balance.[25]

10. Earlier this year, the Bureau issued the *NCD Waiver Order*, which waives, for a period of two years, the filing requirements in the Commission's network change disclosure rules adopted pursuant to section 251(c)(5) of the Act.[26] The Bureau also waived its process of issuing public notices for short-term network changes and copper retirements, as well as the associated objection process for interconnected service providers.[27] Pursuant to the waiver, incumbent LECs are only required to post public notice of planned network changes through industry fora, industry publications, or on the carrier's

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Facts, https://www.census.gov/quickfacts/fact/table/US/PST045223 (showing estimate of over 334 million people in the U.S. as of July 2023) (last viewed Apr. 17, 2025).

[21] *See Second Wireline Infrastructure Order*, 33 FCC Rcd at 5660, para. 1; *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 32 FCC Rcd 11128, 11129, para. 2 (2017) (*First Wireline Infrastructure Order*) (stating that "[t]o close th[e] digital divide, we seek to use every tool available to us to accelerate the deployment of advanced communications networks").

[22] 47 U.S.C. § 251(c)(5); *First Wireline Infrastructure Order*, 32 FCC Rcd at 11138, para. 23.

[23] *See* 47 CFR § 51.325 *et seq.* Consistent with section 251(c)(5), the Commission's implementing rules require that an incumbent LEC provide public notice regarding any network change that (1) will affect a competing service provider's performance or ability to provide service; (2) will affect the incumbent LEC's interoperability with other service providers; or (3) will result in a copper retirement. *Id.* § 51.325(a). The rules define copper retirement as "[t]he removal or disabling of copper loops, subloops, or the feeder portion of such loops or subloops; or [t]he replacement of such loops with fiber-to-the-home loops or fiber-to-the-curb loops." *Id.* § 51.325(a)(3).

[24] *First Wireline Infrastructure Order*, 32 FCC Rcd at 11138, para. 24.

[25] *See, e.g.*, *id.* at 11137-60, paras. 22-79; *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers et al.*, CC Docket No. 01-338 et al., Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, 17146-47, paras. 281-83 (2003) (*Triennial Review Order*).

[26] *NCD Waiver Order* at 3, 6, paras. 6, 14 (waiving portions of 47 CFR §§ 51.329, 51.333); 47 U.S.C. § 251(c)(5). On April 21, 2025, the Irregulators filed an application for a review of action taken pursuant to delegated authority under 47 CFR § 1.115. *See* Application of Irregulators for a Full Review by the Full Commission; & Other Actions Requested, WC Docket No. 17-84 (filed Apr. 21, 2025). This application remains under review.

[27] *NCD Waiver Order* at 3, para. 6; *see* 47 CFR § 51.333(a).

publicly accessible Internet site.[28] Incumbent LECs are still required to provide direct notice of copper retirements and short-term network changes to interconnected telephone exchange service providers.[29] Additionally, incumbent LECs must continue to provide public notice and communicate directly with interconnected telephone exchange service providers about network changes resulting from *force majeure* events and other events outside of the carrier's control.[30]

11. The Bureau found that this waiver would result in "more effective implementation of overall policy" of the transition from legacy networks to next-generation networks.[31] It also concluded that by reducing unnecessary regulatory burdens, as contemplated by the *First Wireline Infrastructure Order*, the waiver would serve the public interest by freeing up incumbent LEC resources to devote to the development and deployment of networks capable of supporting more advanced communications services.[32] The Bureau noted that over the past two years, the Commission has processed more than 400 network change disclosure filings and did not receive a single comment in opposition despite the public notices released by the Bureau.[33] The Bureau thus concluded that the requirement of filing with the Commission "serve[s] no purpose but to unnecessarily duplicate the information that incumbent LECs are already required to publicly post on their websites or in other public places."[34]

1. Codify Waiver of Network Change Disclosure Filing Requirements

12. We propose to eliminate all filing requirements with the Commission currently set forth in our network change disclosure rules.[35] We seek comment on this proposal.

13. What benefit, if any, does the public gain from requiring incumbent LECs to file their network change disclosures with the Commission? What benefit, if any, does the public gain from public notices released by the Commission notifying the public of incumbent LEC network change disclosures? Conversely, what costs do incumbent LECs incur in connection with these requirements? What would be the likely cost savings to carriers from eliminating all of these filing requirements? Does eliminating all filing requirements, while maintaining public notice requirements consistent with section 251(c)(5), meaningfully reduce the regulatory burdens on carriers? Does publishing public network change disclosures through carriers' own channels, and not with the Commission, provide reasonable public notice, as required by section 251(c)(5) of the Act?

2. Forbearance from All Section 251(c)(5) Requirements

14. As an alternative to our proposal to eliminate all network change disclosure filing and associated requirements, we seek comment on whether we should instead forbear from all public notice requirements imposed by section 251(c)(5) and our implementing rules.

15. Section 251(c)(5)'s "reasonable public notice" requirement ensures that all providers are aware of changes that may affect a carrier's ability to provide service.[36] Congress enacted section 251(c)(5) as one of a number of market-opening provisions at a time when incumbent LECs held a virtual monopoly in the communications marketplace.[37] The Commission based its rules implementing section

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[28] *NCD Waiver Order* at 3, para. 6.

[29] *Id.* at 3, para. 7.

[30] *Id.*; *see* 47 CFR § 51.333(g)(1)(ii).

[31] *NCD Waiver Order* at 4, para. 8 (*quoting WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

[32] *Id.* (*citing First Wireline Infrastructure Order*, 32 FCC Rcd at 11138, 11142, paras. 24, 33).

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

[34] *Id.*

[35] *See* 47 CFR §§ 51.325 *et seq*.

[36] 47 U.S.C. § 251(c)(5).

251(c)(5)'s public notice requirements on the then-existing industry practice of notifying carriers of network changes via industry fora, industry publications, and the Internet.[38] The filing requirements served as an additional measure to ensure "wide availability of pertinent network change information," particularly for small entities with limited resources.[39] In the *NCD Waiver Order,* the Bureau concluded that the need for incumbent LECs to also file notice with the Commission in addition to providing public notice imposes "redundant regulatory filing requirements that serve no practical purpose."[40]

16. Section 10 of the Act requires the Commission to forbear from applying any requirement of the Act or of our regulations to a telecommunications carrier or telecommunications service if the Commission determines that (1) enforcement of the requirement "is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory," (2) enforcement of that requirement "is not necessary for the protection of consumers," and (3) "forbearance from applying such provision or regulation is consistent with the public interest."[41] When determining whether forbearance is consistent with the public interest, the Commission must consider "whether forbearance from enforcing the provision or regulation will promote competitive market conditions."[42] Forbearance is warranted only if all three criteria are satisfied.[43] Section 10 of the Act also requires the Commission to determine whether the requirements in section 251(c) of the Act "have been fully implemented" before forbearing from them.[44] The Commission has previously concluded that the requirements in section 251(c) have been fully implemented because the Commission issued rules implementing that section that went into effect.[45] The D.C. Circuit upheld this conclusion using a *Chevron* analysis in *Qwest Corp. v. FCC*.[46] We seek comment on any current and relevant aspects of the fully implemented requirement and on whether the Commission's determination in the *Qwest Forbearance Order* that section 251(c) has been fully implemented constitutes the best reading of the statute.[47]

17. *Ensuring practices are just and reasonable (section 10(a)(1))*. Should the Commission forbear from section 251(c)(5)'s requirements, incumbent LECs would be allowed to make any network change or copper retirement without providing public notice of any type or filing with the Commission.[48] Is section 251(c)(5)'s requirement that incumbent LECs provide "reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks" still necessary to ensure that incumbent LECs' practices are just and reasonable and not unjustly or unreasonably discriminatory? If the requirement continues to be necessary, why and

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[37] *See generally* 1996 Act; *Second Local Competition Order*, 11 FCC Rcd 19392.

[38] *Second Local Competition Order*, 11 FCC Rcd at 19483, para. 198.

[39] *Id.* at 19483, para. 199.

[40] *NCD Waiver Order* at 5, para. 10.

[41] 47 U.S.C. § 160(a).

[42] *Id.* § 160(b).

[43] *Id.* § 160(a).

[44] *Id.* § 160(d).

[45] Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area, WC Docket No. 04-223, 20 FCC Rcd 19415, 19440-42, para. 53-56 (2005) (*Qwest Forbearance Order*).

[46] *Qwest Corp. v. FCC*, 482 F.3d 471, 477-78 (D.C. Cir. 2007).

[47] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 395, 400 (2024).

[48] 47 U.S.C. § 251(c)(5).

to what extent? Do incumbent LECs still exert sufficient control over the marketplace such that an incumbent LEC providing no notice of changes to its network would unreasonably inhibit competing service providers? Would interconnected telephone exchange service providers be adversely affected by receiving no notice of short-term network changes or copper retirements? Do interconnection agreements between incumbent LECs and competitive providers contain notice requirements that make section 251(c)(5)'s requirements redundant?

18. *Ensuring protection of consumers (section 10(a)(2))*. We seek comment on whether enforcement of the public notice requirements in section 251(c)(5) and our implementing rules is necessary to protect consumers, understanding that the notice is directed to interconnecting carriers that are in a business relationship with the incumbent LEC. Would consumers be harmed were we to forbear from section 251(c)(5)'s public notice requirement and the Commission's rules implementing that requirement? Have incumbent LEC network changes affected other carriers' ability to provide services to their customers and, if so, how often and in what ways? In instances where carriers' ability to provide services has been affected, how long have such disruptions lasted? Were consumers harmed as a result of such disruptions and, if so, what was the extent of those harms? Do interconnection agreements between incumbent LECs and competitive LECs provide sufficient protection for consumers?

19. *Consistent with the public interest (section 10(a)(3))*. We seek comment on whether forbearance from section 251(c)(5)'s requirements would be consistent with the public interest. In the *Second Local Competition Order*, the Commission noted that notice of network changes was necessary to "reduce[] the possibility that incumbent LECs could make network changes in a manner that inhibits competition."[49] At the time, competing providers relied on their connection to incumbent LECs' networks to provide service to customers.[50] The marketplace has since gone through significant developments and become much more competitive. At the end of 2003, the year in which the Commission extended its network change disclosure rules to copper retirements,[51] incumbent LECs provisioned more than 80% of the roughly 181 million reported end-user switched access lines.[52] Since then, reliance on legacy networks in the communications marketplace has drastically decreased, with only 18 million switched access lines by mid-2024 compared to 64.5 million interconnected VoIP subscriptions.[53] And when accounting for all retail voice telephone service connections across both technologies, incumbent LECs have steadily lost market share to non-incumbents, dropping to just 25% of all wireline retail voice telephone service connections as of June 2024.[54] Does this correlate to incumbent LECs having a smaller share of the market? Does this change in the marketplace support elimination of all notice requirements? Should incumbent LECs alone bear the burden of mandated notice requirements when other carriers have no equivalent regulatory burden? Were we to forbear from section 251(c)(5)'s requirements, incumbent LECs would be freed from regulatory burdens that might divert their focus from the development and deployment of next-generation networks that give consumers access to more advanced communication services. Does this mean forbearance would be in the public

[49] *Second Local Competition Order*, 11 FCC Rcd at 19471, para. 171.

[50] *Id.* at 19471, paras. 171-72.

[51] *Triennial Review Order*, 18 FCC Rcd at 17146-47, paras. 281-83.

[52] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, Local Telephone Competition: Status as of December 31, 2004, at 1 & tbl. 1 (July 8, 2005), https://transition.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0604.pdf; *see also NCD Waiver Order* at 4-5, para. 10.

[53] May 2025 Voice Telephone Services Report at 3 fig. 2; *see also Parties Asked to Refresh the Record on Telephone Access Charges Notice of Proposed Rulemaking*, WC Docket No. 20-71, DA 25-508 (WCB June 11, 2025) (noting that "[o]ver the past five years, local exchange carriers' market share has declined while mobile and interconnected VoIP providers' market share has increased").

[54] May 2025 Voice Telephone Services Report at 3 fig.2.

interest? Does this benefit outweigh any harm that could result from forbearance from section 251(c)(5)? Would forbearance, and the potential loss of a significant number of switched access lines, have any impact on the ability of critical infrastructure industries or government agencies to maintain critical operations and services? If we were to forbear from section 215(c)(5)'s public notice requirement, could the Commission, through its own outreach, mitigate any potential harm to consumers? If so, how best could the Commission utilize such outreach?

20. We also seek comment on how to ensure that 911 service remains available and fully functional for consumers if we were to forbear from section 251(c)(5)'s requirements. The Commission has consistently emphasized that a key element of "promoting safety of life and property through the use of wire and radio communications" is to ensure that the American people have access to reliable and resilient 911 communications service.[55] We therefore seek comment on how to ensure that granting forbearance would not lead to interruptions in 911 service. In particular, we note that network transitions subject to section 251(c)(5) may occur in areas where 911 authorities and originating service providers (OSPs) have not yet transitioned to Next Generation 911 (NG911) and will therefore continue for some time to rely on legacy selective routers and other TDM-based infrastructure for delivery of 911 calls to public safety answering points (PSAPs).[56] Some commenters have expressed concern that in such circumstances, discontinuing operation of critical TDM circuits in the 911 call path without prior notice could lead to disruption or interruption of 911 calls.[57] We seek comment on this concern and whether safeguards are needed to ensure the continuity of 911 service. For example, should we require advance notice for network changes that could disrupt traffic to 911 networks to allow time for substitute services to be arranged? Should the Commission reserve the right to direct a carrier to temporarily delay a section 251(c)(5) network change if it would imminently disrupt 911 service? On what basis would the Commission have the authority to do so? Alternatively, could forbearance from section 251(c)(5)'s requirements help accelerate the deployment of the next-generation networks necessary for NG911?

B. Section 214 Discontinuance

21. We next examine our rules governing the section 214(a) discontinuance process. We first take a close look at our rules governing technology transitions discontinuances and seek comment on various ways to replace, forbear from, simplify, or otherwise revise our section 214(a) discontinuance rules to expedite the transition from legacy services to next-generation services. We seek comment on the possible regulatory costs and delays for carriers seeking to discontinue services, and ultimately for consumers who must wait longer for advanced services or may experience a gap in service. We also seek comment on other targeted actions, such as whether to extend application of the no-customer rule[58] to the emergency discontinuance context in cases in which customers migrate to other services while their provider attempts to restore their existing service. Finally, we undertake a long-overdue broad review of

[55] 47 U.S.C. § 151.

[56] Unlike legacy 911 systems that rely on Time Division Multiplexing (TDM) infrastructure, NG911 uses Internet Protocol (IP)-based formats and routing and supports the transmission of text, photos, videos, and data. The Commission recently adopted nationwide NG911 transition rules that define responsibilities and deadlines for originating service providers (OSPs), such as wireless carriers, to deliver 911 calls to NG911 systems, among other requirements. *See Facilitating Implementation of Next Generation 911 Services (NG911) et al.*, PS Docket Nos. 21-479 et al., Report and Order, 39 FCC Rcd 8137 (2024) (*NG911 Order*). The *NG911 Order* also establishes the demarcation point for assigning cost responsibilities for OSPs to deliver 911 traffic to NG911 systems and for 911 authorities to route 911 traffic to PSAPs. *Id.* at 8203-07, paras. 145-53.

[57] *See, e.g.*, Letter from Tamar E. Finn and J.G. Harrington, Counsel to Bandwidth Inc. and Bandwidth.com, to Marlene Dortch, Secretary, FCC, WC Docket No. 25-158, at 1-2 (rec. May 5, 2025) (requesting that, before carriers are allowed to discontinue interconnecting facilities, "[a]t a minimum, the Commission should afford affected companies [needing to route 911 calls] sufficient time to seek out and obtain substitute facilities or to transition to IP-based interconnection"); Intrado Life & Safety, Inc. Comments, WC Docket No. 25-158 (rec. Apr. 24, 2025).

[58] 47 CFR § 63.71(g).

specific outdated discontinuance regulations to determine whether any existing rules have become fully obsolete in this modern communications era.

22. Section 214(a) of the Act provides that a carrier may not discontinue, reduce, or impair a telecommunications service without Commission authorization.[59] In evaluating whether to grant such authorization, the Commission must determine whether the discontinuance would adversely impact the public interest.[60] All applicants seeking to discontinue a service on a streamlined basis are required to file a section 214 application in accordance with the Commission's rules governing notice, opportunity for comment, review, and processing requirements.[61] Such applications are automatically granted on a specified date unless the Bureau has notified the applicant that the grant will not be automatically effective.[62] The Bureau will generally authorize the discontinuance "unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience is otherwise adversely affected."[63]

23. *Technology Transitions Discontinuances*. In the *2016 Technology Transitions Order*, the Commission adopted an updated approach for section 214 applications involving technology transitions,[64] having determined that the adequacy of the replacement service has "heightened importance" in the context of technology transitions.[65] It thus established the three-prong Adequate Replacement Test, which a carrier must meet to be eligible for streamlined treatment and automatic grant for their own replacement service.[66] With this test, the Commission sought "to minimize uncertainty or confusion that could slow or even discourage technology transitions."[67]

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[59] 47 U.S.C. § 214(a). Section 214(a)'s discontinuance obligations apply to interstate voice and data telecommunications services, but not to services provisioned by a carrier that fall outside of the purview of Title II of the Act, such as information services or data or other services offered on a private carriage basis. *See Second Wireline Infrastructure Order*, 33 FCC Rcd at 5662, para. 6. While the Commission has not categorized interconnected VoIP as either a telecommunications service or an information service, it extended the section 214(a) discontinuance obligations to include that service. *See IP-Enabled Services*, WC Docket No. 04-35, Report and Order, 24 FCC Rcd 6039 (2009).

[60] 47 U.S.C. § 214(a) (providing that "[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby").

[61] 47 CFR § 63.71(a)-(b).

[62] *Id.* § 63.71(f)(1). Under such streamlined processing, a discontinuance application is automatically granted on the 31st day (for non-dominant carriers) or the 60th day (for dominant carriers) after the Bureau accepts the application for filing. *Id.* The Bureau has the discretion to remove an application from streamlined processing "when the public interest demands a more searching review." *2016 Technology Transitions Order*, 31 FCC Rcd at 8300, para. 51, 8303, para. 61.

[63] *See* 47 CFR § 63.71(a)(5)(i)-(ii). In evaluating whether "the public convenience and necessity is otherwise adversely affected" by the discontinuance, the Commission has long applied a five-factor balancing test. This test analyzes: (1) the financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) increased charges for alternative services; and (5) the existence, availability, and adequacy of alternatives. *2016 Technology Transitions Order*, 31 FCC Rcd at 8304, para. 62; *Applications for Authority Pursuant to Section 214 of the Communications Act of 1934 to Cease Providing Dark Fiber Service*, Memorandum Opinion and Order, 8 FCC Rcd 2589, 2600, para. 54 (1993), *remanded on other grounds*, *Southwestern Bell v. FCC*, 19 F.3d 1475 (D.C. Cir. 1994).

[64] The Commission defines a "technology transition" as "any change in service that would result in the replacement of a wireline TDM-based voice service with a service using a different technology or medium for transmission to the end user, whether internet Protocol (IP), wireless, or another type." 47 CFR § 63.60(i).

[65] *2016 Technology Transitions Order*, 31 FCC Rcd at 8304, para. 62.

[66] Under the Adequate Replacement Test, technology transitions discontinuance applications must: (1) demonstrate that an adequate replacement for their voice service exists "by either certifying or showing, based on the totality of

(continued….)

24. In the June 2018 *Second Wireline Infrastructure Order*, in furtherance of its commitment to accelerate the transition to next-generation networks and advanced communications services, the Commission amended its technology transitions discontinuance rules to provide an additional, more streamlined option, the Alternative Options Test, for carriers seeking to discontinue legacy voice services.[68] An application filed by a carrier meeting these requirements shall be automatically granted on the 31st day after filing unless the Commission has notified the applicant otherwise.[69]

1. Reexamining the Technology Transitions Discontinuance Process

25. We first propose replacing the Adequate Replacement Test and the Alternative Options Test with one rule that would apply to all technology transition discontinuance applications. We next seek comment on two alternatives to this approach, namely: (1) eliminating the tests and the technology transition discontinuance distinction altogether; or (2) granting forbearance relief in certain contexts. We also seek comment more generally on whether there are additional ways in which we might further streamline the discontinuance process for carriers choosing to discontinue legacy voice services beyond those we describe below. We encourage commenters to be as specific as possible and to support any proposals with as much evidence as is available.

a. Replacing the Adequate Replacement Test and the Alternative Options Test with One Simplified Rule

26. We propose to replace both the Adequate Replacement Test and the Alternative Options Test with one consolidated rule applicable to all technology transitions discontinuance applications. Specifically, we propose that an application to discontinue an existing retail service as part of a technology transition be eligible for streamlined processing if the applicant certifies that one or more of the following replacement services exists throughout the affected service area: (1) a facilities-based interconnected VoIP service; (2) a facilities-based mobile wireless service; (3) a voice service offered pursuant to an obligation from one of the Commission's modernized high-cost support programs; (4) a voice service that has been available from the applicant throughout the affected service area for the

(Continued from previous page)
the circumstances, that one or more replacement service(s) . . . offers substantially similar levels of network infrastructure and service quality"; (2) "show the replacement service complies with regulations regarding the availability and functionality of 911 service for consumers and public safety answering points"; and (3) show that the replacement service "offers interoperability with key applications and functionalities." 47 CFR § 63.602(b). Applicants relying on a third-party replacement service rather than their own replacement service are allowed to make a *prima facie* showing based on publicly available information that the third-party service is an adequate replacement. *2016 Technology Transitions Order*, 31 FCC Rcd at 8312, para. 86.

[67] *Id.* at 8307, para. 70.

[68] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5673, para. 30; *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Declaratory Ruling, Order on Reconsideration, and Order, 35 FCC Rcd 11750, 11752, para. 7 (WCB 2020) (*Third Wireline Infrastructure Order*). Under the Alternative Options Test, an application seeking to discontinue a legacy retail voice service as part of a technology transition is eligible for streamlined treatment if (1) the applicant offers a stand-alone interconnected VoIP service throughout the affected service area, and (2) at least one other alternative stand-alone facilities-based wireline or wireless voice service is available from another unaffiliated provider throughout the affected service area, unless the Commission notifies the applicant otherwise. 47 CFR § 63.71(f)(2)(ii). A service is "stand-alone" if a customer is "not required to purchase a separate broadband service to access the voice service." The Commission's rules exempt a carrier from the requirement to include in its application a certification or showing that it satisfies the adequate replacement test for streamlined processing if the carrier satisfies both prongs of the Alternative Options Test. *See id.* § 63.71(h). Where only one potential replacement service exists, a carrier must meet the more rigorous demands of the Adequate Replacement Test in order to receive streamlined treatment of its discontinuance application. *See supra* note 66; *see also Second Wireline Infrastructure Order*, 33 FCC Rcd at 5675, para. 34.

[69] 47 CFR § 63.71(f)(1).

previous six months and for which the carrier has at least a certain number of existing subscribers; or (5) a widely adopted alternative voice service. We seek comment on this proposal, and on whether we should consider streamlined processing in any other instances, including those listed in the forbearance section below.[70]

27. *Proposal generally.* We first seek comment on our proposal generally. Do commenters agree that we should replace both the Adequate Replacement Test and the Alternative Options Test with a single, consolidated rule applicable to all technology transition discontinuance applications? Should we retain the definition of "technology transition" in section 63.60(i) of our rules,[71] or should we adopt a different definition? If commenters believe we should adopt a different definition, what should that definition be? Do commenters believe either the Adequate Replacement Test or the Alternative Options Test—whether with possible targeted revisions as contemplated below, or as they stand today—provides any benefit to carriers seeking to discontinue legacy voice services as part of a technology transition, or to consumers? We note that in spite of the Commission's goal that consumers receive the benefits of technology transitions with "all reasonable efficiency,"[72] the first discontinuance application seeking streamlined processing under the Adequate Replacement Test without relying on the existence of a third-party cable VoIP service was filed in July 2024, almost eight years after the Commission adopted the test, and six years after its effective date.[73] Is this evidence that the Adequate Replacement Test, rather than supporting the Commission's goal of accelerating the transition to IP-based voice services, actually "impede[s] the industry from a prompt transition to newer technologies"?[74]

28. We seek comment on whether the Alternative Options Test has had the intended effect of "[r]emoving regulatory barriers causing unnecessary costs or delay when carriers seek to transition from legacy networks and services to broadband networks and services,"[75] or whether, as USTelecom argues, it has "fallen short of the Commission's intent"?[76] As discussed further below, the Bureau concurred with USTelecom's assertion that "in the nearly seven years since the Alternative Options Test . . . was adopted, the Wireline Competition Bureau . . . has found that presumptive streamlined treatment under the . . . test was available only eight times"[77] and thus adopted a limited waiver of the word "stand-alone" in the Alternative Options Test.[78] Do commenters think this waiver is sufficient to enable the test, as USTelecom states, "to align . . . with the Commission's aims"?[79] Or, would the replacement of both this test and the Adequate Replacement Test with a single, consolidated rule more effectively accelerate and streamline the technology transitions discontinuance process while providing adequate protection to

[70] *See infra* para. 37.

[71] *Id.* § 63.60(i).

[72] *2016 Technology Transitions Order*, 31 FCC Rcd at 8309, para. 76.

[73] *Technology Transitions et al.*, GN Docket No. 13-5 et al., Final Rule; Announcement of Effective Date, 83 Fed. Reg. 36467 (2018); *Comments Invited on AT&T's Section 214 Application to Grandfather and Discontinue Legacy Voice Service as Part of a Technology Transition*, WC Docket No. 24-220, Public Notice, DA 24-1158 (WCB Nov. 20, 2024) (accepting AT&T's application for filing and establishing an automatic grant date of December 21, 2024).

[74] *2016 Technology Transitions Order*, 31 FCC Rcd at 8305, para. 64; *see Testing Clarification Order*, DA 25-250 at 4, para. 7 ("We believe that confusion . . . has prevented carriers from pursuing technology transition discontinuances under the Adequate Replacement Test.").

[75] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5660, para. 1.

[76] USTelecom Petition at 2.

[77] *Id.* at 2 (citing eight Bureau-level Accepted for Filing notices).

[78] *Stand-Alone and Single Service Waiver Order* at 7, para. 10 ("We therefore conclude that the waiver of the stand-alone requirement is appropriate and needed at this time to 'allow the alternative options test to be a meaningful path to streamlining, as the Commission intended.'" (quoting USTelecom Petition at 9)).

[79] USTelecom Petition at 5.

consumers? Are there any other considerations that we should take into account regarding the adoption of a single, consolidated rule, particularly regarding the potential impact on consumers? We also seek comment on the extent to which our proposal ensures that subscribers maintain ready access to emergency services via 911.

29. *Specified replacement services.* We seek comment on our proposal to adopt five specific options for services that would each satisfy the applicant's requirement to certify that a replacement service exists throughout the affected service area.[80] Would adopting any of the options enumerated above adversely impact the current or future public convenience and necessity?[81] In 2016, the Commission declined to adopt presumptions or exclusions regarding specific types of replacement services "because our public interest analysis demands that applicants provide objective evidence showing a replacement service will provide quality service and access to needed applications and functionalities."[82] The Commission also noted that "it is critical that we retain the ability to examine each discontinuance application given the potential for variability in different implementations of the same technology," adding that "[t]he same technology could nonetheless utilize different features, be produced by different vendors with different methodologies, and use different quality measurement techniques, any of which could result in varied service quality and thus lead to potential interoperability issues."[83] Do commenters agree that, over the course of nearly a decade, these concerns have become less relevant or irrelevant? In 2018, the Commission considered whether to replace the Adequate Replacement Test with a simple requirement that a discontinuing carrier show that any fixed or mobile voice service, including interconnected VoIP, is available to qualify for streamlined treatment.[84] The Commission declined to do so, stating that such a rule would "fail[] to ensure the availability of a voice replacement service in the community as a condition to obtaining streamlined treatment that sufficiently addresses commenters' concerns . . . about the characteristics of the replacement voice service, and [would] not carry the added benefit of ensuring the availability of multiple alternatives to affected customers, whether present or future."[85] Given the state of the voice service marketplace today, are such concerns still relevant?[86] If so, do commenters think that our proposed rule, including any or all of the proposed options, addresses these concerns? Are the answers to these questions the same when the customers include critical infrastructure industries and government agencies that provide or support critical operations or services? Are the answers to these questions the same for any other types of customers or communities? How do prices for these various types of services compare to prices for legacy wireline services?

30. *Adequacy of facilities-based interconnected VoIP service.* We seek comment on adopting a rule establishing that facilities-based interconnected VoIP service is an adequate replacement for purposes of eligibility for streamlined processing. In adopting the Alternative Options Test, the Commission noted that "the stand-alone interconnected VoIP service option required to meet the . . . test embodies managed service quality and underlying network infrastructure, and disabilities access and 911

[80] As is already the case under our rules, customers would have the opportunity to comment on or object to the discontinuance application, 47 CFR § 63.71(a)(5), and Commission staff would have the discretion to remove an application from streamlined processing if they determine the application requires a more thorough review.

[81] *See* 47 U.S.C. § 214(a).

[82] *2016 Technology Transitions Order*, 31 FCC Rcd at 8308-09, para. 75. The Commission noted that 911 service is a critical application that must remain available and fully functional as part of any technology transition. *Id.* at 8307-08, para. 72.

[83] *Id.* at 8309, para. 75.

[84] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5675, para. 35.

[85] *Id.* at 5675-76, para. 35.

[86] *See, e.g.*, *Stand-Alone and Single Service Waiver Order* at 6, para. 10 (noting that "rapid changes in the marketplace mean that consumers now have access to a wide array of voice services").

access requirements . . . ."[87] In the *Stand-Alone and Single Service Waiver Order*, however, the Bureau pointed to the improvements in technology and the "new and innovative communications technologies and bundled service offerings that benefit consumers" that have come about since that time in waiving the Alternative Options Test's stand-alone requirement.[88] Do subscribers to facilities-based interconnected VoIP service have comparable access to services used by individuals with disabilities and to 911? For example, how accurate is the caller location information that these interconnected VoIP services transmit to PSAPs in comparison with legacy wired voice services? And do commenters agree that the availability of "apps running solely on data networks" "obviat[e] the need or desire for stand-alone voice service"?[89] The Bureau also pointed to evidence in the record that facilities-based interconnected VoIP service compares favorably in price on average to legacy voice services.[90] Do commenters agree, including when facilities-based interconnected VoIP service is offered on a stand-alone basis? Is there other evidence the Commission should consider regarding the relative prices of facilities-based interconnected VoIP service and legacy voice service? Do commenters agree that facilities-based interconnected VoIP service is an adequate replacement service for legacy voice service? Do commenters believe that facilities-based interconnected VoIP service has inherent benefits or drawbacks compared to legacy voice service? If so, please state with specificity the characteristics leading to this conclusion. Do commenters consider the state of competition for facilities-based interconnected VoIP service to be strong in most localities? Are there any drawbacks to adopting this rule?

31. *Adequacy of facilities-based mobile wireless service*. We seek comment on our proposed rule establishing that a facilities-based mobile wireless service is an adequate replacement for purposes of eligibility for streamlined processing.[91] Mobile telephony (mobile voice) service is a real-time, two-way switched voice service that is interconnected with the public switched network using an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls.[92] As of December 2023, there were approximately 386.1 million mobile voice

[87] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5675, para. 34.

[88] *Stand-Alone and Single Service Waiver Order* at 5-6, para. 9 (noting that "[t]he proliferation of interconnected VoIP providers in the marketplace has 'brought advanced communications services to the marketplace to the benefit of consumers,' and ensures that strong competition for IP-based voice service exists in every locality with broadband access"); *id.* at 8, para. 12 n.59 (stating that interconnected VoIP service benefits consumers by providing "access to advanced protocols and technologies . . . such as STIR/SHAKEN, which helps protect consumers from illegally spoofed robocalls, and NG911 which will help save lives by ensuring faster call delivery to 911 call centers, improved service reliability, and more accurate caller location as well as support the transmission of text, photos, videos and data").

[89] *Id.* at 6, para. 9.

[90] *Id.* at 4, para. 5 n.28 (citing USTelecom Petition at 11-13 (indicating that facilities-based voice service is available from certain providers through unlimited voice/text mobile plans at advertised prices of $20 per month, or for $5 per month more, customers can purchase unlimited data, and that depending on where customers live, they can purchase bundled voice and broadband options through providers for $45 or $50 per month as compared to, e.g., legacy voice prices of $45, $54 and $87 per month)).

[91] The Wireline Competition Bureau recently granted a technology transitions discontinuance application filed by a subsidiary of Lumen Technologies, Inc. seeking streamlined treatment under the Adequate Replacement Test in which Lumen provided a showing of a 4G LTE and 5G NR mobile broadband and voice wireless service as the adequate replacement service. *See* Section 63.71 Application of Qwest Corporation d/b/a CenturyLink QC, WC Docket No. 25-177 (filed May 16, 2025), https://www.fcc.gov/ecfs/document/105161318508154/1. By proposing and seeking comment on a broader rule that a mobile wireless service is an adequate replacement to a legacy voice service, we consider whether and under what circumstances to more broadly enable discontinuing carriers to conduct a technology transition discontinuance with a type of mobile wireless service as the replacement service.

[92] *2024 Communications Marketplace Report* at 118, para. 155.

subscriptions in the United States.[93] According to preliminary data from the Centers for Disease Control and Prevention, as of December 2023, more people continue to live in wireless-only homes across all age groups.[94] The Commission thus noted recently that "consumers continue to rely more heavily on mobile wireless services" and that, "thus, they have become an essential part of everyday life."[95] The Commission found that the three largest nationwide service providers in the marketplace have networks that they report "cover a substantial majority of the country—each reports covering at least 95% of the U.S. population and at least 68% of U.S. road miles with their 4G LTE networks, and at least 75% of the U.S. population and at least 35% of road miles with their 5G-NR networks at speeds of at least 7/1 Mbps."[96] Do commenters agree that we should consider mobile wireless service as an adequate replacement for legacy voice service for purposes of the section 214 discontinuance streamlined process? What are the drawbacks, if any, of adopting this rule? Is mobile wireless service network performance and pricing comparable to that of legacy voice services? If we adopt this rule, what showing should we require carriers to make to satisfy this prong of the test? The National Broadband Map reflects the coverage mobile service providers report to the FCC as part of the Broadband Data Collection. What data source(s), in addition to the availability data depicted on the National Broadband Map, are available for applicants and the Commission to use to determine whether a mobile wireless service is available throughout the affected service area?[97] For example, can the Commission's publicly available mobile voice coverage data be used to support a carrier's showing as to the availability of mobile voice service in a given service area?[98] Are there any cognizable benefits of legacy voice service that are not met by mobile wireless service? Are there services used by persons with disabilities that cannot be replicated on mobile wireless services? We propose to exclude from the purview of the proposed rule iterations of mobile services earlier than 4G LTE. We seek comment on this proposal. Would replacement of a legacy voice service by a facilities-based mobile wireless service raise any concerns with respect to 911 emergency services?

32. *Adequacy of facilities-based voice services funded by Commission modernized high-cost mechanisms*. We seek comment on our proposed rule stating that a facilities-based voice service provided via funding from one of the Commission's modernized high-cost support mechanisms is an adequate replacement for the purposes of eligibility of streamlined processing.[99] The Commission began modernizing its universal service high-cost support mechanisms in 2011 with the *USF/ICC Transformation Order*, which established the Connect America Fund. In that *Order*, the Commission required support recipients to offer broadband service in addition to the supported "voice telephony"

[93] *Id.* at 119, para. 158.

[94] *Id.* at 119, paras. 158-59.

[95] *Id.* at 44, para. 54.

[96] *Id.* at 45, para. 56.

[97] *See, e.g.*, *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195 and 11-10, Report and Order and Second Further Notice of Proposed Rulemaking, 34 FCC Rcd 7505 (2019).

[98] *See* FCC, FCC National Broadband Map Data Download, https://broadbandmap.fcc.gov/data-download/nationwide-data.

[99] The federal universal service high-cost program is designed to ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, both fixed and mobile, at rates that are reasonably comparable to those in urban areas. The program fulfills this universal service goal by allowing eligible carriers that serve these areas to recover some of their costs from the federal Universal Service Fund. FCC, *Universal Service for High Cost Areas—Connect America Fund*, https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund (last visited May 1, 2025).

service.[100] In the intervening years, the Commission established additional mechanisms to support voice- and broadband-capable networks, including, among others, the Rural Digital Opportunity Fund (RDOF) and the 5G Fund.[101] Support recipients of these mechanisms must offer voice telephony at rates that are reasonably comparable to urban rates and must report compliance with their deployment obligations showing where they have built out the required facilities and offer voice and broadband service.[102] Do commenters agree that we should adopt this rule? Should we limit the rule to voice service provided through specific funding mechanisms? If so, which ones and why? Is pricing for newly deployed services similar to what consumers were paying for similar legacy services? We do not propose to extend this option to include legacy high-cost support mechanisms that do not contain the same deployment reporting obligations as the modernized mechanisms. Do commenters agree with this limitation? Should we exclude from consideration voice service provided pursuant to any other high-cost support mechanisms, and if so, why? If we adopt this rule, what data source(s) should the Commission and applicants use to determine whether a particular area has voice service provided via funding from one of the modernized high-cost support mechanisms?

33. *Adequacy of a carrier's already available alternative voice service*. As noted above, our proposed rule states that where a carrier has already made available its own alternative voice service throughout the affected service area for a specific period of time, and for which the carrier has at least a certain number of existing subscribers, the service is an adequate replacement for the service being discontinued in that area. We propose to conclude that a minimum time period of the immediately preceding 6 months of service availability throughout the affected service area would adequately balance the need to ensure a service is stable and satisfactory to customers and the Commission's goal of ensuring that carriers can rapidly transition their resources and investments to such next-generation services. Do commenters agree with this proposed conclusion? We propose to conclude that at least 50 percent of the carrier's total voice service customer base in the affected service area must be subscribed to this already available alternative voice service. Do commenters agree with this proposed conclusion? Should the percentage instead be based on the total voice lines in the affected service area regardless of provider? Should we adopt a specific subscriber count for the replacement service rather than a percentage of the carrier's total voice service customer base in the affected service area? Should we limit the analysis to residential subscribers or also include enterprise subscribers? How would this approach affect smaller

[100] *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, 17695, 17696-702, paras. 87, 91-10517691-92, paras. 75-78 (2011) (*USF/ICC Transformation Order*) (establishing the Connect America Fund (CAF) and requiring recipients of CAF Phase I support to offer broadband service with speeds of at least 4/1 Mbps in most areas, with latency sufficiently low to enable the use of real-time communications (defining "voice telephony" as the supported service and describing its core functionalities). The Commission requires recipients of CAF Phase II support "to offer broadband service with latency suitable for real-time applications, including Voice over Internet Protocol [VoIP], and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas." 47 CFR § 54.309(a); *see also id.* § 54.309(a)(2)(i)-(v) (setting forth speed and latency requirements for different performance tiers); *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5956-63, paras. 14-37 (2016) (*CAF Phase II Order*).

[101] *See Rural Digital Opportunity Fund et al.*, WC Docket Nos. 19-126 et al., Report and Order, 35 FCC Rcd 686, 689, para. 3 (2020); *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Report and Order, 35 FCC Rcd 12174, 12176, para. 4 (2020) (*5G Fund Order*) (will distribute up to $9 billion over this decade to support voice and 5G broadband service); *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Report and Order, 36 FCC Rcd 4612 (2021) (establishing the Emergency Broadband Benefit program); *Affordable Connectivity Program et al.*, WC Docket Nos. 21-450 et al., Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484 (2022) (adopting final rules for the Affordable Connectivity Program, which built upon the Emergency Broadband Benefit program, to offer eligible low-income households discounts off the cost of broadband service and connected devices).

[102] *See* 47 CFR § 54.316(c); *USF/ICC Transformation Order*, 26 FCC Rcd at 17693, para. 81.

and larger carriers, and would it affect more densely populated service areas differently than service areas with lower population density? We propose, should we adopt such a rule, to require carriers to describe the replacement service and certify that it meets the time period and subscriber count or penetration requirements.

34. *Widely adopted alternative voice service.* We seek comment on our proposed rule stating that a widely adopted alternative voice service that exists through an affected service area is an adequate replacement for the purposes of eligibility of streamlined processing. How should we define "widely adopted" for purposes of this rule? Should "widely adopted" relate to the number of subscribers of a given service, or a certain proportion of the service area's total number of subscribers to voice services? Given that this test would only apply in the case of a technology transition, should we make clear that the relevant subscriber population in a given service area is the population that subscribes to non-legacy voice services as measured by living units, assuming such information can be easily extrapolated from the Commission's collected data? What data sources would a provider use to demonstrate that the alternative voice service is widely adopted? Do commenters believe a different definition or measurement would be more appropriate or less burdensome, such as whether a service is widely available? If so, please provide as detailed an explanation as possible of such alternative definition or measurement. In the case of a service area that has a plurality of alternative voice services, what showing should we require discontinuing carriers to make to meet the "widely adopted" threshold? Should we instead require discontinuing carriers to provide a showing that the proportion of total subscribers of voice service in a given service area that subscribe to the discontinuing service is a minority? What, if any, other limitations should we place on such a rule?

35. *Reliability and access to emergency services.* We seek comment on whether our proposed consolidated rule replacing the Adequate Replacement Test and the Alternative Options Test should address the reliability of the replacement service and its ability to provide access to emergency services, including access by persons with disabilities, and, if so, how. The Adequate Replacement Test includes requirements that the replacement service "offer[] substantially similar levels of network infrastructure and service quality," and "compl[y] with regulations regarding the availability and functionality of 911 service for consumers and public safety answering points."[103] The Alternative Options Test addresses reliability by virtue of the "stand-alone" requirement (currently waived by the Bureau[104]) and access to emergency services by virtue of its requirement that the discontinuing carrier offer interconnected VoIP service, which is subject to such requirements.[105] Given advancements in technology and the robust state of competition for next-generation services such as interconnected VoIP, what concerns, if any, do commenters have regarding the reliability of next-generation services? We note that some next-generation services, such as interconnected VoIP, enable advanced functionalities such as next-generation 911 (NG911).[106] Do commenters have any concerns about the quality, reliability, or 911 capabilities of interconnected VoIP, mobile wireless, or satellite services specifically, as compared with fixed wireline services? Should we adopt requirements regarding the provision of access to emergency services? Given that providers of interconnected VoIP and CMRS are already subject to our part 9 rules, would adopting a requirement for end-user access to emergency services capabilities for interconnected

[103] 47 CFR § 63.602(b).

[104] *See Stand-Alone and Single Service Waiver Order* at 5, paras. 8-9 (noting that the Commission adopted the "stand-alone" requirement of the Alternative Options Test in 2018 "to ensure the availability of replacement service options that 'provide comparable network quality and service performance' to the service being discontinued[,]" but concluding that, "[s]ince that time, the technology has improved").

[105] *See* 47 CFR § 9.1 ("The purpose of this part is to set forth the 911, E911, and Next Generation 911 service requirements and conditions applicable to . . . interconnected Voice over internet Protocol (VoIP) providers.").

[106] *See NG911 Order*, 39 FCC Rcd at 8144, para. 14. The Commission has found that NG911 will help save lives by ensuring faster call delivery to 911 call centers, improved service reliability, and more accurate caller location as well as support the transmission of text, photos, videos, and data. *Id.*

VoIP and CMRS be unnecessary? Why or why not?

b. Eliminating the Technology Transitions Discontinuance Distinction Entirely and Applying Streamlined Processing to All Discontinuance Applications

36. As an alternative to our proposal to replace the Adequate Replacement Test and Alternative Options Test with a single, consolidated rule for technology transitions discontinuances, we seek comment on whether we should instead eliminate the technology transitions distinction entirely and make all technology transitions discontinuance applications eligible for streamlined processing, pursuant to section 63.71(f)(1) of our rules.[107] Before 2016, all discontinuance applications were automatically eligible for streamlined processing.[108] As noted above, the Commission concluded in 2016 that applications seeking to discontinue a legacy voice service warranted enhanced scrutiny due to particular concerns regarding the availability of an adequate replacement service.[109] Does this reasoning apply today? Or has the communications marketplace and the state of competition sufficiently evolved such that the distinction between legacy voice services and more advanced communications services has largely been rendered unnecessary for purposes of evaluating the impact of a discontinuance on the public convenience and necessity, such that all discontinuance applications should be eligible for streamlined processing under current section 63.71(f)(1) of our rules?

c. Forbearance

37. As an alternative to revising our rules, we seek comment on whether we should forbear, on our own motion, from applying section 214 discontinuance requirements with respect to the discontinuance of legacy voice service in some or all of the following specific instances: (1) where the discontinuing carrier has deployed a replacement network, such as fiber or fixed wireless, in the affected area over which it offers interconnected VoIP service; (2) where interconnected VoIP service is available from either the discontinuing carrier or a third-party provider throughout the affected area; (3) where voice service is available from at least one facilities-based mobile wireless service provider throughout the affected area; (4) where the discontinuing carrier has deployed a replacement voice service throughout the affected area for a specified period of time and for which the carrier has a certain number of existing subscribers; (5) where there is fixed terrestrial broadband with speeds of at least 25/3 Mbps and latency of no more than 100 milliseconds (ms) throughout the affected area;[110] and (6) where there is low earth orbit

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[107] Streamlined treatment of a discontinuance application entails the automatic grant of a discontinuance application on a specific date unless the Bureau has notified the applicant that the grant will not be automatically effective. 47 CFR § 63.71(f)(1). Under such streamlined processing, a discontinuance application is automatically granted on the 31st day (for non-dominant carriers) or the 60th day (for dominant carriers) after the Bureau accepts the application for filing. *Id.* Customers that have concerns may still file comments or objections to that carrier's discontinuance application, and the Commission will evaluate those comments or objections to determine whether to remove the application at issue from streamlined processing for further evaluation under the traditional five-factor test. *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5677, para. 37. Applications that are removed from streamlined processing are subject to review under a five-factor balancing test. *See, e.g.*, *Verizon Telephone Companies Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation*, WC Docket No. 02-237, Order, 18 FCC Rcd 22737, 22742, para. 8 (2003).

[108] *See 2016 Technology Transitions Order*, 31 FCC Rcd at 8303-05, paras. 61, 64.

[109] *Id.* at 8306-07, paras. 69, 72.

[110] The Commission has previously found 25/3 Mbps and latency of no more than 100 ms sufficient to support over-the-top VoIP. *See* FCC, *Broadband Speed Guide*, https://www.fcc.gov/consumers/guides/broadband-speed-guide (last updated July 18, 2022) (stating that a minimum download speed of less than 0.5 Mbps is required to conduct VoIP calls); *Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 10109, 10130, para. 56 (2019) ("Based on the standard adopted by the Commission in 2011, WCB used ITU calculations and reported core latencies in the contiguous United States in 2013 to determine that a latency of 100 ms or below was appropriate for real-time applications like VoIP."). Over-the-top VoIP is a type of VoIP traffic routed to or from an

(continued….)

satellite broadband service with speeds of at least 25/3 Mbps and latency of no more than 100 ms throughout the affected area. We also seek comment on whether we should forbear from our section 214(a) discontinuance requirements for resold services that are the subject of a technology transitions discontinuance application from the originating provider.[111] Alternatively, should we forbear from applying the discontinuance requirements in section 214 and our rules with respect to all applications to discontinue any type of service, without qualification?

38. The Act requires us to forbear from applying any requirement of the Act or of our regulations to a telecommunications carrier or telecommunications service if we determine that: (1) enforcement of the requirement is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of that requirement is not necessary for the protection of consumers; and (3) forbearance from applying that requirement is consistent with the public interest.[112] In making the public interest determination, we must also consider, pursuant to section 10(b) of the Act, "whether forbearance from enforcing the provision or regulation will promote competitive market conditions."[113] We seek comment on whether forbearing from all discontinuance requirements under section 214(a) and the Commission's implementing rules in any or all of the situations described above would satisfy each of these statutory criteria.

39. *Ensuring practices are just and reasonable (section 10(a)(1))*. Is maintaining the requirement to obtain discontinuance authorization in any or all of the scenarios laid out above necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory? Is maintaining these requirements necessary to ensure that the charges, practices, classifications, and regulations by, for, or in connection with a carrier or service are just and reasonable and not unjustly or unreasonably discriminatory in *some* of the situations we have described above, but not others? If so, for which of these scenarios is maintaining the requirement to obtain discontinuance authorization necessary, and for which is it unnecessary? Why?

40. We seek comment on whether, in instances where a replacement service already exists throughout the affected service area, we should conclude that it necessarily follows that section 214(a) discontinuance processes are not required to ensure just and reasonable and nondiscriminatory terms of service. In such instances, any customers of the legacy voice services being discontinued are free to transition to the replacement service offered by their existing carrier or a third-party provider. Given the state of competition in the marketplace, would a discontinuance involving any of these scenarios provide incentives for new carriers to serve customers following the discontinuance? Are there areas where, despite the broad scope of wireless and satellite service offerings, no alternative services exist, and if so, should the section 214 discontinuance process remain unchanged for those areas?

41. *Protection of consumers (section 10(a)(2))*. Is enforcement of section 214(a)'s requirements, as well as the requirements of the Commission's implementing rules, necessary to protect consumers in any or all of the situations described above? Is it necessary to maintain any protections for consumers regarding the notice or amount of time that must be allowed for customers to transition to

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end user "over the top" of a broadband connection provided by a third party. *See Connect America Fund et al.*, Declaratory Ruling, 30 FCC Rcd 1587, 1588, 1592, paras. 2, 11 n.35 (2015), *vacated and remanded on other grounds sub nom. AT&T Corp. v. FCC*, 841 F.3d 1047 (D.C. Cir. 2016).

[111] *See* Letter from Christopher L. Shipley, Exec. Dir. Of Public Policy, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 25-208 and 25-209, at 1-2 (filed July 17, 2025) (INCOMPAS July 17, 2025 *Ex Parte* Letter).

[112] 47 U.S.C. § 160(a).

[113] *Id.* § 160(b).

alternative services in response to a planned discontinuance? What if a replacement service from the same carrier already exists? What if that replacement service is interconnected VoIP, whether offered by the discontinuing carrier or a third party? Would these circumstances ensure that communities are not deprived of critical links to the larger public communications infrastructure?[114] What if the replacement service is mobile wireless or satellite-based? How should consumers be advised of the different technologies available to them? We seek comment on the similarities and differences between either of these types of services and interconnected VoIP services with respect to their respective abilities to protect consumers. In particular, do these services provide the same levels of reliability, disability access, and access to emergency services? Are they comparable in price to legacy voice services? Are there material differences between various mobile wireless networks that we would need to consider in granting forbearance based on the existence of mobile wireless service in a particular geographic area? Does the Commission's most recent *Wireless E911 Location Accuracy Requirements Further Notice*[115] bear on this analysis? To what extent does the high adoption rate of wireless technologies and high percentage of wireless-only households undercut arguments against the suitability of mobile wireless as a replacement service?[116] Should any forbearance based on the presence of satellite-based replacement services be limited to services provisioned by low-earth orbit satellites? Many markets have already made similar transitions. Are there specific patterns of consumer protection issues that arose during those transitions? If so, what steps can the Commission take to mitigate those issues during future transitions? Should issues arise in their transition to replacement services, what avenues will consumers have to express their concerns? Would Commission outreach and consumer education help to reduce the potential for consumer harm during a transition?

42. *Consistent with the public interest (section 10(a)(3))*. Is forbearance from applying these requirements in any or all of the scenarios described above consistent with the public interest? In which of those scenarios is it consistent with the public interest? In which is it inconsistent? How should we ensure that the public has an opportunity to raise objections or comments, if at all? Will forbearance from applying these requirements help promote competitive market conditions? We propose to conclude that forbearing from applying our section 214 discontinuance requirements in instances where a replacement service already exists will promote competitive market conditions by eliminating superfluous regulations that slow the transition to next-generation IP-based services and by enabling carriers to redirect resources away from legacy voice services—which are no longer competitive and are not in high demand—and toward maintaining and building out the next-generation IP-based services that consumers not only desire but have come to expect. We seek comment on these proposed conclusions. Would forbearance from section 214(a)'s discontinuance requirements in the context of any or all of the scenarios described above help speed the continuing transition to next-generation IP-based services and networks? Would forbearance from applying these requirements reduce unnecessary costs and burdens associated with discontinuing legacy voice networks and/or deploying next-generation IP-based services? Why or why not? We also seek comment on whether forbearance from applying section 214 requirements would affect consumers' access to emergency services. For example, what, if any, impact could it have on the delivery of 911 service to the extent that carriers and 911 authorities are still relying on TDM-based

[114] *See, e.g.*, *Lincoln Cty. Tel. Sys., Inc.*, Memorandum Opinion and Order, 81 F.C.C.2d 328, paras. 11-12 (1980) (citing the legislative history and observing that the original purpose of § 214(a)'s discontinuance provision was to prevent a loss of telegraph service to critical wartime institutions resulting from, for example, particular stations); *Western Union Tel. Co. Petition for Order to Require the Bell System to Continue to Provide Group/Supergroup Facilities*,, Memorandum Opinion and Order, 74 F.C.C.2d 293, 295-96 paras. 6-7 & n.4 (1979).

[115] *Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, Sixth Further Notice of Proposed Rulemaking, FCC 25-22 (2025) (seeking comment on a variety of proposals to improve the location accuracy of 911 calls).

[116] *See 2024 Communications Marketplace Report*, at 119, para. 158 (reporting approximately 386.1 million mobile subscriptions in the U.S. based on December 2023 FCC Form 477 data).

circuits and switches to route 911 calls during the transition to NG911?[117] What impact, if any, would forbearance have on the transition to NG911 itself, and why?[118] Would the forbearance impact critical infrastructure industries and government agencies responsible for providing or supporting critical operations or services?

43. *Resold services*. Would forbearance from our discontinuance requirements for resold services that are the subject of a technology transitions discontinuance by the wholesale provider be appropriate? INCOMPAS asserts that "a facilities-based carrier that seeks to cease offering a service pursuant to a technology transition discontinuance application is almost always the only entity capable of offering that service in the geographic areas subject to the application" and that its "members fear that if the Commission approves a facilities-based carrier's technology transition discontinuance application, resellers of the services subject to that application have no choice but to discontinue the service to their customers."[119] Are the facilities-based carriers conducting technology transitions discontinuances usually or always the only entity offering that service in the area? If so, how frequently is this occurring? In those situations, are our discontinuance requirements necessary for the protection of resellers' customers? Should any customer notice requirements be uniform as between facilities-based and resold services, or are there reasons that such notices should be handled differently in the case of resold services during a technology transition?

44. *Forbearance conditions*. Were we to grant forbearance relief in any of the scenarios described above, should we condition that forbearance in any respect? For example, in instances where the discontinuing carrier has deployed a replacement service throughout the affected area for a specified period of time and for which the carrier has a certain number of existing subscribers or penetration rate in the affected area, for what length of time should the replacement service have to be in place for forbearance to apply? How many existing subscribers or what penetration rate should the replacement service be required to have in the affected area? Should any forbearance be conditioned on ensuring that there are no disruptions to critical infrastructure industry or government agency operations?

45. In instances where the discontinuing carrier has deployed a replacement network, such as fiber or fixed wireless, throughout the affected area over which it offers interconnected VoIP service, should we require that services provisioned over such replacement network be of comparable or superior quality to the service being discontinued? How would we define what constitutes "comparable or superior quality" in such instances?

46. In instances where fixed terrestrial broadband service with speeds of at least 25/3 Mbps and latency of no more than 100 ms is available throughout the affected area, are there further requirements we should consider, such as the length of time the fixed terrestrial broadband service has been in place or the number of subscribers it has?

47. In addition, or in the alternative, in any or all of the scenarios we have described above, should carriers be required to send notice to their customers informing them that their legacy voice service is being discontinued and what sort of replacement services, if any, are available throughout the affected area? Would any consumer protection concerns be obviated were we to condition forbearance relief on the requirement that resellers in such circumstances provide notice to their customers?[120] If so, should that notice be consistent with the customer notice requirements set forth in section 63.71(a), or should they differ in some way? Should customer notices be transmitted via traditional mail, email, or

[117] *See supra* paras. 20 and 35.

[118] *See generally NG911 Order*, 39 FCC Rcd 8137.

[119] INCOMPAS July 17, 2025 *Ex Parte* Letter at 2.

[120] *See, e.g.*, *id*. (asserting that "there is no need to require that resellers notify customers of the discontinuance in this context because resellers have powerful incentives to do so and to inform customers of the alternative services they offer, such as TDM replacement services and managed VoIP services").

some alternative means? Should the form of transmittal align with any communication preferences the consumer has indicated to their current service provider, such as mode of communication (e.g., via email), preferred language, or accessibility needs? What information would be included in any such notice? How far in advance of a planned discontinuance should the notice be sent to consumers? Should carriers be required to furnish the Commission or other governing bodies with some similar type of notice? What form should that notice take? Should it be formal or informal?

2. Targeted Revisions to Existing Technology Transitions Discontinuance Application Rules

48. In the event that we conclude that our proposal to replace both the Adequate Replacement Test and Alternative Options Test with a single, consolidated test for all technology transitions discontinuance applications is not appropriate, we seek comment on whether we should instead make more targeted revisions to either the Adequate Replacement Test or Alternative Options Test, or both.

a. Adequate Replacement Test

49. We seek comment on whether, if we retain the Adequate Replacement Test for streamlined processing of technology transitions discontinuance applications, we should adopt certain revisions to that test.[121] As noted above, the Commission adopted this test because it found that "clear, streamlined criteria will eliminate uncertainty that could potentially impede the industry from a prompt transition to newer technologies."[122] Do commenters agree that the test has had these effects? If not, how has the test prevented the industry from undertaking such a prompt transition? Do certain prongs of the test pose barriers to rapidly seeking discontinuance authorizations for legacy services? If so, which ones, and how? Are certain prongs of the test unnecessary or redundant? If so, which ones, and how so?

50. *Network Performance.* We seek comment on whether we should codify the Bureau's waiver in the *May 2025 Grandfathering and Technical Appendix Order* [123] and the Bureau's clarification in the *Testing Clarification Order*[124] for all applications relying on the Adequate Replacement Test. Specifically, we seek comment on whether to eliminate the specified testing methodology and parameters adopted in the *2016 Technology Transitions Order* for carriers to satisfy the test's network performance prong and instead codify the standard that the carrier need only show, based on the results of the carrier's routine internal testing or other types of network testing, that "the network still provides substantially similar performance and availability as the service being discontinued."[125]

51. As noted above, section 63.602(b)(1) of the Commission's rules requires an applicant seeking streamlined processing of its technology transitions discontinuance application to demonstrate, by either certifying or showing, based on the totality of the circumstances, that one or more replacement service(s) "offers substantially similar levels of network infrastructure and service quality as the service being discontinued."[126] The Commission adopted this prong of the Adequate Replacement Test to ensure that a replacement service "is performing adequately enough to serve as a replacement for a legacy TDM service," and that the "customer experience with the replacement service that is substantially similar to the customer experience with the service being discontinued."[127] In doing so, the Commission acknowledged that "a comparison between a legacy voice service and its potential replacement is not an

[121] *See* 47 CFR § 63.602(b).

[122] *2016 Technology Transitions Order*, 31 FCC Rcd at 8305, para. 64.

[123] *May 2025 Grandfathering and Technical Appendix Order* at 1, para. 1.

[124] *Testing Clarification Order* at 1, para. 1.

[125] *2016 Technology Transitions Order*, 31 FCC Rcd at 8314, para. 91.

[126] 47 CFR § 63.602(b)(1).

[127] *2016 Technology Transitions Order*, 31 FCC Rcd at 8314-15, paras. 91-92.

apples-to-apples comparison," and that it would therefore evaluate "actual performance numbers . . . in a holistic manner to determine the overall network performance."[128] In light of the developments in the voice services marketplace since the adoption of the Adequate Replacement Test in 2016, is compliance with the specific testing methodology and parameters in the Technical Appendix necessary for carriers to ensure that the replacement service offers "substantially similar levels of network infrastructure and service quality as the service being discontinued?" If so, why?

52. We alternatively seek comment on whether we should eliminate the network performance prong of the Adequate Replacement Test altogether. As noted above, the Commission adopted the first prong of the Adequate Replacement Test to ensure that "the replacement service will perform as effectively as the legacy voice service."[129] While the Commission acknowledged that, "[f]or most data communications, a packet-switched network (i.e., an IP network) is more efficient than a circuit-switched network (i.e., a TDM network) because a packet-switched network does not dedicate capacity for the duration of a particular call or session," it also cited a 2013 source that suggested that "'real-time applications proceed far more smoothly in a circuit-switched environment, where bandwidth is guaranteed, than in a . . . packet-switched environment,' where there is extensive and constant competition for bandwidth."[130] We seek comment on whether these concerns about the transmission of voice calls over IP-based networks still apply today. Are concerns regarding the specific network performance benchmarks established in the *2016 Technology Transitions Order*[131] still relevant given extensive technological improvements in network infrastructure and design since 2016?[132] On the whole, have advances in network infrastructure mitigated these issues, and if so, how? Are latency and data loss still a concern? As the copper networks providing most legacy TDM-based voice connections become more and more outdated and as severe weather events increase in frequency and severity, do the more advanced and resilient networks, such as fiber, eliminate former concerns about a drop in network performance when migrating to IP-based voice services? Given the vast majority of voice service connections use interconnected VoIP—a percentage that continues to grow rapidly—is this evidence that consumers no longer expect or have a need for the network performance characteristics of TDM-based legacy voice service? Do consumers have any lingering concerns regarding the network performance of advanced, next-generation IP-based voice services as compared to legacy TDM voice service connections, or does the continuing growth of interconnected VoIP indicate a consumer preference for the network performance characteristics of IP-based voice services?

53. *Interoperability requirement*. We next seek comment on whether we should eliminate the requirement that a technology transitions discontinuance application certify or show that a replacement service offers interoperability and compatibility with an enumerated list of applications and functionalities determined to be key for consumers and competitors.[133]

54. The Commission adopted this third prong of the Adequate Replacement Test because it

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[128] *Id.* at 8313-14, para. 90.

[129] *Id.* at 8318, para. 97.

[130] *Id.* at 8317, para. 96 n.256 (citing Jonathan E. Nuechterlein & Phillip Weiser, Digital Crossroads 169 (2d ed. 2013)).

[131] *See id.* at 8318-21, paras. 98-104 (establishing benchmarks of 100 ms or less for latency and less than 1 percent data loss).

[132] *See, e.g.*, Tyler Cooper, *Low Latency, Low Loss, Scalable Throughput (L4S): A Technical Overview*, BroadbandNow (Aug. 22, 2024), https://broadbandnow.com/guides/what-is-l4s (explaining that L4S "is a transformative network technology standard aimed at enhancing internet traffic performance" which was "finalized in January 2023," and which "addresses the growing need for efficient, real-time data transmission essential for applications like online gaming, video conferencing, and VoIP").

[133] *See* 47 CFR § 63.602(b)(3).

recognized "the importance of specified key applications and functionalities that today are associated with legacy voice services, while at the same time recognizing that consumer preferences will evolve as part of technology transitions."[134] The Commission also made clear that "carriers are not required to provide access to these capabilities in perpetuity,"[135] and stated that, after the planned sunset of its initial list of key applications in 2025, "the interoperability requirement will no longer be part of our Section 214 analysis."[136] The Commission also described a framework for identifying whether other applications or functionalities not specifically identified in the list should receive similar status, and adopted a process for modifying the list.[137] The Commission required applicants to "certify or make an appropriate showing that a replacement service offers interoperability and compatibility . . . with the list of key applications and functionalities."[138]

55. We seek comment on whether this prong of the Adequate Replacement Test is needed or relevant today. Given consumers' rapid shift away from TDM-based services to IP-based services capable of supporting a vast array of applications, do consumers still have any interoperability concerns?[139] Are there any remaining TDM-based devices on which consumers rely for any reason and which cannot be replaced by effective IP-based solutions?

56. Are there specific concerns about using IP-based technologies, such as real-time text (RTT), as a replacement for analog text-based technologies, such as TTY, used by people with hearing or speech disabilities?[140] The Commission's rules require wireless providers to comply with RTT-TTY interoperability requirements, but do not require that all IP-based technologies support RTT.[141] Are there measures the Commission should take to promote the transition of all TTY users to functionally equivalent IP solutions? Are there reasonably reliable estimates of the approximate number of people in the United States, or in particular jurisdictions, that still use TTY and other analog text-based technologies? What are the primary barriers preventing their migration to IP-based technologies? How should the Commission ensure such users can continue to access telecommunications relay services (TRS) in areas where legacy TDM services have been discontinued? How should the Commission ensure that users of other analog forms of TRS (e.g., Speech-to-Speech Relay and Captioned Telephone Service) are not disconnected from services during a network transition? We note that, in December 2024, the Consumer and Governmental Affairs Bureau issued a public notice seeking comment on a White Paper submitted by State TRS programs, Accessibility Organizations, and academics, which argued that there is a "current compelling need for Federal and state policymakers to proactively adapt TRS obligations and programs to reflect the evolution of the country's analog telecommunications networks to IP-based networks."[142] Comments to the public notice were mixed, with some arguing that the use of legacy

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[134] *2016 Technology Transitions Order*, 31 FCC Rcd at 8341, para. 157.

[135] *Id.*

[136] *Id.* at 8345, para. 170. The Commission listed the following devices as key applications for the purposes of the interoperability requirement: fax machines, home security alarms, medical monitoring devices, analog-only caption telephone sets, and point-of-sale terminals. *Id.* at 8342, para. 159.

[137] *See id.* at 8343-44, paras. 162-66.

[138] *Id.* at 8344, para. 167.

[139] *See, e.g.*, *Stand-Alone and Single-Service Waiver Order* at 5-6, para. 9 (noting that, while as of June 2018 interconnected VoIP lines accounted for just 51% of all retail voice service connections, that number jumped to 75% by the end of 2023, while the number of switched access connections has dropped precipitously).

[140] *See Transition from TTY to Real-Time Text Technology; Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology*, CG Docket Nos. 16-145 and 15-178, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 13568, 13575, paras. 8-9 (2016).

[141] *See* 47 CFR § 67.2(b).

analog services is declining and the transition poses minimal problems,[143] while others argued that transitioning to IP-based networks risks leaving some users behind.[144] Does the Adequate Replacement Test still hold relevance specifically for users of analog TRS services? Are there other ways the Commission can protect TTY users during the transition to IP-based networks?

57. *Single-Service Requirement.* We next seek comment on whether we should remove the requirement that a single replacement service satisfy all three prongs of the Adequate Replacement Test. Section 63.602(b) of the Commission's rules requires applicants to show that a single replacement service (whether offered by the carrier or a third party) satisfies all three prongs of the test in order for the application to be eligible for streamlined treatment.

58. On March 20, 2025, the Bureau adopted an order waiving this requirement for a period of two years.[145] The Bureau found that developments in the voice service marketplace and the large-scale adoption of broadband among consumers supported waiver of the single-service requirement.[146] Specifically, the Bureau noted that the "shift among consumers away from managed, stand-alone voice service to bundled voice and broadband service, which supports a near-infinite variety of over-the-top services, applications, and functionalities obviates the need for a single voice service that satisfies all three prongs."[147] The Bureau also found that waiver of the single-service requirement serves the public interest because it will help "free up carrier resources to devote to the development and deployment of next-generation networks."[148] The Bureau also noted that the fact that some "technologically advanced VoIP services may only be available in bundles with broadband, text messaging, or some other service" should not preclude an adequate replacement finding if, as is often the case, consumers would pay either the same price or less for the bundle than they did for the legacy voice service.[149]

59. Do commenters agree with the Bureau's assessment? Have consumers experienced cost savings when transitioning from a single legacy voice service to a service bundle? How has the waiver of the single-service requirement affected carriers' plans to discontinue legacy voice services and transition customers to next-generation replacement services? Given the ever-increasing availability of over-the-top services, is it still reasonable for consumers "'to expect a single service to provide adequate network infrastructure and service quality, performance from critical applications, and access to other key applications and functionalities,' such as fax machines, home security alarms, and analog-only caption telephone sets[?]"[150] We seek comment on customer reactions to transitioning from a single service to a service bundle. Have customers experienced difficulties in any of these areas and, if so, what have those

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[142] *Comment Sought on White Paper Regarding Transition of Analog Relay Services to Internet Protocol (IP)-Based Alternatives*, CG Docket No. 03-123, Public Notice, DA 24-1209 (CGB 2024) (citing Accessibility Advocacy Organizations, "Transition of Legacy Relay Users Reliant on Analog to IP-Based Telephony Relay Solutions: A White Paper," CG Docket No. 03-123, at 1 (filed Aug. 12, 2024).

[143] *See, e.g.*, Missouri Public Service Commission Comments, CG Docket No. 03-123, at 1 (rec. Jan. 17, 2025).

[144] *See, e.g.*, Hamilton Relay, Inc. Comments, CG Docket No. 03-123, at 4 (rec. Jan. 17, 2025); CommunicationFIRST Comments, CG Docket No. 03-123, at 2 (rec. Jan. 19, 2025).

[145] *See generally Single-Service Waiver Order*.

[146] *Id.* at 7, para. 11.

[147] *Id.*

[148] *Id.* at 7, para. 12.

[149] *Id.* at 8, para. 12.

[150] *Id.* at 7, para. 11 (quoting *2016 Technology Transitions Order*, 31 FCC Rcd at 8312, para. 87).

difficulties been? For the remaining consumers still without access to a broadband connection,[151] how will carriers ensure such consumers have access to an adequate replacement service?

60. *Ministerial updates to section 63.602*. If we retain the Adequate Replacement Test, in addition to any revisions necessitated by the approaches set forth above, we propose to amend section 63.602 of the Commission's rules to update outdated cross-references in paragraph (b)(2)(i) of that rule.[152] Assuming we retain the Adequate Replacement Test, should we make any other changes to section 63.602 and the second prong of the Adequate Replacement Test?

b. Alternative Options Test

61. We seek comment on whether, if we retain the Alternative Options Test set forth in section 63.71(f)(2)(ii), we should adopt certain revisions to that test for streamlined processing of technology transitions discontinuance applications. The Commission's stated goal in adopting the Alternative Options Test was to "provid[e] additional opportunities to streamline the discontinuance process for legacy voice services, with appropriate limitations to protect consumers and the public interest, . . . allow[ing] carriers, including small carriers, to more quickly redirect resources to next-generation networks, and the public to receive the benefit of those new networks."[153] Do carriers agree that adoption of the test has had these effects? If not, how has the test prevented the industry from undertaking such a prompt transition? Do certain requirements of the Alternative Options Test pose barriers to rapidly seeking discontinuance authorizations for legacy services? If so, which ones, and how? Are certain requirements of the test unnecessary or redundant? If so, which ones, and how so?

62. *Codify waiver of the stand-alone requirement*. We seek comment on whether we should remove the requirement that a replacement voice service offered by the carrier or an unaffiliated provider be stand-alone in order for a technology transitions discontinuance application to be eligible for streamlined processing under the Alternative Options Test.

63. Under section 63.71(f)(2)(iii) of the Commission's rules, a service is "stand-alone" if a customer is "not required to purchase a separate broadband service to access the voice service."[154] On March 20, 2025, the Bureau, acting on delegated authority, granted USTelecom's petition for waiver of the stand-alone requirement for a period of two years,[155] finding that, since the Alternative Options Test was adopted, "the technology has improved while the marketplace for voice services, such as interconnected VoIP and mobile voice, has vastly expanded and spurred the creation of new and innovative communications technologies and bundled service offerings that benefit consumers."[156] Does the Bureau's rationale in granting the waiver relief support removing the stand-alone requirement altogether? Do commenters agree with the Bureau's assessment and characterization of the voice service

[151] According to recent Broadband Data Collection (BDC) data, 24 million Americans, or 7% of the nation's population, lack access to fixed broadband. *See 2024 Section 706 Report*, 39 FCC Rcd at 3278-79, para. 61.

[152] That rule currently provides that a carrier must certify that the proposed replacement service "[c]omplies with regulations regarding the availability and functionality of 911 service for consumers and public safety answering points (PSAPs), specifically §§ 1.7001 through .7002, 9.5, 12.4, 12.5, 20.18, 20.3, 64.3001 of this chapter." 47 CFR § 63.602(b)(2)(i). Updates would add references to sections 9.3, 9.4, 9.10, and 9.19, and eliminate the references to sections 12.4, 12.5, 20.18, and 64.3001 to account for intervening changes to the numbering of the Commission's public safety-related rules.

[153] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5674, para. 32.

[154] 47 CFR § 63.71(f)(2)(iii).

[155] *Stand-Alone and Single-Service Waiver Order* at 4, para. 6. On April 21, 2025, the Irregulators filed an application for review of action taken pursuant to delegated authority under 47 CFR § 1.115. *See* Application of Irregulators for a Full Review by the Full Commission; & Other Actions Requested, WC Docket No. 17-84 (filed Apr. 21, 2025). This application remains pending.

[156] *Stand-Alone and Single-Service Waiver Order* at 5-6, para. 9.

and broadband marketplace? How has the stand-alone requirement affected carriers' plans to discontinue legacy voice services and transition customers to next-generation replacement services?

64. USTelecom notes that "stand-alone VoIP service typically requires installation and maintenance of broadband equipment and ongoing provision of transmission capability," which is costly for carriers and requires "system and IT support that is difficult to justify for a product with relatively low demand."[157] It adds that these inefficiencies "can raise costs for consumers and reduce capital available for investment and innovation."[158] Do commenters agree with USTelecom's assessment that the stand-alone requirement is overly burdensome to carriers? Has the waiver of the stand-alone requirement alleviated these concerns and enabled carriers to rapidly discontinue legacy voice service in favor of promoting next-generation IP-based replacements? Will the proposed changes result in an increase in the pace and frequency of carriers upgrading networks? Given the widespread adoption of broadband connections today, do customers reasonably expect or desire stand-alone voice service? How might removing the stand-alone requirement affect consumers, positively or negatively? Have customers that have transitioned from a stand-alone voice service to a bundled voice service experienced any difficulties or increased costs? For consumers that are transitioning, do carriers offer any introductory promotions that help offset the cost of bundled voice service? We note that consumers remain able to file comments or oppositions to discontinuance applications.[159] Does the comment procedure provide adequate protection for consumers?

65. *Expand availability of the Alternative Options Test*. We seek comment on whether we should expand the Alternative Options Test to allow the existence of third-party, facilities-based interconnected VoIP service to satisfy the first part of the test rather than requiring the existence of facilities-based interconnected VoIP service offered by the discontinuing carrier itself.

66. Under section 63.71(f)(2)(ii)(A) of the Commission's rules, an applicant seeking to discontinue a legacy voice service under the Alternative Options Test must show that it offers a stand-alone interconnected VoIP service throughout the affected service area.[160] The Commission required a showing that the discontinuing carrier itself provides interconnected VoIP service in addition to the availability of a voice service from an unaffiliated third party because it "expect[ed] customers will benefit from competition between facilities-based providers."[161] This competition would effectively replace the need for a discontinuing carrier to comply with the specific testing methodology and parameters required under the Adequate Replacement Test to ensure the adequacy of the replacement service.[162]

67. How has this requirement inhibited the ability for carriers to rapidly discontinue legacy voice services and transition subscribers to next-generation IP-based voice services? How would revising the first part of the test to include third-party facilities-based interconnected VoIP services affect carriers

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[157] USTelecom Petition at 8.

[158] *Id.*

[159] *Stand-Alone and Single-Service Waiver Order* at 8, para. 13 ("While a carrier may use the Alternative Options Test to receive streamlined treatment of its discontinuance application by showing that it offers its own VoIP service on a bundled basis as well as by demonstrating the availability of another voice service throughout the affected service area that may only be available on a bundled basis, customers with concerns about a replacement service may still file comments or objections to that carrier's discontinuance application with the Commission.").

[160] 47 CFR § 63.71(f)(2)(ii)(A).

[161] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5675, para. 34.

[162] *See id.* at 5674-75, para. 34 & n.103 (citing Mark Israel, Daniel Rubinfeld & Glenn Woroch, *Analysis of the Regressions and Other Data Relied Upon in the Business Data Services FNPRM and a Proposed Competitive Market Test*, at 39-40 (June 28, 2016); Howard A. Shelanski, *Adjusting Regulation to Competition: Toward a New Model for U.S. Telecommunications Policy*, 24 Yale J. on Reg. 24, 92 (2007)).

and consumers? Assuming that competition has indeed worked to ensure that available voice options are adequate for consumers under the current test, and given that a carrier would still need to show that at least one other alternative facilities-based wireline or wireless voice service is available from another unaffiliated provider throughout the affected service area under the second part of the test, what effect, if any, would this change have on the quality of replacement service options? In instances where interconnected VoIP service is available from either the discontinuing carrier or a third-party provider throughout the affected area, does it matter whether the interconnected VoIP service is provided by the discontinuing carrier or a third-party provider? Why or why not?

3. Additional Revisions to Section 63.71

68. We next consider whether to adopt a variety of targeted proposals relating to our discontinuance rules under section 63.71, namely: (1) codifying the relief granted in the *March 2025 Grandfathering Order* and the *May 2025 Grandfathering and Technical Appendix Order*; (2) granting forbearance relief from section 214(a) requirements for all lower-speed data telecommunications services; (3) eliminating the distinction between dominant and non-dominant providers for purposes of the streamlined processing automatic grant period; and (4) forbearing from the notice requirement to state Governors and the United States Department of Defense.

a. Eliminating Grandfathering Filing Requirements for Certain Services

69. We propose to eliminate any application filing requirements associated with grandfathering a legacy voice service, a lower-speed data telecommunications service, defined as those operating at speeds below 25/3 Mbps, or an interconnected VoIP service provisioned over copper wire, thus codifying the relief granted by the Bureau in the *March 2025 Grandfathering Order* and the *May 2025 Grandfathering and Technical Appendix Order*.[163] Specifically, we propose to replace the requirements in section 63.71(k)-(l) with a statement that, notwithstanding any other provision of section 63.71, a carrier is not required to file an application to grandfather a legacy voice service, a lower-speed data telecommunications service, or an interconnected VoIP service provisioned over copper wire. We seek comment on this proposal generally, and also seek comment on (i) whether we should expand the definition of "lower-speed data telecommunications service," and (ii) whether we should extend the proposed to all interconnected VoIP services without regard to transmission medium.

70. *Lower-speed data telecommunications service.* We seek comment on our proposal to define "lower-speed data telecommunications service" as a data telecommunications service operating under 25/3 Mbps. The Commission currently considers services that operate below 1.544 Mbps to be "low-speed," and it provided for accelerated streamlining of applications to grandfather low-speed services.[164] In the *Second Wireline Infrastructure Order*, the Commission extended that accelerated streamlining to data telecommunications services operating at speeds below 25/3 Mbps if the applicant was replacing them with a service operating at speeds of at least 25/3 Mbps. We seek comment on whether we should upwardly revise our proposed definition of lower-speed data telecommunications service given the rapidly increasing bandwidths of networks today. Specifically, should we define the term using speeds at or below 45 Mbps symmetrical or some other threshold? What are the benefits and drawbacks of using each speed tier in the definition? We note that a definition using speeds at or below 45 Mbps symmetrical would include Digital Signal 3 (DS3) service. How critical is DS3 service for the provision of data telecommunications services to current or future subscribers? Are alternatives, such as fiber-based networks, readily available as alternatives in localities served by DS3 lines? What impact would the removal or replacement of DS3 lines have on the continued availability of emergency services, including 911?

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[163] *See generally* March 2025 Grandfathering Order; May 2025 Grandfathering and Technical Appendix Order.

[164] *First Wireline Infrastructure Order*, 32 FCC Rcd at 11161, para. 84.

71. *Grandfathering*. A carrier currently has the option under the Commission's rules to seek authorization to "grandfather" a service rather than fully discontinue it. A carrier seeking to grandfather a service requests authorization to stop accepting new customers for the service while continuing to provide the service to existing customers.[165] Because grandfathering is a discontinuance of service offering to new customers, grandfathering applications traditionally have been processed in the same way as applications to fully discontinue a service, thereby requiring carriers to file applications, pay processing fees under the Commission's rules, and delay plans to grandfather a service for new customers until they receive approval.[166]

72. The Commission expedited the process for discontinuing legacy services in 2017 in the *First Wireline Infrastructure Order*, including legacy service grandfathering applications, where it concluded that the then-existing rules governing the discontinuance process "impose[d] needless costs and delay on carriers that wish to transition from legacy services to next-generation, IP-based infrastructure and services."[167] To that end, the Commission established a more streamlined approval process for discontinuance applications seeking to grandfather low-speed legacy data services for existing customers, shortening the comment and automatic grant periods for these applications.[168] In doing so, the Commission concluded that "longer processing timelines for grandfathering applications are unnecessary to protect consumers from potential harm stemming from discontinuances, and that our current discontinuance rules may unnecessarily impede the deployment of advanced broadband networks by imposing costs on service providers who seek to upgrade legacy infrastructure."[169]

73. The Commission took additional steps to expedite the discontinuance process for legacy services the following year in the *Second Wireline Infrastructure Order*, where it extended the same streamlined treatment to "applications seeking to grandfather data services with speeds below 25/3 Mbps, so long as the applying carrier provides fixed replacement data services at speeds of at least 25/3 Mbps throughout the affected service area."[170] The Commission concluded that by requiring carriers using this streamlined process to provide replacement data services at speeds of at least 25/3 Mbps, customers were ensured to have access to adequate alternatives.[171] In that same *Order*, the Commission extended this streamlined processing to all applications seeking to grandfather any legacy voice service, including legacy enterprise voice services.[172] In doing so, the Commission determined that existing customers

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[165] *See First Wireline Infrastructure Order*, 32 FCC Rcd at 11161 n.288; *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, 32 FCC Rcd 3266, 3288, para. 73 (2017) (*Wireline Infrastructure Notice*); *see also Comments Invited on Applications of AT&T Services, Inc. on Behalf of Bellsouth Telecommunications, LLC D/B/A AT&T Southeast to Discontinue Certain Domestic Business Telecommunications Services in Trial Wire Centers*, WC Docket Nos. 15-274 et al., Public Notice, 30 FCC Rcd 13319, 13319, para. 1 (2015) (stating that AT&T's plans to grandfather three domestic business telecommunications services would entail "continued service to existing customers and the offer of only next generation wireless and wireline Internet Protocol (IP)-based alternatives for new orders").

[166] 47 CFR §§ 1.1105; 63.71(f), (k); *see also* Comments Invited on Section 214 Application(s) to Grandfather Domestic Non-Dominant Carrier Telecommunications and/or Interconnected VoIP Services, WC Docket Nos. 25-45 et al., Public Notice, DA 25-101 (WCB Feb. 4, 2025).

[167] *First Wireline Infrastructure Order*, 32 FCC Rcd at 11161, para. 83.

[168] *Id.* at 11161-64, paras. 84-92.

[169] *Id.* at 11162, para. 86.

[170] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5662-63, para. 7.

[171] *Id.* at 5663, para. 9.

[172] *Id.* at 5678, para. 39.

would not be harmed because they would be entitled to maintain their legacy voice services until such time as the carrier seeks to fully discontinue the grandfathered service.[173]

74. In the *March 2025 Grandfathering Order*, the Bureau (1) granted blanket section 214(a) authority for carriers to grandfather any legacy voice or data service currently covered by section 63.71(k)-(l) of the rules, and (2) waived the requirement in the Commission's rules that carriers file a section 214(a) discontinuance application seeking Commission authorization in that scenario.[174] The Bureau found such relief to be warranted "by extraordinary developments in communications technologies and services" since 2016, such as the rapid adoption of interconnected VoIP services.[175]

75. The Bureau subsequently issued the *May 2025 Grandfathering and Technical Appendix Order* extending the relief granted in the *March 2025 Grandfathering Order* to include interconnected VoIP service provisioned over copper lines, concluding that "relief in this instance will advance the Commission's overall policy of transitioning legacy networks and services to next-generation networks and advanced communications services, and that "such relief furthers 'the public interest by freeing up carrier resources for the development and deployment of those next-generation networks and services, to the benefit of consumers.'"[176]

76. We seek comment on whether the waiver relief granted in the *March 2025 Grandfathering Order* and the *May 2025 Grandfathering and Technical Appendix Order* should be made permanent in our rules by exempting grandfathering applications from any Commission filing requirements. How, if at all, does the waiver relief granted in the *Orders* reduce carriers' burdens? Given that consumers have an opportunity to comment or object when the carrier later applies to fully discontinue the grandfathered legacy service, are there any benefits to retaining the grandfathering filing requirements?[177] If not, should we also eliminate the requirement in section 63.71(a) to notify customers when a carrier grandfathers a service? What are the benefits and drawbacks of this approach? We also seek comment on whether we should extend the blanket 214 authority granted in the *March 2025 Grandfathering Order* and the *May 2025 Grandfathering and Technical Appendix Order* to the grandfathering of all services rather than limit it solely to certain legacy services and interconnected VoIP service provisioned over copper as the Bureau did in those *Orders*. Do the bases on which the Bureau granted the relief in those *Orders* apply more broadly to all services? Are there concerns that counsel against granting blanket section 214(a) authority for carriers to grandfather any service?

77. Rather than maintaining the grant of blanket 214 authority granted in the *March 2025 Grandfathering Order* and the *May 2025 Grandfathering and Technical Appendix Order*, should we instead forbear from section 214(a)'s discontinuance requirements with respect to the grandfathering of the types of services addressed in those *Orders*? Is maintaining the requirement to obtain Commission authorization before grandfathering any or all of those services necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with the grandfathering carrier or the grandfathered service are just and reasonable and are not unjustly or unreasonably discriminatory, particularly given the rapid decline in customer demand for these services?[178] Is maintaining the section

[173] *Id.* at 5678, para. 40.

[174] *March 2025 Grandfathering Order* at 3, para. 6. *But see* Application of Irregulators for a Full Review by the Full Commission; & Other Actions Requested, WC Docket No. 17-84 (filed Apr. 21, 2025) (seeking review of action taken pursuant to delegated authority under 47 CFR § 1.115).

[175] *March 2025 Grandfathering Order* at 5, para. 10.

[176] *May 2025 Grandfathering and Technical Appendix Order* at 4, para. 9.

[177] *March 2025 Grandfathering Order* at 3, para. 5 (noting that subscribers of a grandfathered services "would be entitled to maintain their legacy voice services until such time as the carrier seeks to fully discontinue the grandfathered service").

[178] 47 U.S.C. § 160(a)(1).

214(a) discontinuance requirements in these contexts necessary to protect consumers, particularly given that existing customers would be able to retain the service at issue after the service is grandfathered?[179] Would forbearing from these requirements in this context serve the public interest?[180] For example, would it speed up the development and deployment of next-generation networks and advanced communications services by reducing regulatory burdens and their attendant costs? Would it negatively impact critical infrastructure industries or government agencies operations or services?

b. Forbearance for Lower-Speed Data Telecommunications Services and Interconnected VoIP over Copper Services

78. We seek comment on whether we should forbear from all section 214(a) discontinuance requirements, including the Commission's implementing rules, for all lower-speed data telecommunications services.[181] As noted above, the Commission previously expedited the streamlined processing of applications to grandfather services with speeds below 25/3 Mbps.[182] We also sought comment above on how to define "lower-speed data telecommunications service" for purposes of our proposed rules.[183] We now seek comment on whether forbearance would satisfy the criteria set forth in section 10 of the Act.[184]

79. *Ensuring practices are just and reasonable (section 10(a)(1))*. Would maintaining the requirement to obtain discontinuance authorization for all lower-speed data telecommunications services still be necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with the discontinuing carrier or discontinued service are just and reasonable and are not unjustly or unreasonably discriminatory? As noted, the Commission previously took action to expedite the streamlined processing of applications to grandfather services with speeds below 25/3 Mbps. Given the rapid decline in customer demand for such lower-speed services, are section 214(a) discontinuance requirements necessary to ensure just and reasonable charges and practices given that consumer demand for such lower-speed services is too small to exert a meaningful influence on carrier charges and practices with regards to such services? If not, please provide specific reasons. Does this analysis change when considering a higher speed threshold for lower-speed data telecommunications service, such as 45 Mbps symmetrical, or some other threshold?

80. *Ensuring protection of consumers (section 10(a)(2))*. In light of plummeting customer demand for lower-speed data telecommunications services, such as those with speeds lower than 25/3 Mbps,[185] we seek comment on whether to conclude that section 214(a) discontinuance requirements are not necessary to protect consumers. Do commenters agree? Why or why not? Please provide specificity in responding to this request for comment. Does this analysis differ for speeds higher than 25/3 Mbps, whether the upper limit is 45 Mbps symmetrical or some other speed?

81. *Consistent with the public interest (section 10(a)(3))*. Do commenters believe that forbearing from applying our discontinuance approval requirements for lower-speed data

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[179] *Id.* § 160(a)(2).

[180] *Id.* § 160(a)(3).

[181] This alternative would not apply to the discontinuance of legacy voice services, which are encompassed by Sections III.B.1-2, *supra*.

[182] *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5663, para. 9; *First Wireline Infrastructure Order*, 32 FCC Rcd at 11161-64, paras. 84-92.

[183] *See supra* para. 70.

[184] 47 U.S.C. § 160.

[185] *See, e.g.*, *Second Wireline Infrastructure Order*, 33 FCC Rcd at 5661-62, 5664-65, paras. 5, 11; *First Wireline Infrastructure Order*, 32 FCC Rcd at 11162, para. 86 (noting that "national marketplace trends show that businesses and consumers alike are moving away from legacy services and toward modern alternatives").

telecommunications services will serve the public interest by eliminating superfluous regulations that slow the transition to next-generation IP-based services? Will taking this action promote competitive market conditions by enabling carriers to redirect resources away from lower speed data telecommunications services that are no longer competitive nor in high demand, and toward maintaining and building out the next-generation IP-based services that consumers not only desire but have come to expect? Again, please state with specificity why or why not. Do PSAPs or other public safety entities rely on these low-speed data telecommunications services to provide essential emergency services? If so, are there ready market alternatives in place to substitute for these data telecommunications services if they are discontinued? How do the prices of any substitute services compare? What percentage of 911 traffic currently flows over low-speed data telecommunications services, and are carriers considering plans to migrate off those services short- or long-term? Are there particular PSAPs or types of PSAPs, e.g., rural PSAPs, that rely on low-speed data telecommunications services more than others, and if so, how many? Do public safety entities or their service providers have contractual notice rights that allow sufficient time to arrange substitute data transmission services without a gap in the provision of 911 service? Do the answers to any of these questions differ depending on how we ultimately define lower-speed data telecommunications services?

82. Will such forbearance foster advanced communications by providing carriers with incentives to develop and deploy higher-speed data telecommunications services? Will forbearance help promote competition in the market for higher-speed replacement services? Will granting such forbearance relief reduce unnecessary costs and burdens associated with compliance with the Commission's discontinuance rules, and free up capital needed for the deployment of next-generation networks? Is this analysis dependent on how we ultimately define lower-speed data telecommunications services and, if so, how?

83. *Conditions*. Are there further conditions for forbearance from applying section 214(a)'s discontinuance requirements, as well as the requirements of the Commission's implementing rules, that we should implement in instances where carriers seek to discontinue lower-speed data telecommunications services? For example, should we require that the discontinuing carrier provide fixed replacement data telecommunications service at a certain speed threshold? If so, what should that threshold be? Would it be sufficient for a replacement service to be mobile or provided via low earth orbit satellite so long as it offers a specific minimum speed and latency of no more than 100 ms? Are there compelling reasons to require that such replacement service be offered by the discontinuing carrier? Should we require that any such replacement data telecommunications service be of "equivalent quality" to the service being discontinued? How would we define what constitutes "equivalent quality" in such instances? Should we require that the discontinuing carrier ensure that there are no disruptions to critical infrastructure industry or government agency operations?

84. In addition or in the alternative, should discontinuing carriers be required to send notice to their customers informing them of the planned discontinuance and any available replacement service in the affected area? How might consumers be affected if a discontinuing carrier does not provide a notice of planned discontinuance? What form should such a notice take? Should it be transmitted via traditional mail, email, or some alternative means? Should the form of transmittal align with any communication preferences the consumer has indicated to their current service provider? What information would be included in any such notice? How far in advance of a planned discontinuance should the notice be sent to consumers? Should carriers be required to furnish the Commission or other governing bodies with some similar type of notice? What form should that notice take? Should it be formal or informal?

c. Apply the 31-day Automatic Grant Period to All Discontinuance Applications

85. We propose to extend the 31-day automatic grant period applicable to applications to discontinue services for which a carrier is non-dominant to apply to all instances in which a domestic carrier submits a request to discontinue service. We seek comment on this proposal.

86. Pursuant to section 63.71(f)(1) of the Commission's rules, a non-technology transitions

discontinuance application—if filed by a domestic, non-dominant carrier—shall be automatically granted on the 31st day after its filing with the Commission unless the Commission has notified the applicant that the grant will not be automatically effective.[186] For applications to discontinue a service for which the provider is dominant, the automatic grant period is 60 days.[187] We propose to eliminate the distinction between dominant and non-dominant carriers for purposes of discontinuance applications. In doing so, we would apply the 31-day automatic grant period to any domestic carrier who submits a request to discontinue any service.

87. We propose to conclude that there is no material reason to limit application of the 31-day automatic grant period to non-dominant carriers given the Commission's available discretion to remove an application from streamlined processing at any time during those 31 days should it deem it appropriate to do so. We propose to conclude that 31 days is sufficient time for the Commission to consider and come to a determination as to whether a grant should be allowed to auto-grant or, instead, whether the discontinuance raises sufficient questions or concerns that it should be removed from streamlined processing prior to the expiration of the automatic grant period. In light of the backstop provided by the Commission, we propose to conclude that expanding the applicability of the 31-day automatic grant period to include all discontinuance applications is a prudent way of reducing regulatory red tape and speeding the grant of discontinuance requests while still complying with section 214(a)'s mandate to protect the public interest. We seek comment on this proposal.

88. What are the benefits and costs of applying the 31-day automatic grant period to all domestic carriers who submit a request to discontinue service? What costs, whether in terms of money or time, does the existing requirement impose on domestic carriers who are not eligible for the 31-day automatic grant period? Is there any reason not to extend the applicability of the 31-day automatic grant period to all discontinuance applications? Does the 31-day automatic grant period allow adequate time for the Commission to review discontinuance applications? We take note of the Commission's 2016 *Declaratory Ruling* in which it noted that "regulatory changes have restructured the marketplace in which incumbent LECs provide interstate switched access services so as to deny them market power," leading it to "declare incumbent LECs non-dominant in their provision of interstate switched access services."[188] Are there particular services for which certain carriers remain dominant that might warrant a longer Commission review period for determining whether the application should be removed from streamlined processing?

89. We also seek comment on the length of the existing automatic grant period for non-dominant providers. Should the 31-day automatic grant period be abbreviated to a shorter time frame? As we propose to conclude that dominant and non-dominant providers be treated equally, would commenters feel the same if we were to apply a shortened automatic grant period to dominant and non-dominant providers alike? If so, what should the automatic grant period be and why? Beyond expanding the 31-day automatic grant period to apply to all discontinuance applications, we seek comment on any additional steps we might take to further streamline the automatic grant process for applications to discontinue service.

d. Forbear from Requirement to Notify State Governor and Department of Defense

90. We seek comment on whether we should forbear from section 214(b)'s requirement that

[186] *See* 47 CFR § 63.71(f)(1). As discussed in Section III.B. above, technology transitions discontinuance applications currently are not automatically eligible for streamlined processing, but rather must satisfy either the Adequate Replacement Test or the Alternative Options Test in order to qualify for such processing. *Id*. § 63.71(f)(2).

[187] *See id.* § 63.71(f)(1).

[188] *2016 Technology Transitions Order*, 31 FCC Rcd at 8290, para. 19.

domestic discontinuance applications be filed with (1) the Governor of the state in which the discontinuance is proposed, and (2) the Secretary of Defense, and that we eliminate this same requirement from our implementing rules.[189] We seek comment on this proposal.

91. Section 214(b) of the Act requires that upon receipt of a discontinuance application, "the Commission shall cause notice thereof to be given to, and shall cause a copy of such application to be filed with, the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points), and the Governor of each State . . . in which such discontinuance, reduction, or impairment of service is proposed."[190] Relatedly, section 63.71(a) of the Commission's rules requires that any domestic carrier seeking to discontinue service notify its customers and submit a copy of its application to the public utility commission and to the Governor of the State in which the discontinuance of service is proposed, to any federally-recognized Tribal Nations with authority over the Tribal lands in which the discontinuance is proposed, and to the Secretary of Defense via the Special Assistant for Telecommunications, as well as file an application with the Commission requesting said discontinuance.[191] We propose to conclude that while section 214(b) directs the Commission to cause such notice to be given, that notice requirement concerns applications to discontinue telecommunications services. In that sense, our proposed forbearance, if adopted, would be forbearance from applying section 214(b) to a telecommunications service within the meaning of section 10. We seek comment on this proposed conclusion.

92. *Ensuring practices are just and reasonable (section 10(a)(1))*. Is maintaining the requirement to file domestic discontinuance applications with the Governor of the state in which the discontinuance is proposed and the Secretary of Defense necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory? Is maintaining these requirements necessary to ensure that the charges, practices, classifications, and regulations by, for, or in connection with a carrier or service are just and reasonable and not unjustly or unreasonably discriminatory? If so, why?

93. *Protection of consumers (section 10(a)(2))*. Is enforcement of section 214(b)'s requirement to file domestic discontinuance applications with the Governor of the state in which the discontinuance is proposed and the Secretary of Defense necessary to protect consumers? When seeking to discontinue a service, carriers must notify state public utility commissions, the specific state entities charged with their regulation.[192] Would requiring carriers to file discontinuance applications with other state or local authorities better ensure consumers are protected during a transition? What additional protection does notice to a Governor's office confer on consumers? In this era of multitudinous communications options, what protection does notice to the Secretary of Defense provide to consumers?

94. *Consistent with the public interest (section 10(a)(3))*. Would forbearing from applying the requirement in section 214(b) to file domestic discontinuance applications with the Governor of the state in which the discontinuance is proposed and the Secretary of Defense serve the public interest? We propose to conclude that requiring notice to a Governor's office imposes a redundant and superfluous requirement that slows the transition to next-generation IP-based services by diverting resources from development of next-generation networks and advanced communications services. We also propose to conclude that the requirement that carriers notify and submit a copy of their application to the Governor of the state in which the discontinuance of service is proposed and to the Secretary of Defense serves no purpose other than to increase red tape and regulatory barriers, particularly in light of the many and varied modes of communication available to today's residential and businesses customers. We seek comment on

[189] *See* 47 U.S.C. § 214(b); 47 CFR § 63.71(a).

[190] 47 U.S.C. § 214(b).

[191] *See* 47 CFR § 63.71(a).

[192] *Id.*

these proposed conclusions. Would the elimination of these notification requirements be likely to save providers time and resources that would be better spent investing in high-speed broadband infrastructure? Are notifications to state Governors and the Secretary of Defense redundant and irrelevant given the requirements to notify customers, state public utility commissions, Tribal Nations, and the Commission? What are the benefits of notifying state Governors and the Secretary of Defense that cannot be achieved by notifying customers, state public utility commissions, Tribal Nations, and the Commission? Are there compelling policy reasons to retain the requirement to notify state Governors and the Secretary of Defense?

4. Emergency Discontinuances

95. We propose to revise section 63.63(b) to explicitly provide that a carrier may permanently discontinue a service upon filing a certification with the Commission that (1) the carrier has previously obtained emergency discontinuance authority for the service in question, (2) the service is one for which the requesting carrier has had no customers or reasonable requests for service during the 60-day period immediately preceding the permanent discontinuance, and (3) a comparable service is available in the affected service area. We seek comment on this proposal and on the processing of requests to permanently discontinue a service under section 63.63.

96. Section 63.63 of the Commission's rules sets forth procedures carriers must follow when seeking authority for an emergency discontinuance.[193] Providers must submit an application for authority for an emergency discontinuance of service as soon as practicable but not later than 65 days following the occurrence of the conditions which occasion the discontinuance.[194] Authority is deemed granted as of the date the request is filed unless the Commission notifies the carrier otherwise on or before the 15th day after the date of filing, and our rules provide for renewal of such authority unless "the same or comparable service is reestablished before the termination of the emergency authorization" or the carrier submits an informal request for authorization to discontinue the service "for an indefinite period or permanently."[195]

97. *Emergency discontinuances leading to no customers*. We propose to revise section 63.63(b) to provide that a carrier may permanently discontinue a service upon filing a certification that (1) it has previously obtained emergency discontinuance authority, (2) the service in question is one for which the requesting carrier has had no customers or reasonable requests for service during the 60-day period immediately preceding the planned permanent discontinuance, and (3) a comparable service is available in the affected service area. In instances where a carrier has previously filed for emergency discontinuance authority, has had no customers nor reasonable requests for service for a minimum of 60 days, and a comparable service is available, we propose to conclude that there is little risk that an emergency discontinuance of service is likely to affect any existing or potential customers. We seek comment on this proposed conclusion.

98. We seek comment on the extent to which this would affect consumers, if at all. We also seek comment on the extent to which this would allow carriers to be more deft and responsive in reacting to natural disasters and other emergencies, and to focus their rebuilding efforts on modernized rather than legacy services. Should we leave the requirement open-ended and require merely that a carrier have filed for emergency discontinuance authority at any point in the past? Why or why not? Alternatively, should we specify a particular time period during which the carrier had to have previously filed for emergency discontinuance authority? If so, what should that time period be?

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[193] *Id.* § 63.63.

[194] *See id.* § 63.63(a). In the case of public coast stations, notice must be given not later than 15 days following the occurrence of the conditions leading to the discontinuance. *Id.*

[195] *Id.* § 63.63(b).

99. Is the proposed 60-day period without a customer or a reasonable request for service a reasonable period of time to justify granting a carrier authority to carry out a permanent discontinuance of service? When would the 60-day period commence? Does it differ depending upon whether the permanent discontinuance request is contained in the initial emergency discontinuance application? Is 60 days sufficient to ensure that most customers are likely to have obtained substitute service, thereby obviating any resulting harm? Should the 60-day period be extended? If so, why and by how much? We note that the qualifying period for the exemption in section 63.71(g)—which governs non-emergency-related discontinuances by domestic carriers of services with no customers or reasonable requests for service—is only 30 days.[196] In light of this, should the proposed 60-day qualifying period for section 63.63 be reduced? If so, why and by how much? We encourage commenters to be specific in their suggestions and to support their claims with as much evidence as is available.

100. *Requests to permanently discontinue*. We also seek comment on the processing of requests to permanently discontinue a service under section 63.63. An emergency discontinuance application is deemed granted upon filing unless the Commission notifies the carrier to the contrary on or before the 15th day after filing.[197] Grants of emergency discontinuance authority are valid for 60 days, although a carrier may seek renewal of that authority by informal request no later than 10 days prior to the expiration of the 60-day period.[198] Both an original emergency discontinuance application and a request for renewal are required to contain demonstration that efforts are being made or have been made "to restore the original service or establish comparable service."[199] In either the initial emergency discontinuance application or the renewal request, the carrier may request authority to indefinitely or permanently discontinue the service at issue.[200]

101. We seek comment on how the Commission should process requests to permanently discontinue service, either in an initial emergency discontinuance application or in a later informal request. If a carrier submits an emergency discontinuance application that also contains a request to permanently discontinue the service at issue, should we process such a request on a streamlined basis? What benefits or cost savings would there be for carriers from this combined streamlined application? If so, what should the length of that auto-grant period be, and when should it commence? Should the auto-grant period be separate from and subsequent to the 15-day auto-grant period for the emergency discontinuance request, or should it run concurrently? What types of information should such a permanent discontinuance request contain? Should the carrier be required to indicate how the request satisfies the traditional five factors the Commission considers when evaluating a non-streamlined discontinuance application?

5. Reviewing Outdated Discontinuance Rules

102. We propose to eliminate a number of rules applicable to section 214(a) discontinuances that appear to be remnants of a bygone era. As discussed above, the communications marketplace has evolved significantly over the almost two decades since Congress last undertook significant revisions to the Act, and a thorough review of all of the Commission's rules pertaining to discontinuances is long overdue. We seek comment on this proposal. We also seek comment on any other revisions to our discontinuance rules warranted at this time.

103. *Public toll stations*. We propose to eliminate sections 63.60(f) and 63.504 of the Commission's rules, which pertain to the closure of public toll stations and which we propose to conclude

[196] *See id.* § 63.71(g).

[197] *Id.* § 63.63(b).

[198] *Id.*

[199] *Id.* § 63.63(a)(7), (b).

[200] *Id.* § 63.63(b).

are no longer relevant or necessary in today's communications marketplace. We seek comment on this proposal.

104. Section 63.60(f) of the Commission's rules defines the meaning of the term "public toll station" for purposes of part 63 of the Commission's rules as a public telephone station, located in a community, through which a carrier provides service to the public, and which is connected directly to a toll line operated by such carrier.[201] Section 63.504 details the contents of an application to close a public toll station where no other such toll station of the applicant will continue service in the community and where telephone toll service is not otherwise available to the public through a telephone exchange connected with the toll lines of a carrier.[202]

105. These rules were created more than six decades ago,[203] at a time when public toll stations were far more prevalent, personal landlines far less prevalent, and mobile phones nonexistent. Now, with only 100,000 pay phones still remaining in America (a mere 5% of their peak of 2 million in 1999),[204] it no longer makes sense to treat applications to discontinue this service distinctly from other types of service. We thus propose that discontinuances of public toll stations should be subject to the general provisions of section 63.71 of the Commission's rules[205] and that we eliminate sections 63.60(f) and 63.504 as obsolete and redundant. We seek comment on this proposal.

106. *Telephone exchanges at military establishments*. We propose to eliminate the requirement that carriers file an informal request with the Commission before altering service hours at telephone exchanges at deactivated military establishments.[206] We seek comment on our proposal.

107. Section 63.66 of the Commission's rules requires carriers to "file in quintuplicate an informal request" before closing or reducing the "hours of service at a telephone exchange at a military establishment because of deactivation of the establishment."[207] Authority for the closure or reduction is deemed granted on the 15th day following the filing of the request unless the Commission notifies the carrier otherwise on or before the 15th day.[208]

108. This rule was a reflection of Congress's concern when enacting section 214 of the Act regarding "loss or impairment of service during" wartime.[209] Given today's modern communications marketplace and the plethora of communications services available to civilian and military establishments alike, is there any need to maintain section 63.66's requirements? When is the last time a carrier filed an informal request under section 63.66? Should we retain section 63.66, we seek comment on requiring

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[201] 47 CFR § 63.60(f).

[202] *Id.* § 63.504.

[203] FCC, Extension of Lines and Discontinuance of Service by Carriers, 28 Fed. Reg. 13229 (Dec. 5, 1963).

[204] Nathaniel Meyersohn, *There are still 100,000 pay phones in America* (Mar. 19, 2018), https://money.cnn.com/2018/03/19/news/companies/pay-phones/index.html.

[205] 47 CFR § 63.71.

[206] *Id.* § 63.66.

[207] *Id.*

[208] *Id.*

[209] *See, e.g.*, *Western Union Tel. Co. Petition for Order to Require the Bell System to Continue to Provide Group/Supergroup Facilities*, Memorandum Opinion and Order, 74 F.C.C.2d 293, 295, para. 6 n.4 (1979); *see also Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 06172, Memorandum Opinion and Order, 22 FCC Rcd 21293, 21294, para. 1 & n.4 (2007). "Dominant carrier regulations include, among other things, requirements arising under section 214 related to transfer of control and discontinuance, cost-supported tariffing requirements, and price regulation for services falling under the Commission's jurisdiction." *Id.* at 21295, para. 2.

electronic filing of the request in the Commission's Electronic Comment Filing System in lieu of filing "in quintuplicate." Is there any reason why electronic filing of such requests would be impracticable?

109. *Publication and posting of notices*. We propose to eliminate section 63.90 of the Commission's rules.[210] We seek comment on our proposal.

110. Section 63.90 requires providers filing an application or information request to discontinue or reduce hours of service at a telephone exchange to "post a public notice at least 51 cm by 61 cm (20 inches by 24 inches), with letter of commensurate size, in a conspicuous place in the exchange affected, and also in the window of any such exchange having window space fronting on a public street at street level."[211] Providers then must post a notice in a newspaper for two weeks in the community where the telephone exchange is located.[212] If the provider seeks to close a public toll station, it must post a public notice in a newspaper as well.[213] Additionally, section 63.90 requires providers to file a notice and copy of its request with the State Commission of any state where discontinuance or reduction is sought.[214] Once a carrier has completed the requisite posting, publication, and notification, section 63.90 requires the carrier report this fact to the Commission, with specific information regarding the posting, publication, and notification.[215]

111. Section 63.90 was enacted in 1980 as a part of the Commission's effort to update domestic public message service rules.[216] Due to technological developments, firms began handling public message services via telephone instead of in offices.[217] The Commission implemented requirements to ensure adequate public notice of changes to office hours instead of requiring firms to seek Commission approval prior to altering or discontinuing hours of service.[218]

112. With the evolution of the communications marketplace over those intervening four-plus decades, carriers and consumers alike have access to a variety of modes of communication. Indeed, the Commission in 2016 added email as an accepted means of providing notice to customers of a planned discontinuance,[219] noting that "email is the preferred method of notice for many carriers seeking discontinuance, as well as for consumers."[220] Are section 63.90's requirements relevant today? When

[210] 47 CFR § 63.90.

[211] *Id.* § 63.90(a).

[212] *Id.* § 63.90(b).

[213] *Id.* § 63.90(c).

[214] *Id.* § 63.90(d).

[215] *Id.* § 63.90(e).

[216] Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities Other Than the Western Union Tel. Co. and Proposed Amendment to Parts 63 and 64 of the Commission's Rules, CC Docket No. 78-96, Memorandum Opinion and Order, 75 F.C.C.2d 345 (1980) (Domestic Public Message Services Order). Public message services encompass the "variety of public record (or message) offerings generally involving acceptance of a message from the public, electronic transmission of the message, production of a physical hard copy, and ultimately some form of delivery to its recipient." Domestic Publication Services Graphnet Systems, Inc. Application to Participate in the Hinterland Delivery of International Communications Messages Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities Other than the Western Union Telegraph Company and Proposed Amendment to Parts 63 and 64 of the Commission's Rules, CC Docket No. 78-96, Memorandum Opinion and Order 71 F.C.C.2d. 471, 505-06, para. 103 (1979).

[217] *Domestic Public Message Services Order*, 75 F.C.C.2d at 376, paras. 103-04.

[218] *Id.* at 375-76, paras. 101-05.

[219] *See 2016 Technology Transitions Order*, 31 FCC Rcd at 8352-53, paras. 187-88; *see also* 47 CFR § 63.71(a).

[220] *See 2016 Technology Transitions Order*, 31 FCC Rcd at 8353, para. 188.

was the last time a carrier posted a public notice in the window of a telephone exchange? And when was the last time a carrier posted these notices in newspapers? Is there any continuing need to require providers to post notices in accordance with section 63.90? If we eliminate this rule, would a request to discontinue or reduce hours of service at a telephone exchange be covered by section 63.71 and its notice provisions?[221]

113. *Notification of service outage*. We propose to eliminate section 63.100 from the Commission's rules, which directs providers to part 4 of the Commission's rules for the requirements concerning notifications of service outages.[222] We seek comment on our proposal.

114. The Commission's rules did not set forth any specific requirements for reporting outages or service disruptions until the Commission enacted section 63.100 in 1992.[223] The Commission enacted section 63.100 in response to widespread telephone outages, highlighting the need to monitor outages in real time.[224] However, the requirements originally listed in section 63.100 are now found in part 4 of the Commission's rules, and section 63.100 does not contain any substantive regulations.[225]

115. Given that section 63.100 merely directs providers to look at part 4 of the Commission's rules for the requirements pertaining to notifications of service outages, is section 63.100 still necessary? Would eliminating section 63.100 cause confusion among providers about their service outage notification obligations?

116. *Trunk lines and interchange of traffic with another carrier*. We seek comment on eliminating sections 63.500 and 63.501 of the Commission's rules.[226]

117. Section 63.500 sets forth the required contents of applications to dismantle or remove a trunk line.[227] Section 63.501 does the same for applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier. These rules were adopted at a time when copper was the dominant transmission medium.[228] That is no longer the case. Indeed, no domestic applications relying on either of these provisions have been filed for at least two decades. Given the ongoing network evolution and the constantly decreasing reliance on copper lines, we seek comment on whether separate rules governing the contents of applications addressing these two specific situations remain necessary. Do sections 63.500 or 63.501, which pertain solely to contents of applications, retain any relevance in today's communications marketplace? If we eliminate these provisions, should we remove the references to these types of discontinuances or these specific rule sections, or both, in sections 63.19 and 63.62 of our rules.[229] Where fiber is the transmission medium for interconnection trunks, would elimination of these rules permit incumbent LECs to discontinue interconnection and 911 trunks without filing an application? What impact would giving incumbent LECs the ability to disconnect such trunks have on the delivery of E911 calls and the universal availability of the public switched telephone network?

118. *Public coast stations*. We propose to modify the Commission's rules to remove

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[221] *See* 47 CFR § 63.71(a).

[222] *Id.* § 63.100.

[223] *Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions*, CC Docket No. 91-273, Report and Order, 7 FCC Rcd 2010, 2010-11, paras. 1-5 (1992).

[224] *Id.* at 2010-11, 2017, paras. 4-5, 35.

[225] 47 CFR pt. 4.

[226] 47 CFR § 63.500.

[227] *Id.* § 63.501.

[228] *See id.* §§ 63.500, 63.501 (1963).

[229] *Id.* §§ 63.19 (setting forth procedures applicable to discontinuance of international services), 63.62 (stating the types of service discontinuances requiring formal application).

references to public coast stations in sections 63.60(c) and 63.63 of the Commission's rules[230] and eliminate section 63.601,[231] setting forth the requirements for the content of applications seeking to impair or discontinue operation of public coast stations. These provisions relate to other rules and policies regarding public coast stations that the Commission previously eliminated. We propose to conclude that the specific references to public coast stations in these rules are unnecessary vestiges of that previous regulation, and no longer serve any useful purpose. The remaining discontinuance obligations of certain public coast stations are addressed exclusively by other provisions of part 63 governing international service, in conjunction with part 80 of the Commission's rules governing the Maritime Radio Services including public coast stations. We seek comment on this proposal.

119. Public coast stations, part of the oldest radio service administered by the Commission, are commercial mobile radio service (CMRS) providers of ship/shore radiotelephone and radiotelegraph services, allowing ships along inland waterways, in coastal areas, and on the high seas to send and receive messages and to interconnect with the public switched telephone network.[232] The Commission classified public coast stations as part of CMRS in 1994, and at the same time exercised its authority to forbear from section 214 with respect to discontinuance of service of domestic CMRS stations.[233] The Commission did not include international CMRS in this forbearance, and thus public coast stations providing international (high seas) service are still subject to section 214, as non-dominant carriers, for the provision of new service or discontinuance of existing service.[234]

120. In keeping with that forbearance, the Commission modified part 63 of its rules to eliminate provisions addressing impairment or discontinuance of public coast stations.[235] While many references to public coast stations were removed, the instant rule provisions remained.

121. We tentatively conclude that these remaining provisions are no longer necessary because the only public coast stations that remain subject to section 214 and regulation under part 63 are those that provide international service. Discontinuances of international services are governed by section 63.19, which specifically provides that CMRS providers are not subject to the provisions of that section.[236]

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[230] *Id.* §§ 63.60(b)(1)-(2), 63.60(c), 63.63.

[231] *Id.* § 63.601.

[232] *See* Implementation of Sections 3(n) and 332 of the Communications Act – Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1448, para. 83 (1994) (CMRS Second Report and Order), recon. dismissed in part and denied in part, 15 FCC Rcd 5231 (2000); *see also* 47 CFR §§ 80.5, 80.453.

[233] *CMRS Second Report and Order*, 9 FCC Rcd at 1480-81, 1511, paras. 182, 275; *see also* 47 CFR §§ 20.15(b)(3), 80.3(f).

[234] *See* CMRS Second Report and Order, 9 FCC Rcd at 1481, para. 182 & n.369; Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 to Establish Uniform License Renewal, Discontinuance of Operations, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services, WT Docket No. 10-112, Second Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 8874, 8956, Appx. F, para. 7 (2017).

[235] *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, First Report and Order, 10 FCC Rcd 8419 (1995) (reclassifying international public coast stations as non-dominant common carriers subject to relaxed station closure requirements under part 63). Then-existing sections 63.62(e) ("The closure of, or reduction of hours of service at, a public coast station…"), 63.64 (Alternative procedure in certain specified cases involving public coast stations), 63.69 (Contents of applications to close, or reduce hours of service at, a public coast station), and 63.70 (Alternative procedure in certain specified cases where authority to reduce the hours of service at a public coast station is desired) were deleted. 47 CFR §§ 63.62(e), 63.64, 63.69, 63.70 (1994). References to public coast stations were also eliminated elsewhere in sections 63.62 and 63.90(a). 47 CFR §§ 63.62, 63.90(a) (1994).

[236] 47 CFR § 63.19(c).

122. We also propose to delete the reference to "public coast stations" in section 63.63(a), applicable to emergency discontinuances. CMRS service is no longer subject to international discontinuance obligations under section 63.19, and the Commission previously forbore from discontinuance requirements for domestic CMRS service, making that reference in section 63.63(a) unnecessary and irrelevant. For the same reasons, and because it relies upon a previously eliminated rule, we also propose to delete section 63.601.[237]

123. We also propose to eliminate references to public coast stations in the definitions in sections 63.60(b)(1)-(2) and 63.60(c). The references in 63.60(b)(1)-(2) appear to be unnecessary to operation of the rules now applicable to public coast stations providing international service.[238] Moreover, the existing references can be misleading. Section 63.60(b)(1) cross-references the definition of public coast stations in section 80.5[239] that is simply a general description applicable to *all* public coast stations, without any indication of the limitation for the purposes of part 63 to only such stations providing international service. Section 63.60(c) includes public coast stations in defining "[e]mergency discontinuance, reduction, or impairment of service" and specifies a "reasonable time" for outage of public coast stations, at the same time pertinent rule provisions applicable to international service are in section 63.25 (Special provisions relating to temporary or emergency service by international carriers).[240] We specifically seek comment on whether the public coast stations provision of section 63.60(c) conflicts with section 63.25 and should be deleted or modified, or whether it should be retained. Also, is there any need to retain or value in retaining the provision in 63.60(c), given the operations-specific regulations governing public coast stations in part 80?[241]

124. We seek comment on these proposed modifications, as well as any specific suggestions of other modifications or alternatives that would enhance the clarity of the rules on impairment or discontinuance of service of public coast stations.

6. Other Issues

125. We seek general comment on any other potential revisions to our section 214 discontinuance regulations that might help facilitate the transition to next-generation networks and advanced communications services. We also seek comment on any other Federal, state, or local requirements that inhibit or impede the transition to next-generation networks and services. For example, are there any state or local requirements that would conflict with the Commission's goals of accelerating this transition by, for example, compelling carriers to continue providing legacy voice service or preventing carriers from discontinuing such service? If so, how can the Commission address such obstacles?

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[237] *Id.* § 63.601 (Contents of applications for authority to reduce the hours of service of public coast stations under the conditions specified in § 63.70); *see also supra* note 230.

[238] Inclusive of section 63.19, rule sections applicable to international service include sections 63.09 - 63.25 and 63.53(a), 47 CFR §§ 63.09 - 63.25, 63.53(a). Sections 63.09 - 63.24 have their own list of definitions at section 63.09. *Id*. at § 63.09.

[239] *Id.* § 80.5.

[240] *Id.* § 63.25.

[241] These regulations include section 80.471 (discontinuance or impairment or service of public coast stations), section 80.47 (operation during emergency), section 80.90 (suspension of transmission), sections 80.105 and 80.106 (communication obligations of public coast stations), section 80.121(b)(1) (watch requirement for public coast stations when using telegraphy) and subpart G of part 80 (safety watch requirements and procedures for public coast stations). *Id.* §§ 80.47, 80.90, 80.105, 80.106, 80.121(b)(1), 80.301-80.303, 80.471.

IV. PROCEDURAL MATTERS

A. *Ex Parte* Rules

126. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[34] 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.

B. Paperwork Reduction Act Analysis

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

C. Providing Accountability Through Transparency Act

128. 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.

D. Regulatory Flexibility Act

129. The Regulatory Flexibility Act of 1980, as amended (RFA),[242] requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."[243] Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this *Notice*. The IRFA is set forth in Appendix B. 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 *Notice* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

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[242] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[243] 5 U.S.C.. § 605(b).

E. Filing of Comments and Reply Comments

130. 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.

131. *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.

F. Contact Person

132. For further information about this proceeding, please contact Michele Berlove, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1477, or michele.berlove@fcc.gov, or Mason Shefa, Competition Policy Division, Wireline Competition Bureau, at mason.shefa@fcc.gov, or (202) 418-2494.

V. ORDERING CLAUSES

133. Accordingly, IT IS ORDERED that pursuant to sections 1-4, 214(a), 251(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-54, 214(a), 251(c)(5), the Notice of Proposed Rulemaking hereby IS ADOPTED.[244]

134. 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.

[244] Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Proposed Rules

For the reasons set forth above, Part 63 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 51 – INTERCONNECTION

1. The authority for part 51 continues to read as follows:

AUTHORITY: 47 U.S.C. 151-55, 201-05, 207-09, 218, 225-27, 251-52, 271, 332 unless otherwise noted.

2. Amend § 51.329 by revising paragraph (a) and deleting paragraph (c) to read as follows :

51.329 Notice of network changes: Methods for providing notice.

(a) An incumbent LEC shall provide the required notice to the public of network changes through industry fora, industry publications, or the carrier's publicly accessible Internet site.

* * * * *

3. Revise § 51.333 to read as follows:

51.333 Notice of network changes: Short-term network changes and copper retirement.

(a) ***Direct notice.*** If an incumbent LEC wishes to provide less than six months' notice of planned network changes, or provide notice of a planned copper retirement, the incumbent LEC must serve a copy of its public notice upon each telephone exchange service provider that directly interconnects with the incumbent LEC's network, provided that, with respect to copper retirement notices, such service may be made by postings on the incumbent LEC's website if the directly interconnecting telephone exchange service provider has agreed to receive notice by website postings. An incumbent LEC must provide the required direct notice of a planned copper retirement at least ninety days prior to implementation.

(b) **Limited exemption from advance notice and timing requirements –**

(1) **Force majeure events.**

(i) Notwithstanding the requirements of this section, if in response to a force majeure event, an incumbent LEC invokes its disaster recovery plan, the incumbent LEC will be exempted during the period when the plan is invoked (up to a maximum 180 days) from all advanced notice requirements under this section associated with network changes that result from or are necessitated as a direct result of the force majeure event.

(ii) As soon as practicable, during the exemption period, the incumbent LEC must continue to comply with § 51.325(a), include in its public notice the date on which the carrier invoked its disaster recovery plan, and must communicate with other directly interconnected telephone exchange service providers to ensure that such carriers are aware of any changes being made to their networks that may impact those carriers' operations.

* * *

(2) **Other events outside an incumbent LEC's control.**

(i) Notwithstanding the requirements of this section, if in response to circumstances outside of its control other than a force majeure event addressed in paragraph (b)(1) of this section, an incumbent LEC cannot comply with the timing requirement set forth in paragraph (a)(1), the incumbent LEC must give notice of the network change as soon as practicable.

(ii) A short-term network change or copper retirement notice subject to paragraph (b)(2) of this section must include a brief explanation of the circumstances necessitating the reduced waiting period and how

the incumbent LEC intends to minimize the impact of the reduced waiting period on directly interconnected telephone exchange service providers.

* * *

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

1. The authority for part 63 continues to read as follows:

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

2. Amend § 63.19 by revising paragraphs (a) and (b) to read as follows:

(a) With the exception of those international carriers described in paragraphs (b) and (c) of this section, any international carrier that seeks to discontinue, reduce, or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.505: * * *

(b) The following procedures shall apply to any international carrier that the Commission has classified as dominant in the provision of a particular international service because the carrier possesses market power in the provision of that service on the U.S. end of the route. Any such carrier that seeks to retire international facilities, dismantle or remove international trunk lines, but does not discontinue, reduce or impair the dominant services being provided through these facilities, shall only be subject to the notification requirements of paragraph (a) of this section. If such carrier discontinues, reduces or impairs the dominant service, or retires facilities that impair or reduce the service, the carrier shall file an application pursuant to §§ 63.62 and 63.505.

* * * * *

3. Revise § 63.60 to read as follows:

§ 63.60 Definitions.

(a) For the purposes of §§ 63.60 through 63.71, the term "carrier," when used to refer either to all telecommunications carriers or more specifically to non-dominant telecommunications carriers, shall include interconnected VoIP providers.

(b) *Discontinuance, reduction, or impairment of service* includes, but is not limited to the following:

(1) The closure by a carrier of a telephone exchange rendering interstate or foreign telephone toll service;

(2) The reduction in hours of service by a carrier at a telephone exchange rendering interstate or foreign telephone toll service; the term *reduction in hours of service* does not include a shift in hours which does not result in any reduction in the number of hours of service;

* * *

(c) *Emergency discontinuance, reduction, or impairment of service* means any discontinuance, reduction, or impairment of the service of a carrier occasioned by conditions beyond the control of such carrier where the original service is not restored or comparable service is not established within a reasonable time. For the purpose of this part, a reasonable time shall be deemed to be a period not in excess of 60 days.

* * *

(f) For the purposes of §§ 63.60 through 63.71, the term "service," when used to refer to a real-time, two-way voice communications service, shall include interconnected VoIP service as that term is defined in §

9.3 of this chapter but shall not include any interconnected VoIP service that is a "mobile service" as defined in § 20.3 of this chapter.

4. Amend section 63.62 by revising paragraphs (a), (b), and (d), as follows:

§ 63.62 Type of discontinuance, reduction, or impairment of telephone service requiring formal application.

Authority for the following types of discontinuance, reduction, or impairment of service shall be requested by formal application containing the information required by the Commission in the appropriate sections to this part, including § 63.505, except as provided in paragraph (d) of this section, or in emergency cases (as defined in § 63.60(b)) as provided in § 63.63:

(a) The dismantling or removal of a trunk line for all domestic carriers and for dominant international carriers except as modified in § 63.19;

(b) The severance of physical connection or the termination or suspension of the interchange of traffic with another carrier;

* * * * *

(d) The closure of a public toll station where no other such toll station of the applicant in the community will continue service: *Provided, however,* That no application shall be required under this part with respect to the closure of a toll station located in a community where telephone toll service is otherwise available to the public through a telephone exchange connected with the toll lines of a carrier;

(e) Any other type of discontinuance, reduction, or impairment of telephone service not specifically provided set forth in paragraphs (a) through (d) of this section;

* * * * *

5. Amend § 63.63 by revising paragraphs (a) and (b), to read as follows:

§ 63.63 Emergency discontinuance, reduction or impairment of service.

(a) Application for authority for emergency discontinuance, reduction, or impairment of service shall be made by electronically filing an informal request through the "Submit a Non-Docketed Filing" module of the Commission's Electronic Comment Filing System. Such requests shall be made as soon as practicable but not later than 65 days after the occurrence of the conditions which have occasioned the discontinuance, reduction, or impairment. The request shall make reference to this section and show the following:

* * *

(b) * * * However, the Commission may, upon specific request of the carrier and upon a proper showing, contained in such informal request or in the initial application, authorize such discontinuance, reduction, or impairment of service for an indefinite period or permanently; except that the carrier may permanently discontinue, reduce, or impair a service, upon the filing of a certification showing that (1) it has received authority for emergency discontinuance, reduction, or impairment; (2) it has had no customers or reasonable requests for service during the 60-day period immediately preceding the stated planned permanent discontinuance date; and (3) a comparable service is available in the affected service areas.

6. § 63.66. [Removed]

Remove § 63.66.

7. Revise § 63.71 to read as follows:

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

(a) The carrier shall notify all affected customers of the planned discontinuance, reduction, or impairment of service and shall notify and submit a copy of its application to the public utility commission of the State in which the discontinuance, reduction, or impairment of service is proposed and to any federally-recognized Tribal Nations with authority over the Tribal lands in which the discontinuance, reduction, or impairment of service is proposed. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. For purposes of this section, notice by email constitutes notice in writing. Notice shall include the following:

* * *

(5) The notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

* * * * *

(f) (1) The application to discontinue, reduce, or impair service that does not constitute a technology transition or, if constituting a technology transition, meets the requirements of paragraph (f)(2) of this section, shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective. For purposes of this section, an application will be deemed filed on the date the Commission releases public notice of the filing.

(2) An application to discontinue, reduce, or impair an existing retail service as part of a technology transition, as defined in § 63.60(f), may be automatically granted only if the applicant certifies that at least one of the following types of services, exists throughout the affected service area:

(i) a facilities-based interconnected VoIP service, as defined in § 9.3 of this chapter;

(ii) a facilities-based mobile voice wireless service;

(iii) a voice service offered pursuant to an obligation from one of the Commission’s modernized high-cost support programs;

(iv) a voice service that has been available from the applicant in the affected service area for a period of at least six months, and to which at least 50 percent of the carrier’s total voice service customer base in the affected area are subscribed; or

(v) a widely adopted alternative service.

* * *

(i) Notwithstanding any other provision of this section, a carrier is not required to file an application to grandfather a legacy voice or lower-speed data telecommunications service, or an interconnected VoIP service provisioned over copper wire. For purposes of this section, a lower-speed data telecommunications service is a data telecommunications service operating at speeds below 25/3 Mbps.

8. § 63.90 [Removed]

Remove § 63.90.

9. § 63.100 [Removed]

Remove § 63.100.

10. § 63.504. [Removed]

Remove § 63.504.

11. § 63.601. [Removed]

Remove § 63.601.

12. § 63.602. [Removed]

Remove § 63.602.

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)[1] the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Notice of Proposed Rulemaking* (*Notice*) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *Notice*. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2] In addition, the *Notice* and IRFA (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Proposed Rules

2. The *Notice* seeks to eliminate regulatory burdens in an effort to encourage providers to build, maintain, and upgrade their networks to ensure that all consumers can benefit from today's advanced communication services. Over the course of time, changes in the communications marketplace have altered how providers deliver services to consumers. To reduce regulatory burdens that hinder providers from investing in and deploying next-generation networks, we propose to eliminate all filing requirements in the Commission's network change disclosure rules by codifying the Wireline Competition Bureau's (the Bureau) *NCD Waiver Order*.[4] Alternatively, we seek comment on whether the communications marketplace is sufficiently competitive such that incumbent local exchange carriers (LECs) no longer exert monopoly control over the Nation's communications networks, and forbearing from the Commission's network change disclosure rules altogether.[5] The *Notice* next proposes to simplify the discontinuance process for technology transitions discontinuance applications by consolidating rules governing discontinuance applications into one rule.[6] We seek comment on alternative actions, such as granting forbearance from discontinuance obligations or through a targeted revision of our rules, including codifying relief granted by the Bureau.[7]

3. We next provide options for further revision of the Commission's rules implementing the discontinuance requirements imposed by section 214(a) of the Act.[8] We propose to eliminate the requirement that a carrier seeking to grandfather a legacy service file an application with the Commission and alternatively seek comment on extending this relief to the grandfathering of any service.[9] We also seek comment on forbearing from all discontinuance requirements for all lower-speed data telecommunications services.[10] Further, we propose to expand the 31-day automatic grant period applicable to applications to discontinue a service for which the discontinuing carrier is non-dominant to extend to all discontinuance applications eligible for streamlined processing regardless of carrier

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[1] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[2] *Id.* § 603(a).

[3] *Id*.

[4] *Notice* Section III.A.1.

[5] *Notice* Section III.A.2.

[6] *Notice* Section III.B.1.

[7] *Notice* Section III.B.1.

[8] *Notice* Section III.B.2.

[9] *Notice* Section III.B.3.a.

[10] *Notice* Section III.B.3.b.

classification.[11] In addition, we seek comment on granting forbearance from the requirement that domestic carriers seeking to discontinue a service notify the relevant state Governor and Secretary of Defense.[12] We also seek comment on revising the emergency discontinuance requirements under section 63.63 and requests made under that rule for permanent discontinuance.[13] Lastly, we propose to eliminate various discontinuance rules that are outdated or redundant.[14]

B. Legal Basis

4. The proposed action is authorized pursuant to sections 1-4, 214(a), 251(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-54, 214(a), 251(c)(5).

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.[15] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[16] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act."[17] 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.[18]

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 three broad groups of small entities that could be directly affected by our actions.[19] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, in general, a small business is an independent business having fewer than 500 employees.[20] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.[21] Next, "small organizations" are not-for-profit enterprises that are independently owned and operated and not dominant their field.[22] While we do not have data regarding the number of non-profits

[11] *Notice* Section III.B.3.c.

[12] *Notice* Section III.B.3.d.

[13] *Notice* Section III.B.4.

[14] *Notice* Section III.B.5.

[15] 5 U.S.C. § 603(b)(3).

[16] *Id.* § 601(6).

[17] *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."

[18] 15 U.S.C. § 632.

[19] 5 U.S.C. § 601(3)-(6).

[20] *See* SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

[21] *Id*.

[22] 5 U.S.C. § 601(4).

that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.[23] Finally, "small governmental jurisdictions" are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.[24] Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.[25]

1. Internet Access Service Providers

7. *Wired Broadband Internet Access Service Providers (Wired ISPs)*.[26] Providers of wired broadband Internet access service include various types of providers except dial-up Internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules.[27] Wired broadband Internet services fall in the Wired Telecommunications Carriers industry.[28] The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small.[29] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[30] Of this number, 2,964 firms operated with fewer than 250 employees.[31]

8. Additionally, according to Commission data on Internet access services as of June 30, 2024, nationwide there were approximately 2,204 providers of connections over 200 kbps in at least one direction using various wireline technologies.[32] The Commission does not collect data on the number of employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2024 Communications*

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[23] *See* SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/.

[24] 5 U.S.C. § 601(5).

[25] *See* U.S. Census Bureau, 2022 Census of Governments –Organization, https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html, tables 1-11.

[26] Formerly included in the scope of the Internet Service Providers (Broadband), Wired Telecommunications Carriers and All Other Telecommunications small entity industry descriptions.

[27] *See* 47 CFR § 1.7001(a)(1).

[28] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[29] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[30] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[31] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[32] *See* Federal Communications Commission, Internet Access Services: Status as of June 30, 2024 at 40, Fig. 41 *(IAS Status 2024)*, Industry Analysis Division, Office of Economics & Analytics (May 2025). As of June 30, 2022, FCC Form 477 classifies all fixed wired connections into three mutually exclusive technology categories: (1) Copper Wire, (2) Coaxial Cable (hybrid fiber-coaxial), and (3) Optical Carrier (fiber to the premises). The report can be accessed at https://www.fcc.gov/economics-analytics/industry-analysis-division/iad-data-statistical-reports.

Marketplace Report,[33] we believe that the majority of wireline Internet access service providers can be considered small entities.

9. *Internet Service Providers (Non-Broadband).* Internet access service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications.[34] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[35] For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[36] Of those firms, 1,039 had revenue of less than $25 million.[37] Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

2. Wireline Service Providers

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.[38] 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.[39] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[40] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[41]

11. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[42] U.S. Census Bureau data for 2017 show that there

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[33] *See Communications Marketplace Report*, GN Docket No. 24-119, FCC 24-136 at 6, paras. 12-13-27, Figs. II.A.1-3. (2024) (*2024 Communications Marketplace Report*).

[34] *See* U.S. Census Bureau, *2017 NAICS Definition, "517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[35] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[36] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[37] *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.

[38] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[39] *Id.*

[40] *Id.*

[41] 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.

[42] *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.[43] Of this number, 2,964 firms operated with fewer than 250 employees.[44] 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.[45] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[46] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

12. *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[47] is the closest industry with an SBA small business size standard.[48] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[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 in this industry for the entire year.[51] Of this number, 2,964 firms operated with fewer than 250 employees.[52] 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.[53] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[54] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

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[43] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[44] *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.

[45] 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. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf.

[46] *Id.*

[47] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[48] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[49] 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.

[50] *Id.*

[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. At this time, the 2022 Economic Census data is not available.

[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] 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.

[54] *Id.*

13. *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[55] is the closest industry with an SBA small business size standard.[56] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[57] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[58] Of this number, 2,964 firms operated with fewer than 250 employees.[59] 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.[60] Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees.[61] 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.

14. *Competitive Local Exchange Carriers (CLECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.[62] Wired Telecommunications Carriers[63] 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.[64] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[65] Of this number, 2,964 firms operated with fewer than 250 employees.[66] 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

[55] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[56] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[57] *Id.*

[58] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[59] *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.

[60] 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.

[61] *Id.*

[62] 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.

[63] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[64] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[65] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[66] *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.

service providers.[67] Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees.[68] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

15. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers[69] is the closest industry with a SBA small business size standard.[70] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[71] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[72] Of this number, 2,964 firms operated with fewer than 250 employees.[73] 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.[74] 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.

16. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The closest applicable industry with a SBA small business size standard is Wired Telecommunications Carriers.[75] The SBA small business size standard classifies a business as small if it has 1,500 or fewer employees.[76] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[77] Of this number, 2,964 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

[67] 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.

[68] *Id.*

[69] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[70] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[71] *Id.*

[72] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[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.

[74] 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.

[75] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[76] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&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.

20 providers that reported they were engaged in the provision of operator services.[79] Of these providers, the Commission estimates that all 20 providers have 1,500 or fewer employees.[80] Consequently, using the SBA's small business size standard, all of these providers can be considered small entities.

17. *Other Toll Carriers*. Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers[81] is the closest industry with a SBA small business size standard.[82] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[83] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[84] Of this number, 2,964 firms operated with fewer than 250 employees.[85] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 90 providers that reported they were engaged in the provision of other toll services.[86] Of these providers, the Commission estimates that 87 providers have 1,500 or fewer employees.[87] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

3. Wireless Providers—Fixed and Mobile

18. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[88] 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.[89] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[90] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this

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[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. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf.

[80] *Id.*

[81] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[82] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[83] *Id.*

[84] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[85] *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.

[86] 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. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf.

[87] *Id.*

[88] *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.

[89] *Id.*

[90] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

industry that operated for the entire year.[91] Of that number, 2,837 firms employed fewer than 250 employees.[92] 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.[93] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.[94] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

19. *Wireless Communications Services*. Wireless Communications Services (WCS) can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. Wireless spectrum is made available and licensed for the provision of wireless communications services in several frequency bands subject to Part 27 of the Commission's rules.[95] Wireless Telecommunications Carriers (*except* Satellite)[96] is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[97] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[98] Of this number, 2,837 firms employed fewer than 250 employees.[99] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

20. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in Part 27 of the Commission's rules for the specific WCS frequency bands.[100]

21. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction

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[91] *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. At this time, the 2022 Economic Census data is not available.

[92] *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.

[93] 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.

[94] *Id.*

[95] *See* 47 CFR §§ 27.1 – 27.1607.

[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] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[98] *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. At this time, the 2022 Economic Census data is not available.

[99] *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.

[100] *See* 47 CFR §§ 27.201 – 27.1601. The Designated entities sections in Subparts D – Q each contain the small business size standards adopted for the auction of the frequency band covered by that subpart.

does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

22. *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.[101] 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.[102] 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.[103] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[104] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[105] Of those firms, 1,039 had revenue of less than $25 million.[106] Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

23. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.[107]

24. The *Notice* seeks comment on proposals that we expect will reduce reporting, recordkeeping, and other compliance requirements if adopted, as small and other carriers would then be subject to fewer regulatory burdens. In the *Notice*, we first propose to eliminate all filing requirements in the Commission's network change disclosure rules.[108] We seek comment on forbearing from all of the Commission's network change disclosure rules instead, including whether carriers should remain obligated to provide public notice of network changes or copper retirement.[109] We then examine our rules governing the section 214(a) discontinuance process, with the goal of expediting the transition from

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[101] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[102] *Id.*

[103] *Id*.

[104] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[105] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[106] *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.

[107] 5 U.S.C. § 603(b)(4).

[108] *Notice* Section III.A.1.

[109] *Notice* Section III.A.2.

legacy services to next-generation IP networks, as well as eliminating unnecessary burdens and costs on carriers. We propose to simplify technology discontinuance applications by consolidating existing rules governing the applications to one rule.[110] Upon application, carriers would be able to discontinue service so long as they could certify that one of the following replacement services are available in the affected service area: (1) a facilities-based interconnected VoIP service; (2) a facilities-based mobile wireless service; (3) a voice service offered pursuant to an obligation from one of the Commission's modernized high-cost support programs; (4) a voice service deployed by the applicant in the affected area for six months, and for which the carrier has at least a certain number of existing subscribers; or (5) a widely adopted alternative voice service.. We seek comment on our expectation that these four alternatives are adequate replacements for purposes of eligibility for streamlined processing. We also seek comment on two alternatives to this approach, (1) eliminating the Adequate Replacement Test and Alternative Options test and the technology transition discontinuance distinction; or (2) forbearing from discontinuance obligations.[111]

25. Next, we seek comment on a number of ways in which we might further revise our discontinuance requirements, all of which would reduce reporting and compliance requirements for small entities.[112] This would include eliminating the requirement that a discontinuation application show that a replacement service offers interoperability and compatibility with an enumerated list of applications and functionalities determined to be key for consumers and competitors. We also seek comment on whether to codify the waiver of rules requiring carriers to provide a "stand-alone" voice service to customers which would not require them to purchase a separate broadband service to access the voice service. We further propose to eliminate the requirement that a carrier seeking to grandfather a legacy service file a 214(a) discontinuance application and seek comment on extending this relief to all situations in which a carrier seeks to grandfather any service.[113] We next seek comment on whether to grant forbearance from the requirement that carriers seeking to discontinue service notify the Secretary of Defense and relevant state Governor.[114] The *Notice* also proposes to eliminate the distinction between dominant and non-dominant carriers related to discontinuance applications, expanding the 31-day automatic grant period to include any domestic carrier who submits a request to discontinue any service. Lastly, concerning reporting, recordkeeping, and compliance requirements, we seek comment on granting forbearance to carriers the previously filed for emergency discontinuance authority under section 63.63 of the Commission's rules, where the carrier has had no customers for the service during the preceding 60 days.[115]

26. We expect that the proposals in the *Notice* will decrease regulatory burdens on small and other carriers by eliminating many of the reporting and recordkeeping obligations mentioned above. While we do not anticipate that these carriers will need to hire professionals to comply with the proposals herein, we request comments specific to any potential burdens or costs small entities may incur in connection with these requirements.

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

27. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any

[110] *Notice* Section III.B.1.

[111] *Notice* Section III.B.2.b-c.

[112] *Notice* Section III.B.3.

[113] *Notice* Section III.B.3.a.

[114] *Notice* Section III.B.3.d.

[115] *Notice* Section III.B.4.

significant economic impact on small entities.[116] The discussion is required to include alternatives such as: "(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."[117]

28. The *Notice* seeks comment on proposals and alternatives that we expect will positively impact small entities. We seek comment on several alternatives to remove regulatory barriers and simplify requirements so that carriers can develop and deploy next-generation networks capable of supporting the advanced communication services available today, such as forbearing from the Commission's network change disclosure rules altogether.[118] This would eliminate the need for small and other providers to comply with the current filing and notice requirements for a network change under the Commission's rules. Regarding technology discontinuance applications, we seek comment on the alternatives of forbearing from discontinuance obligations under section 214(a) and the Commission's rules or revising the Commission's rules through codifying relief previously granted by the Bureau to entities that sought assistance.[119] We also propose to replace both the Adequate Replacement Test and the Alternative Options Test with one consolidated rule applicable to all technology transitions discontinuance applications, and seek comment this approach, or alternatives such as targeted revisions to these tests instead.

29. To further revise the Commission's discontinuance rules, we seek comment on the alternative of eliminating the need to file a section 214(a) discontinuance application in all situations in which a carrier intends to grandfather any service, instead of the current process which requires Commission authorization.[120] We also consider whether we should forbear from all section 214(a) discontinuance requirements for all lower-speed data telecommunications services, including whether notice should be required to consumers or the Commission and if so, what form that notice should take. The *Notice* also considers whether to eliminate the distinction between dominant and non-dominant carriers for purposes of discontinuance applications, and requests comment on the alternative of expanding the current 31-day automatic grant period for non-dominant carriers to include any domestic carrier who submits a request to discontinue any service. We also request comment on whether to grant forbearance from the requirement that carriers seeking to discontinue a service provide notice to both the Governor of the affected state and to the Secretary of Defense. In addition, we seek comment on alternatives to revising the emergency discontinuance requirements under section 63.63 and requests made under that rule for permanent discontinuance.[121] Lastly, we propose a number of alternatives to eliminate various discontinuance rules that are outdated or redundant given the current communications marketplace.[122] We seek comment on whether any of the burdens associated with alternatives that alter current filing, recordkeeping, and reporting requirements described in the *Notice* can be further minimized to lessen economic impact on small entities.

30. The Commission will fully consider the economic impact on small entities as it evaluates the comments filed in response to the *Notice*, including comments related to costs and benefits.

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[116] 5 U.S.C. § 603(c).

[117] *Id.* § 603(c)(1) - (4).

[118] *Notice* Section III.A.2.

[119] *Notice* Section III.B.1-2.

[120] *Notice* Section III.B.3.a.

[121] *Notice* Section III.B.4.

[122] *Notice* Section III.B.5.

Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes to minimize any significant economic impact that may occur on small entities from the final rules.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

31. None.

STATEMENT OF
CHAIRMAN BRENDAN CARR

Re: *Reducing Barriers to Network Improvements and Service Changes; Accelerating Network Modernization,* Notice of Proposed Rulemaking, WC Docket Nos. 25-209, 25-208 (July 24, 2025).

Earlier this month, in Sioux Falls, South Dakota, I unveiled the FCC's Build America Agenda. Speaking alongside some of our nation's hardworking tower climbers and telecom crews, I laid out my plan to streamline the construction of modern communications infrastructure and create the incentives to unleash new high-speed networks in communities across the country.

In just three short weeks since that announcement, we are turning those plans into real, tangible action. Today's decision to accelerate the transition from aging copper line networks to modern, high-speed ones was the first new policy action I mentioned in my speech and is now the first item in our Build America Agenda to be taken up by the full Commission.

Being back in South Dakota reminded me of a trip I took a few years ago to Canistota, a small, historic South Dakota town of just about 600 people. It was built in the 1800s when its founders carved up its main streets out of the clay, sand, and gravel that dominate the Drift Prairie region. I had the chance to join Congressman Dusty Johnson and visit with a construction crew that dug up the dirt, pushed aside old copper lines that dated back to the 1970s, and pulled the fiber needed to deliver high-speed service to the town. This fiber pull meant that for the first time the community was served by high-speed internet. High-speed connections for small towns like Canistota are a game changer. These connections open up new opportunities.

When I announced the Build America Agenda, I said we will keep the Gretzky test front and center. We want to keep our eyes on where the proverbial puck is going, not where it has been. Today's action is a clear execution of this principle. We are looking to unleash the private sector to build the modern networks of the future and ensure that providers are no longer forced to invest billions of dollars in aging technology.

The numbers tell the story of how significant today's proposed plan could be. Just one of the communications providers in the country spends around $6 billion a year (yes, you heard that right) to keep its old copper line services running. This is despite the fact that only five percent of its customers still subscribe to copper phone service.

With today's action, we are moving to free up billions of dollars for new networks, like the one in Canistota. We're ensuring that Americans get the modern, high-speed networks they need and deserve. And we are doing all of that while keeping our eye on strong consumer protection measures—thus ensuring that no one will lose access to emergency services, like 911, as a result of the transition from aging networks to modern ones.

For their work on this item, I'd like to thank Malena Barzilai, Michele Berlove, Joseph Calascione, Jodie Griffin, Rick Mallen, Marie Bordelon, Mason Shefa, John Visclosky, and Rachel Wehr.

STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Reducing Barriers to Network Improvements and Service Changes*; *Accelerating Network Modernization,* WC Docket Nos. 25-209 and 25-208, Notice of Proposed Rulemaking (Adopted July 24, 2025).

Last month, I visited the Neon Lights Center in Fleming-Neon, Kentucky. The center is a restored building with a coffee shop, dance studio, and community gathering space nestled in the hollers of Eastern Kentucky. The Center for Rural Strategies invited me to Fleming-Neon to talk about the importance of the First Amendment and the five freedoms it guarantees to us, including the freedom of the press. Out of all the questions I thought I would get in a rural town during a conversation about the First Amendment, I never thought one would be about copper retirement and the continued importance of legacy landline service in rural towns where the transition to new technologies has not taken place.

As my legal advisor, Edyael Casaperalta, and I drove through the windy roads in the mountains on our way to the Neon Lights Center, I noticed that cell phone connectivity was scarce. We had multiple cell phones that theoretically should have connected us to the networks of three major wireless carriers, but only one of those phones actually worked. While the question about the importance of legacy voice service surprised me, it reflected the reality of Fleming-Neon and many other rural towns that have not yet benefited from technological progress and thus still have to worry about losing the legacy technologies that are currently available to them. This concern is especially relevant when natural disasters like floods become more frequent and destructive and people rely on communications services for safety.

Also, I recently heard from Wyatt Ranches, a commercial and specialty livestock operation of over 200,000 acres in Texas. Wyatt Ranches is in a remote rural area and relies heavily on legacy phone service for its business operations. They have experienced continuous disruptions of service, and their provider has suggested discontinuing service altogether. This would leave Wyatt Ranches without voice service and vulnerable to serious risks to safety, security, and the continuity of their business.

These are examples from places I have visited and people I have heard from directly, and many pockets across our country share their experience.

The Federal Communications Commission (FCC) was created to "[m]ake available … to all the people of the United States … rapid, efficient … wire and radio communication service with adequate facilities at reasonable charges…."[123] It is our core mission to ensure that everyone in our nation has access to modern communications services. To implement the Communications Act of 1934, the FCC established rules to help us learn about the status of connectivity across the United States.

The Notice of Proposed Rulemaking at issue today asks whether we still need these rules to protect consumers or whether they get in the way of service providers investing in technology upgrades.[124] I support the move to new technologies and want to make sure the people of Fleming-Neon, Wyatt Ranches, and everywhere else get the benefits of technological progress. But it is imperative that we strike the right balance between over-burdensome regulation and rules that protect consumers. Reducing burdens on providers should not create barriers for consumers. With this NPRM we ask the public to

[123] 47 U.S.C. §151.

[124] *Reducing Barriers to Network Improvements and Service Changes*; *Accelerating Network Modernization*, WC Docket Nos. 25-209 and 25-208, Notice of Proposed Rulemaking (adopted July 24, 2025).

weigh in and help us strike the right balance.

I believe we could have asked more questions about the quality and affordability of replacement services to ensure that consumers are not left without service while they wait for upgrades. To all stakeholders, please weigh in. Help us understand the opportunities and the challenges that copper retirement and the much-needed transition to new technologies pose to your communities and businesses.

Thank you.

STATEMENT OF
COMMISSIONER OLIVIA TRUSTY

Re: *Reducing Barriers to Network Improvements and Service Changes; Accelerating Network Modernization,* Notice of Proposed Rulemaking, WC Docket Nos. 25-209, 25-208 (July 24, 2025).

The transition to IP-based networks has been years in the making, and it is central to modernizing our nation's communications infrastructure. These next-generation networks offer high-speed connectivity, stronger call authentication protections, and are better suited for emerging technologies like artificial intelligence.

Recently I had the opportunity to meet with leaders representing family-owned and community-based broadband providers that use fiber networks to serve rural and small-town communities across the country. Many of these companies are already offering internet speeds of at least 1 Gigabit per second. This "Gig internet" enables rural areas to access the kinds of industries and services traditionally associated with major metropolitan areas.

Although gigabit service is still relatively new, it's growing availability underscores the importance of encouraging investment in future-ready infrastructure, rather than propping up outdated copper networks. To support continued progress, we must reduce regulatory barriers that hinder broadband deployment while ensuring that all Americans have access to reliable, modern networks.

Thank you to the Wireline Competition Bureau for your work on this important item.

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

In the Matter of	)	
	)	
Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment	)	WC Docket No. 17-84
	)	
	)	

FIFTH REPORT AND ORDER, FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING, AND ORDERS ON RECONSIDERATION

Adopted: July 24, 2025 **Released: July 25, 2025**

Comment Date: 30 days after Federal Register publication
Reply Comment Date: 60 days after Federal Register publication

By the Commission: Chairman Carr and Commissioner Trusty issuing separate statements.

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I. INTRODUCTION

1. The Federal Communications Commission is focused on expanding access to high-speed broadband services. One way the agency is delivering on that goal is by accelerating the buildout of next-generation infrastructure. Today, we continue our infrastructure efforts by promoting fast and efficient deployment of broadband facilities on utility poles. As the Commission previously noted, access to the vital infrastructure of utility poles must be "swift, predictable, safe, and affordable, to ensure that broadband providers can continue to enter new markets and deploy facilities that support high-speed broadband."[1] And as more and more consumers rely on mobile wireless services to access broadband,[2] pole access becomes increasingly essential for the small wireless antennas and wireline backhaul on which these wireless services depend.[3]

2. The Commission has taken significant steps in recent years to expedite the pole attachment process, but there is more work to be done. Today, we take further action to advance the goal of ubiquitous high-speed broadband by revising our pole attachment rules to eliminate barriers to efficient broadband deployment by building on the work begun in the Commission's December 2023 *Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking*.[4] Specifically, we adopt rules (1) ensuring greater collaboration and cooperation between utilities and attachers, (2) establishing a timeline for large pole attachment requests, (3) improving the pole attachment timeline, and (4) speeding up the contractor approval process. We also seek comment in the Further Notice on ways to further facilitate the processing of pole attachment applications and make-ready to enable faster broadband deployment and, in response to a Petition for Declaratory Ruling filed by CTIA,[5] seek comment on whether light poles fall within the purview of section 224(f) of the Communications Act of 1934, as amended (the Act).[6] We then deny in part and grant in part a Petition for Clarification and/or Reconsideration from the Edison Electric Institute of portions of the *Declaratory Ruling*.[7] Finally, we deny a Petition for Reconsideration from the Coalition of Concerned Utilities of a portion of the *Fourth Wireline Infrastructure Order*.[8]

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[1] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, WT Docket No. 17-79, Third Report and Order and Declaratory Ruling, 33 FCC Rcd 7705, 7706, para. 1 (2018) (*Third Wireline Infrastructure Order*).

[2] *Communications Marketplace Report*, GN Docket No. 24-119, 2024 Communications Marketplace Report, FCC 24-136, para. 54 (Dec. 31, 2024) (*2024 Communications Marketplace Report*).

[3] *Id.* at paras. 75-76.

[4] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking, 38 FCC Rcd 12379 (2023) (*Fourth Wireline Infrastructure Order*, *Declaratory Ruling*, or *Third Further Notice*).

[5] CTIA Petition for Declaratory Ruling, WC Docket No. 17-84, WT Docket No. 17-79 (filed Sep. 6, 2019), https://www.fcc.gov/ecfs/document/10906760521179/1 (CTIA Petition).

[6] 47 U.S.C. § 224(f).

[7] Edison Electric Institute Petition for Clarification and/or Reconsideration, WC Docket No. 17-84 (filed Jan. 16, 2024), https://www.fcc.gov/ecfs/document/1011759245339/2 (EEI Petition).

[8] Petition for Reconsideration of the Coalition of Concerned Utilities, WC Docket No. 17-84 (filed Feb. 12, 2024), https://www.fcc.gov/ecfs/document/1021263321845/1 (CCU Petition).

II. BACKGROUND

3. Section 224(f) of the Act requires that utilities provide cable television systems and telecommunications carriers with nondiscriminatory access to their poles.[9] Section 224(b)(1) of the Act requires the Commission to set the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable.[10] The Commission has rules intended to ensure nondiscriminatory pole access and just and reasonable rates, along with a robust complaint process to ensure that our rules are enforced.[11]

4. *Pole Attachment Process.* Attaching equipment to utility poles is a multi-stage process. In the first stage, the utility reviews the pole attachment application submitted by the communications attacher for completeness.[12] In the second stage, the utility must determine whether to grant the complete application (review on the merits)[13] and undertake a survey of the poles for which access has been requested.[14] In the third stage, the utility must prepare for the attacher an estimate of the cost of preparing the affected poles for the new attachments.[15] In the fourth stage, utilities (or the existing attachers, if they want to move their own existing equipment) perform the work to make the affected poles ready for the new attachments (also known as "make-ready" work) and then the new attachers deploy their equipment on the poles.[16] The make-ready stage is the most time-intensive stage in the pole attachment process.[17]

5. *Existing Timelines.* The Commission's rules set forth deadlines for each stage in the pole attachment process.[18] A utility has up to 10 business days after receiving a new attachment application to

[9] 47 U.S.C. § 224(f)(1). For purposes of this statutory provision, "utility" is defined as "any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications." *Id*. § 224(a)(1). Railroads, cooperatives, and federally- and state-owned entities are expressly excluded from this definition. *Id.* The term "pole attachment" is defined as "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility." *Id.* § 224(a)(4).

[10] *Id.* § 224(b)(1). Note that section 224(c) of the Act exempts from Commission jurisdiction those pole attachments in states that have elected to regulate pole attachments themselves (so-called "reverse preemption"). *Id.* § 224(c). To date, 23 states and the District of Columbia have opted out of Commission regulation of pole attachments in their jurisdictions. *States That Have Certified That They Regulate Pole Attachments*, WC Docket No. 10-101, Public Notice, 37 FCC Rcd 6724 (WCB 2022) (*Reverse-Preemption Certification Public Notice*).

[11] *See* 47 CFR § 1.1401 *et seq.*

[12] *Id.* § 1.1411(c)(1).

[13] *Id.* § 1.1411(c)(2).

[14] *Id.* § 1.1411(c)(3).

[15] *Id.* § 1.1411(d).

[16] *Id.* § 1.1411(e).

[17] Make-ready is defined as "the modification or replacement of a utility pole, or of the lines or equipment on the utility pole, to accommodate additional facilities on the utility pole." 47 CFR § 1.1402(o). There are several different kinds of make-ready. Complex make-ready refers to "transfers and work within the communications space that would be reasonably likely to cause a service outage(s) or facility damage, including work such as splicing of any communication attachment or relocation of existing wireless attachments. Any and all wireless activities, including those involving mobile, fixed, and point-to-point wireless communications and wireless internet service providers, are to be considered complex." *Id.* § 1.1402(p). Simple make-ready is "where existing attachments in the communications space of a pole could be transferred without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing communication attachment or relocation of an existing wireless attachment." *Id.* § 1.1402(q). There also is make-ready above the communications space on a pole, typically involving work either in the electric space or at the pole-top. *See id.* § 1.1412(a).

[18] *See id.* § 1.1411.

determine whether it is complete.[19] Upon receipt of a complete application,[20] the utility has 45 days in which to make a decision on the application and complete any surveys to determine whether and where attachment is feasible and what make-ready is required.[21] The utility then must provide an estimate of all make-ready charges within 14 days of its response granting access or, where the new attacher has performed the survey, within 14 days of receipt of such survey.[22] The new attacher has 14 days or until withdrawal of the estimate by the utility, whichever is longer, to accept the estimate and make payment.[23] Once the utility receives payment of the estimate, it then must notify existing attachers on the pole of the new attachment. The existing attachers then must move their equipment to make room for the new attachment within 30 days of receiving notice from the utility for attachments in the communications space or 90 days for attachments above the communications space.[24] A utility must complete its make-ready work in the same time periods, except it may take up to 15 additional days to complete make-ready above the communications space.[25] These deadlines apply to all pole attachment requests up to the lesser of 300 poles or 0.5 percent of the utility's poles in a state (Regular Orders).[26] For pole attachment requests larger than a Regular Order and up to the lesser of 3,000 poles or 5 percent of a utility's poles in a state, a utility may add 15 days to the survey period and 45 days to the make-ready periods.[27] For pole attachment requests larger than the lesser of 3,000 poles or 5 percent of a utility's poles in a state, our rules currently provide that the utility and the attacher must negotiate in good faith the timing of the pole attachment process.[28] Utilities may deviate from the pole attachment timelines in our rules—for the make-ready phase only—for good and sufficient cause that renders it infeasible for the utility to complete make-ready within the required timeline.[29]

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[19] 47 CFR § 1.1411(c)(1)(i). If the utility timely notifies the new attacher that its application is not complete, it must specify all reasons for finding it incomplete, and any resubmitted application shall be deemed complete within 5 business days after its resubmission, unless the utility notifies the attacher of how the resubmitted application is insufficient. The new attacher may follow the resubmission procedure as many times as it chooses so long as it makes a bona fide attempt to correct the reasons identified by the utility, and in each case the 5-day deadline shall apply to the utility's review. *Id.* § 1.1411(c)(1)(i)-(ii).

[20] A new attacher's attachment application is considered complete if it provides the utility with the information necessary under its procedures, as specified in a master service agreement or in requirements that are available in writing publicly at the time of submission of the application, to begin to survey the affected poles. *Id.* § 1.1411(c)(1).

[21] *Id.* § 1.1411(c).

[22] *Id.* § 1.1411(d).

[23] *Id.* § 1.1411(d)(1), (2).

[24] *Id.* § 1.1411(e). Different portions of the vertical pole serve different functions. The bottom of the pole generally is unusable for most types of attachments. *See Third Wireline Infrastructure Order*, 33 FCC Rcd at 7708, para. 6. Above that, the lower usable space on a pole—the "communications space"—houses low-voltage communications equipment, including fiber, coaxial cable, copper wiring, and small wireless antennas. *Id.* The topmost portion of the pole—the "electric space"—houses high-voltage electrical equipment. *Id.* Work in the electric space generally is considered more dangerous than work in the communications space. *Id.* Historically, communications attachers used only the communications space; however, mobile wireless providers increasingly are seeking access to areas above the communications space to attach pole-top small wireless equipment. *Id.*

[25] 47 CFR § 1.1411(f).

[26] *Id.* § 1.1411(g)(1).

[27] *Id.* § 1.1411(g)(2)-(3).

[28] *Id.* § 1.1411(g)(4). Note that a utility may treat multiple requests from a single new attacher as one request when the requests are filed within 30 days of one another. *Id.* § 1.1411(g)(5).

[29] *Id.* § 1.1411(h)(2). Utilities may deviate from any of the pole attachment timelines in our rules before offering the estimate of charges if the parties have no agreement specifying the rates, terms, and conditions of attachment. *Id.* §

(continued….)

6. *Self-Help.* In certain instances, our rules allow the new attacher to avail itself of self-help for surveys and make-ready work when those pole attachment deadlines are not met.[30] For simple surveys and make-ready work, our rules allow new attachers to perform the work themselves using an approved contractor from a utility list; if the utility does not maintain a list of approved contractors, the new attacher can hire its own contractor as long as that contractor meets the qualifications set forth in our rules and the attacher certifies as such to the utility.[31] For surveys and make-ready work that are complex or above the communications space, an existing attacher still can avail itself of self-help, but it must use a utility-approved contractor.[32]

7. *One-Touch-Make-Ready.* In 2018, the Commission adopted a new framework that allows attachers to control the surveys, notices, and make-ready work necessary to attach their equipment to utility poles in certain circumstances.[33] In what is known as one-touch, make-ready (OTMR), for an attachment involving simple make-ready, a new attacher may elect to perform the work to attach its wireline equipment to the communications space of a pole.[34] This framework includes safeguards to promote coordination among parties and ensures that new attachers perform the work safely and reliably. As the Commission stated at the time, using OTMR will save new attachers "considerable time in gaining access to poles (with accelerated deadlines for application review, surveys, and make-ready work) and will save substantial costs with one party (rather than multiple parties) doing the work to prepare poles for new attachments."[35]

8. *Recent Commission Action.* In December 2023, the Commission took additional steps to speed-up broadband deployment by making the pole attachment process faster, more transparent, and more cost-effective.[36] Specifically, the Commission adopted rules: (1) establishing the Rapid Broadband Assessment Team (RBAT) to provide coordinated review and assessment of qualifying pole attachment disputes and recommend effective dispute resolution procedures, and (2) requiring utilities to provide to potential attachers, upon request, the information contained in their most recent cyclical pole inspection reports, or any intervening, periodic reports created before the next cyclical inspection, for the poles covered by a submitted attachment application, including whether any of the affected poles have been "red tagged" by the utility for replacement, and the scheduled replacement date or timeframe.[37] Additionally, the Commission clarified that a "red tagged" pole is one that the utility has identified as needing replacement for any reason other than the pole's lack of capacity and provided additional examples of when, under section 1.1408(b) of our rules, a pole replacement is not "necessitated solely" as a result of a third party's attachment or modification request because the pole already requires replacement at the time of the new request.[38] The Commission also clarified the obligation to share

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1.1411(h)(1). In addition, existing attachers may deviate from the timelines specified in our rules during the performance of complex make-ready for reasons of safety or service interruption that renders it infeasible for the existing attacher to complete complex make-ready within the timelines. *Id.* § 1.1411(h)(3).

[30] *Id.* § 1.1411(i). Self-help is not available for pole replacements. *Id.* § 1.1411(i)(3).

[31] *Id.* § 1.1412(b)-(c). Utilities may, but are not required to, maintain a list of approved contractors for surveys and simple make-ready work. *Id.* § 1.1412(b).

[32] *Id.* § 1.1412(a). Utilities are required to maintain an up-to-date "reasonably sufficient list" of approved contractors for self-help surveys and make-ready that is complex or above the communications space. *Id.*

[33] *Third Wireline Infrastructure Order*, 33 FCC Rcd at 7712-13, para. 14.

[34] 47 CFR § 1.1411(j). "Any and all wireless activities, including those involving mobile, fixed, and point-to-point wireless communications and wireless internet service providers, are to be considered complex." *Id.* § 1.1402(p).

[35] *Third Wireline Infrastructure Order*, 33 FCC Rcd at 7714, para. 16.

[36] *See generally Fourth Wireline Infrastructure Order*, 38 FCC Rcd 12379.

[37] *Id.* at 12382-83, para. 7; *see also* 47 CFR §§ 1.1411(c)(4), 1.1415.

easement information and the applicable timelines for the processing of attachment requests for 3,000 or more poles.[39]

9. The Coalition of Concerned Utilities (CCU) sought reconsideration of the Commission's decision in the *Fourth Wireline Infrastructure Order* requiring utilities to provide their recent cyclical pole inspection reports upon request to attachers.[40] The Edison Electric Institute (EEI) sought clarification and/or reconsideration of certain aspects of the *Declaratory Ruling* and asked that the Commission "(1) clearly define the narrow circumstances in which a utility pole owner is required to provide a copy of its easement to an attacher that seeks to access a pole within such easement; and (2) remove or clarify its ruling that a 'pole replacement is *not* 'necessitated solely' by an attachment request' if a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole."[41] Both petitions remain pending.

10. The rise in government funding for broadband deployment[42] has contributed to a significant increase in deployment of extensive new broadband facilities, resulting in a significant increase in the number of applications seeking to attach these facilities to large numbers of utility poles.[43] Both attachers and utilities acknowledge that these increases, along with increases in privately funded projects, have put greater demand on utility resources and the pool of qualified contractors and have

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[38] *Declaratory Ruling*, 38 FCC Rcd at 12402, para. 39; *see also* 47 CFR § 1.1408(b).

[39] *Declaratory Ruling*, 38 FCC Rcd at 12402, para. 39. For the processing of pole attachment requests, the Commission specifically clarified that "when an application is submitted requesting access to more than the lesser of 3,000 poles or 5 percent of a utility's poles in the state, the lesser of the first 3,000 poles or 5 percent of the utility's poles in the state of that application are subject to the make-ready timeline set forth in section 1.1411(g)(3), which gives utilities 45 additional days beyond the standard make-ready timeline to process attachment applications, so long as the attacher designates in its application the first 3,000 poles (or 5 percent of the utility's poles in the state) to be processed, which the utility must permit the attacher to do." *Id.* at 12409, para. 50.

[40] CCU Petition at 1.

[41] EEI Petition at 1 (emphasis in original).

[42] *See, e.g.*, Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, §60102, 135 Stat. 429, 1182-1205 (2021) (codified at 47 U.S.C. § 1702) (Infrastructure Act) (directing the National Telecommunications and Information Administration to implement a $42.5 billion Broadband Equity, Access, and Deployment (BEAD) Program); *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686 (2020) (establishing an auction framework to distribute up to $20.4 billion in support for connecting millions more homes and small businesses in rural areas to broadband networks); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 905(c), 134 Stat. 1182 (2020), as amended by the Infrastructure Act § 60201 (providing up to $3 billion in funding for NTIA's Tribal Broadband Connectivity Fund); American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 604, 135 Stat. 4 (2021) (granting $10 billion to the U.S. Treasury Department to allocate via its Capital Projects Fund to eligible governments to carry out critical capital projects that directly enable work, education, and health monitoring, including high-quality and affordable broadband infrastructure and digital connectivity projects); U.S. Dept. of Agriculture, Rural Development, *Telecom Programs*, https://www.rd.usda.gov/programs-services/telecommunications-programs (last visited July 24, 2025) (giving an overview of various loan and grant funding programs for rural broadband infrastructure projects under the U.S. Department of Agriculture's Rural Utilities Service); Infrastructure Act § 60401 (establishing grants for middle mile infrastructure); *id.* § 60502 (providing $14.2 billion to establish the Affordable Connectivity Program).

[43] NCTA–The Internet & Television Association Comments at 1-2 (NCTA) ("Grant milestones do not account for the size of the funded deployments, which typically include many thousands of poles in a state."); ACA Connects – America's Communications Association Comments at 4 (ACA Connects); Crown Castle Fiber LLC Comments at 1 (Crown Castle); INCOMPAS Comments at 5, 7; Utilities Technology Council Comments at 1 (UTC). All undated references to Comments and Replies in this document are to comments and replies filed in response to the *Third Further Notice*. References to all other Comments, Oppositions, and Replies throughout are dated for ease of reference.

resulted in difficulties and delays in accessing poles.[44] As a result, the Commission sought comment in the *Third Further Notice* on: (1) a tentative conclusion that utilities should have an additional 90 days for make-ready work for requests exceeding the lesser of 3,000 poles or 5 percent of the utility's poles in a state; (2) whether the Commission should prohibit utilities from limiting the number of poles included in a pole attachment application and from limiting the number of applications an attacher may submit at a time; (3) a proposal that the Commission add additional time to the existing timelines for larger orders; (4) whether the Commission should create additional make-ready timeline tiers for attachment applications of different sizes; (5) a proposal that a utility notify an attacher within 15 days after receiving a complete application if it cannot conduct the survey within the required 45-day period (so that the attacher can elect self-help for the survey sooner); (6) whether the Commission should make self-help available for the make-ready estimate process; and (7) the impact of contractor availability when attachers seek to use their own contractors for self-help and whether to amend the Commission's rules to make it easier for attachers to use their own contractors for self-help when there are no contractors available from a utility contractor list.[45] Comments on the *Third Further Notice* were due on February 13, 2024, and replies were due on March 13, 2024.

11. *CTIA Petition for Declaratory Ruling.* In 2019, CTIA filed a Petition for Declaratory Ruling in this proceeding.[46] CTIA requested three declarations concerning pole attachments in its Petition: (1) that the term "pole" in section 224 includes light poles; (2) that utilities may not impose "blanket" restrictions on access to portions of any poles they own; and (3) that utilities may not seek bargained-for terms and conditions that are inconsistent with the Commission's pole attachment rules.[47] The latter two issues were addressed in a *Declaratory Ruling* released in July 2020.[48] The question of whether the term "pole" encompasses light poles remains pending.

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[44] *See* ACA Connects Comments at 5 (acknowledging that "higher-volume applications can place greater demands on the resources of utilities, and that utilities may sometimes find themselves unable to process Large Orders within any prescribed timeframe"); USTelecom—The Broadband Association Comments at 3 (USTelecom) ("No entity—pole owner or attacher—has a limitless workforce capable of simultaneously performing make-ready work across miles and miles of utility poles at the same time. Nor can any entity—pole owner or attacher—escape the realities of workforce shortages, staffing issues, permitting delays, supply chain difficulties, and the need to divert resources to address storms or other emergencies, which can add time to a deployment project."); Letter from Robin F. Bromberg, Counsel to the Electric Utilities, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Aug. 19, 2024) (Electric Utilities Aug. 19, 2024 *Ex Parte* Letter) (noting that "the limited supply of approved contractors often cannot keep pace with the demand for space on utility poles"); UTC Comments at 5.

[45] *Third Further Notice*, 38 FCC Rcd at 12410-14, paras. 52-59.

[46] CTIA Petition. The CTIA Petition was also filed in the Wireless Telecommunications Bureau's *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* proceeding. The Wireline Competition and Wireless Telecommunications Bureaus placed the CTIA Petition on public notice and in response received dozens of comments, replies, and *ex parte* presentations from communication providers and utility groups. *See Wireless Telecommunications Bureau and Wireline Telecommunications Bureau Seek Comment On WIA Petition For Rulemaking*, *WIA Petition For Declaratory Ruling And CTIA Petition for Declaratory Ruling*, WT Docket No. 19-250, WC Docket No. 17-84, RM-11849, Public Notice, 34 FCC Rcd 8099 (WCB, WTB 2019). The Bureaus twice extended the comment deadlines. *See Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012 Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 19-250, RM-11849, WC Docket No. 17-84, Order Granting Motion for Extension of Time, 34 FCC Rcd 8660 (WCB, WTB 2019); *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012 et al.*, WT Docket No. 19-250 et al., Order Granting Motion for Extension of Time, 34 FCC Rcd 10390 (WCB, WTB 2019).

[47] CTIA Petition at 5-6.

[48] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket
(continued….)

III. REPORT AND ORDER

12. In this Report and Order, we adopt new requirements that will aid attachers and utilities in planning for larger broadband deployments and in allocating critical contractor resources to ensure that large broadband deployments are completed in an efficient and timely manner. During this critical time of infrastructure deployment and with both utilities and attachers seeking guidance from the Commission, these requirements represent a multi-pronged, holistic approach that will best balance the difficulties faced by utilities in processing large applications against attachers' need for speedier deployments, as follows: (1) requiring attachers to provide written notice to utilities of forthcoming pole attachment orders that are greater than the lesser of 300 poles or 0.5 percent of the utility's poles in a state up to the lesser of 6,000 poles or ten percent of a utility's poles in a state; (2) providing that an attacher that fails to provide timely advance notice of such orders must, upon prompt notice from the utility, still wait the relevant advance notice period before the applicable timeline begins; (3) imposing a meet-and-confer requirement following the requisite advance notice for orders exceeding the lesser of 3,000 poles or five percent of a utility's poles in a state up to the lesser of 6,000 poles or ten percent of a utility's poles in a state; and (4) establishing a new set of timelines for utilities to complete each pole access phase for large orders.

13. We also revise our pole attachment timelines as follows: (1) require utilities to notify attachers within 15 days of receiving a complete application if they know or reasonably should know that they cannot meet the survey deadline, and require utilities to notify attachers within 15 days of payment of the estimate, and existing attachers to notify utilities and new attachers within 15 days of receiving notice from the utility, if they know or reasonably should know that they cannot meet the make-ready deadline; (2) add a self-help remedy for make-ready estimates, provided certain safeguards are met; and (3) prohibit utility-imposed limits on application size and frequency that have the effect of restricting the number of pole attachments attachers may seek in a given timeframe. We also adopt improvements to the contractor approval process. Our current rules require that a utility may not unreasonably withhold its consent to an attacher request to add qualified contractors to the utility's list of contractors approved to do pole work.[49] To ensure promptness in the utility's contractor decision-making, we require utilities to respond to a request to add contractors to a utility-approved list within 30 days of receiving the request. We note, however, that the parties are free to negotiate for a longer approval period.[50]

A. Advance Notice and Meet-and-Confer Requirements

14. Both attachers and utilities cite the need for better coordination in the pole attachment process.[51] And the Commission has always encouraged "a high degree of pre-planning and coordination between attachers and pole owners, to begin as early in the process as possible."[52] To that end, we adopt

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No. 17-84, Declaratory Ruling, 35 FCC Rcd 7936, 7936-37, para. 3 (WCB 2020) (*2020 Declaratory Ruling*).

[49] 47 CFR § 1.1412(a)-(b). As the Commission stated in the *Third Wireline Infrastructure Order*, "to be reasonable, a utility's decision to withhold consent must be prompt, set forth in writing that describes the basis for rejection, nondiscriminatory, and based on fair application of commercially reasonable requirements for contractors relating to issues of safety or reliability." *Third Wireline Infrastructure Order*, 33 FCC Rcd at 7757, para. 107.

[50] Parties have always been free to reach negotiated agreements with terms that differ from our rules. *See, e.g.*, *2020 Declaratory Ruling*, 35 FCC Rcd at 7944-45, para. 15.

[51] NCTA Reply at 2 ("NCTA members recognize that advance notification of funded broadband deployments could be helpful to utilities for their planning purposes, and do not object to notifying utilities promptly upon being awarded broadband grants that will require the submission of [Large] Orders."); Southern Company et al. Comments at 17 (Electric Utilities) ("In many cases, electric utilities only become aware of large deployments in their service territories when they receive the applications for those deployments."); ACA Connects Comments at 11-12; UTC Comments at 1; Coalition of Concerned Utilities Comments at 10 (CCU); Edison Electric Institute Comments at 9 (EEI).

[52] *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, Report and Order and Order on Reconsideration, WC Docket No. 07-245, GN Docket No. 09-51, 26 FCC Rcd 5240, 5250, para. 19 (2011) (continued….)

a requirement that attachers provide written advance notice to utilities of Mid-Sized Orders associated with a single network deployment[53] and Large Orders.[54] Mid-Sized Orders are orders exceeding the lesser of 300 poles or 0.5 percent of a utility's poles in a state up to the lesser of 3,000 poles or 5 percent of a utility's poles in the state. Large Orders are orders exceeding the lesser of 3,000 poles or 5 percent of a utility's poles in a state up to the lesser of 6,000 poles or 10 percent of a utility's poles in a state. We require the written advance notice to be sent as soon as practicable, but not less than 15 days in advance of submitting a Mid-Sized Order or 60 days in advance of submitting a Large Order, and that it shall set forth detailed information that will allow the utility to properly assess the potential resource needs for the order.[55] While we expect the notice to be as detailed as possible, at the very least it must contain (1) the

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(*2011 Report and Order*). We note that the advance notice and meet and confer requirements adopted here are an outgrowth of the large order management issues on which the Commission sought comment in the *Third Further Notice*, particularly: (1) seeking comment on utility concerns related to large-order processing, especially workforce availability and the submission of multiple applications at the same time; (2) asking about steps the Commission could take to facilitate the pole attachment process for larger orders; (3) asking about other ways to assist utilities in processing the expected increase in large applications; and (4) seeking comment on factors identified by USTelecom as reasons to give utilities additional time to process larger orders—permitting delays, workforce shortages, staffing issues, and the coordination required among attachers to make room for a new attachment. *Third Further Notice*, 38 FCC Rcd at 12411-13, paras. 54-56.

[53] For Mid-Sized Orders only, the advance notice requirement is limited to instances where the order threshold would be exceeded by pole attachment application(s) that are part of a single network deployment project being undertaken by the new attacher. *See* Letter from Christopher L. Shipley, Executive Director of Public Policy, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-3 (filed July 18, 2025) (INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter).

[54] Several commenters advocate that we extend the advance notice requirement to orders involving government-funded broadband projects, Letter from Jacqueline Clary, Altice, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed July 16, 2025) (Altice July 16, 2025 *Ex Parte* Letter) (stating that "Altice understands why some period of advance notice makes sense for 'Large Orders' and perhaps even for other pole attachment orders that are the result of government-funded broadband projects"); Letter from Pamela Arluk, Vice Pres. and Assoc. Gen'l Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1-2 (filed July 15, 2025) (NCTA July 15, 2025 *Ex Parte* Letter), while EEI supports advance notice for Large Orders, but limited only to those involving government-funded broadband projects. Letter from Aryeh Fishman, Associate General Counsel, Regulatory Legal Affairs, Edison Electric Institute, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 4-5 (filed Aug. 29, 2024) (EEI Aug. 29, 2024 *Ex Parte* Letter). We disagree with EEI's proposed limitation, as we find that a prior notice requirement will benefit the processing of both Mid-Sized Orders associated with a single network deployment and Large Orders for all broadband projects, including privately funded projects. Letter from Nirali Patel, Senior Vice President, Regulatory & Legal Affairs and General Counsel, USTelecom—The Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 5 (filed Apr. 1, 2025) (USTelecom Apr. 1, 2025 *Ex Parte* Letter) (agreeing that the advance notice requirement should not be limited to grant-funded projects). We note that government-funded orders more than likely are Large Orders or Mid-Sized Orders associated with a single network deployment and thus already will be covered by the advance notice requirement. Additionally, attachers give no proposed definition of a government-funded project, nor any size limitation on such an order, and also put the onus on the utility to determine whether an order is associated with a government-funded project (i.e., allegedly because such grants are in the public domain and easily verifiable). Moreover, many government-funded projects will involve areas where the utilities are cooperatives that are not subject to our rules. *See, e.g.*, Letter from Nirali Patel, Senior Vice Pres., Regulatory & Legal Affairs and Gen'l Counsel, USTelecom—The Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Mar. 10, 2025) (USTelecom Mar. 10, 2025 *Ex Parte* Letter).

[55] Electric Utilities Comments at 18-20 (advocating that "the Commission should adopt a rule that requires attachers to provide at least 60 days' written notice before submitting High-Volume Applications"); EEI Comments at 9-10 (stating that the Commission should consider adopting an advance notice requirement for applications involving more than 300 poles); INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 2 (proposing "that the advanced notice, if any, for Mid-Sized Orders be 15 days"); Coalition of Concerned Utilities Reply at 8 (CCU); Letter from Brett Kilbourne, Senior Vice President Policy and General Counsel, Utilities Technology Council, to Marlene H.
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attacher's contact information; (2) description of the proposed deployment area(s) and anticipated route(s); (3) an anticipated build-out schedule; and (4) a request to meet and confer with the utility within 30 days of the date of the notice for a Large Order.[56] We do not adopt a meet-and-confer requirement for Mid-Sized Orders.[57] We also clarify, as requested by NCTA, that "minor changes to routes should not necessitate new notice and/or a new meet-and-confer, but that the attacher and utility should jointly work to accommodate these changes."[58]

15. Smaller orders, up to the lesser of 300 poles or 0.5 percent of the utility's poles in a state (Regular Orders) will not be subject to this requirement, as such orders do not implicate as many resources as larger orders. We also do not impose this new requirement on orders that exceed the lesser of 6,000 poles or 10 percent of a utility's poles in a state (Very Large Orders) and instead require the parties to engage in good faith negotiation of the attachment timelines for such orders.[59] We do, however, encourage prior notice for Very Large Orders given their attendant complexities and the benefits of coordination and collaboration between the parties.[60]

16. In adopting a written advance notice requirement for Mid-Sized Orders associated with a single network deployment and Large Orders, we acknowledge the concerns of utilities that "[w]ithout ample advanced notice, there is a risk that attachers may flood pole owners with applications predictably

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Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Aug. 19, 2024) (UTC Aug. 19, 2024 *Ex Parte* Letter) (supporting a 60-day advance notice requirement); USTelecom Apr. 1, 2025 *Ex Parte* Letter at 5.

[56] *See* Dominion/Xcel Reply at 9; Letter from Brett Heather Freedson, Counsel to Dominion Energy, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Aug. 19, 2024) (Dominion Aug. 19, 2024 *Ex Parte* Letter); USTelecom Apr. 1, 2025 *Ex Parte* Letter at 5 ("At a minimum, the advance notice should include the number of poles that will be part of the over-3,000 pole order; a location map with the poles identified and routes shown; a scope of work that includes anticipated construction methods (such as whether the project is intended to be solely aerial or a mix of aerial and underground deployment); the identity of other pole owners that will be impacted by the project; the anticipated application date; the anticipated build timeline; the anticipated construction crews for the project; and whether or not government funding is involved."). There are three categories of information requested by Dominion, UTC, and USTelecom that we do not find should be required for the advance notice, although such information could be helpful to share with the utility, if available at the time of the notice: (1) in the case of a government-funded project, all deployment plans prepared in connection with the attacher's application for funds; (2) a list of all contractors that the attacher seeks to have pre-approved for one-touch and self-help make-ready work; and (3) a list of all permits and authorizations necessary for the proposed deployment and their status. Letter from Brett Kilbourne, Counsel to UTC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 4 (filed July 18, 2025) (UTC July 18, 2025 *Ex Parte* Letter) (requesting that attachers identify all contractors proposed for potential self-help). The lists of contractors, permits, and authorizations may not be readily discernable until after the Mid-Sized or Large Order is submitted, while the detailed deployment plans for government-funded projects can be shared after the advance notice is sent.

[57] INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 3 (advocating that "the meet and confer be voluntary, not mandatory for Mid-Sized Orders").

[58] *See* NCTA July 15, 2025 *Ex Parte* Letter at 3; *see also* Letter from Aryeh Fishman, Associate Gen'l Counsel, EEI, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 17, 2025) (EEI July 17, 2025 *Ex Parte* Letter) ("Minor route changes are expected and should not trigger a new notice or meet-and-confer requirement, provided they are de minimis."); UTC July 18, 2025 *Ex Parte* Letter at 3 (stating that "utilities anticipate that there will be minor changes to the route information, and they could readily address these changes and adjust for them in the course of the meet and confer process without the need to restart the timeline each time such a change is proposed"); INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 4.

[59] Letter from Aryeh Fishman, Assoc. Gen'l Counsel, Edison Electric Institute, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 14, 2025) (EEI July 14, 2025 *Ex Parte* Letter) ("We further support the Commission's decision to require good-faith negotiation of timelines for Very Large Orders and to reject proposals to impose default Large Order timelines in such cases.").

[60] *Id.* (appreciating the encouragement of prior notice for Very Large Orders).

leading to delays due to scarcity of resources."[61] The record does not reflect opposition to this requirement for Large Orders, and both utilities and attachers generally agree that it will be useful for all parties.[62] However, we disagree with attachers who argue that we should not apply an advance notice requirement for Mid-Sized Orders.[63] Instead, we agree with utilities that a written advance notice requirement will promote broadband deployment and lead to greater efficiency in the processing of not just Large Orders but also Mid-Sized Orders associated with a single network deployment, especially with regard to allocating important contractor resources.[64] As CCU notes, "[a]dvance notice would enable utilities to better prepare by, for example, working to secure as many additional contractor resources as possible to support the negotiated timeframes."[65] However, in recognition that applying the prior notice requirements to Mid-Sized Orders risks slowing the process for completing these orders, which according to commenters are often not scheduled in advance and can regularly exceed 300 poles in a thirty-day period, we shorten the advance notice period for Mid-Sized Orders associated with a single network deployment to 15 days.[66] And in light of attachers' concern that "[t]he 300 poles in a 30-day period threshold, if it included even unrelated 'business as usual' builds, would require notice nearly every month," we limit the advance notice requirement for Mid-Sized Orders to when the threshold would be exceeded by pole attachment application(s) that are part of a single network deployment project being undertaken by the new attacher.[67]

17. If an attacher submits an application to the utility without giving the required the advance notice, then the utility may promptly notify the attacher that it is treating the application as the requisite advance notice, that the application will commence the advance notice period, and, if it is a Large Order, that the attacher must request the meet-and confer required by our rules. If the attacher fails to request the meet-and-confer described below, then the advance notice period will not begin to run until such request is made. At the end of the advance notice period, the new attacher can submit a new application or notify the utility that it is continuing with its original submission as its application, and the utility may not charge any additional or increased application fee.[68] Failure by the utility to give prompt notice that it is

[61] EEI Reply at 8-9 (citing Electric Utilities Comments at 18); CCU Reply at 8 (noting that "it not only is unreasonable to wait until the last minute to make attachment requests and then push for quick turnaround times, it also wastes valuable utility resources to the detriment of everyone").

[62] NCTA July 15, 2025 *Ex Parte* Letter at 2 ("We noted that the record—specifically including utility associations and individual utilities themselves—supports applying these requirements to large orders, and that attachers agreed to advance notice for large orders.").

[63] Altice July 16, 2025 *Ex Parte* Letter at 3; INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 2; NCTA July 15, 2025 *Ex Parte* Letter at 2-3 (arguing that "imposing new advance notification requirements would add unnecessary delay and could interfere with attachers' ability to fulfill" Mid-Sized Orders). We disagree with NCTA's assertion that "[p]rior to the release of the Draft Order, utilities had not requested that advanced notice requirements apply to smaller or mid-size orders." *Id.* at 2 n.4. We note that both EEI and the Electric Utilities advocated for an advance notice for Mid-Sized Orders during the comment period. *See* Electric Utilities Comments at 18-20; EEI Comments at 9-10.

[64] Dominion/Xcel Reply at 8 (noting that "a requirement that attachers provide prior notice of Expanded Orders would dramatically reduce the frequency and duration of delays that are caused by a lack of available contractors to perform work for which the utility pole owner is responsible"); CCU Reply at 8-9; EEI Reply at 9; UTC Aug. 19, 2024 *Ex Parte* Letter at 1-2; Letter from David D. Rines, Counsel to Xcel Energy, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Aug. 23, 2024) (Xcel Energy Aug. 23, 2024 *Ex Parte* Letter).

[65] CCU Reply at 8-9; *see also* Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 2.

[66] NCTA July 15, 2025 *Ex Parte* Letter at 2; INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 3 (arguing that "the advanced notice, if any, for Mid-Sized Orders be 15 days").

[67] INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 2-3.

[68] Altice July 16, 2025 *Ex Parte* Letter at 4 (stating that "rather than forfeiting their right to have their applications processed under the Commission's timelines, attachers should be forced to wait the additional notice period before

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treating the attacher's application as the advance notice will result in the application proceeding to be processed under the applicable timelines without an advance notice period or meet-and-confer requirement. This approach still will provide utilities with the advance notice they assert is routinely lacking.[69] Although we encourage advance notice from attachers to utilities for larger orders as early in the process as possible, we find that a minimum of 15 days is needed for the utility to begin planning for how to process Mid-Sized Orders associated with a single network deployment, and a minimum of 60 days is needed for Large Orders, which present more complications that the parties will need to iron out in the ensuing meet-and-confer.[70] It also will require responsiveness on the part of utilities, which attachers assert is often not forthcoming.[71] We expect that this requirement will foster a more collaborative approach to the pole attachment process and increase efficiency and planning in processing larger orders, resulting in speedier broadband deployment.

18. We reject utilities' request that if an attacher fails to comply with the advance notice requirement, then it forfeits the right to have its application processed under the Mid-Sized and Large Order timelines and instead will have to negotiate timelines for their application in good faith with the utility.[72] We find that such a penalty is too onerous.[73] The impact of failure to comply with the advance notice requirement is readily ameliorated by utilities' ability to deem the associated application to

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the Commission's timelines would be triggered").

[69] Electric Utilities Comments at 17; CCU Comments at 24; EEI Comments at 9-10. We note that if disputes arise regarding the sufficiency of the attacher's notice (especially with regard to the adequacy of the required information in the notice), the parties can resort to the RBAT to resolve such conflicts.

[70] Utilities generally agree that 60 days is the minimum amount of time needed for an advance notice of Large Orders. Electric Utilities Comments at 18-20; UTC Aug. 19, 2024 *Ex Parte* Letter at 2; CCU Reply at 8; USTelecom Apr. 1, 2025 *Ex Parte* Letter at 5. However, EEI and Dominion/Xcel both advocate for a 90-day advance notice period. Virginia Electric and Power Company D/B/A Dominion Energy North Carolina and Dominion Energy Virginia, Dominion Energy South Carolina, Inc. and Xcel Energy Services Inc. Comments at n.41 (Dominion/Xcel); Edison Electric Institute Reply at 9; Dominion/Xcel Reply at 9; Letter from Brett Kilbourne, Counsel to UTC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Mar. 14, 2024) (UTC Mar. 14, 2024 *Ex Parte* Letter). We find that 60 days' advance notice for Large Orders strikes the right balance between giving the utility enough time to begin planning for the new project and the time at which an attacher's plans become more concrete and less likely to change. *See, e.g.*, USTelecom Apr. 1, 2025 *Ex Parte* Letter at 5-6. We also find that the advance notice for Mid-Sized Orders associated with a single network deployment should be shorter than the notice for Large Orders, as such orders are smaller and presumably easier to process. *See* INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 2 (asserting that 15 days is adequate advance notice for Mid-Sized Orders).

[71] NCTA Comments at 3, 7; ACA Connects Comments at 3-4; INCOMPAS Comments at 7.

[72] *See* EEI July 17, 2025 *Ex Parte* Letter at 2 ("EEI supports the Commission's decision to enforce forfeiture of applicable timelines when an attacher fails to provide written advance notice or to confer with affected utilities. This enforcement mechanism is critical to ensuring compliance and incentivizing attachers to provide complete and timely information. Requiring an attacher that fails to comply with this rule to wait an additional notice period before the Commission's timeline would be triggered does not provide the same incentive for compliance and will not expedite a deployment."); Letter from Robin F. Bromberg, Counsel to Electric Utilities, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 11, 2025) (Electric Utilities July 11, 2025 *Ex Parte* Letter) ("The Electric Utilities also strongly support the enforcement mechanism that the Commission included with the 60-day notice and meet and confer requirements (i.e., that the FCC's make-ready timelines will not apply if the notice/meet and confer requirements are not met) and believe this enforcement mechanism is essential to ensuring that these critical planning steps occur."); Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 2; Dominion Aug. 19, 2024 *Ex Parte* Letter at 3.

[73] *See* Altice July 16, 2025 *Ex Parte* Letter at 3 (asserting that "the contemplated consequence for attachers failing to provide the proposed 60 days' advance notice to utilities is overly severe—particularly when viewed in light of the Commission's goals of expediting broadband deployment").

constitute the attacher's advance notice, still requiring the parties to meet and confer (as described below) within the specified period of time after a Large Order is filed, and tolling for the length of the advance notice period the applicable pole attachment timeline, which includes the time the utility has to review the associated application for completeness and begin its review on the merits.[74]

19. To further enhance collaboration between the parties, we require attachers and utilities to meet and confer within 30 days after written advance notice is given to negotiate in good faith the mechanics and timing by which Large Orders will be processed. We encourage the parties to discuss and plan, among other things, the utility's ability to meet deadlines for an order, the availability of contractors (particularly the need for, and availability of, electric space contractors to the extent necessary), a prioritization of the poles to be worked on, the status of local permitting efforts, and estimated timelines for the work.[75] We also require that the parties find a mutually agreeable day and time for the meeting (which can be in-person, virtual, or by phone), and to conduct the meeting, within the 30-day period after the attacher sends written advance notice. Any allegations of bad faith by either party in fulfilling this requirement can be referred to the RBAT for resolution. We agree with utilities that such a pre-planning requirement will "enable utilities and attaching entities to prepare for larger orders or better yet avoid the need to submit larger orders altogether and instead submit applications in stages."[76]

B. Large Orders

20. While we do not change the existing timelines for processing pole attachment applications for Regular Orders and Mid-Sized Orders,[77] we agree with attachers that fixed timelines are necessary for some level of pole attachment applications above 3,000 poles (or 5 percent of a utility's poles in a state).[78] Presently, our rules require attachers and utilities to negotiate in good faith the timelines for such applications, but today we shift away from an uncertain negotiation method and adopt a new level of defined timelines for processing applications exceeding the lesser of 3,000 poles or 5 percent of a utility's poles in a state, up to the lesser of 6,000 poles or 10 percent of a utility's poles in a state. We define this grouping as Large Orders, and the timelines we adopt are as follows:

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[74] *See* 47 CFR § 1.1411(c)(1).

[75] UTC Comments at 6 (noting that early planning "may help to effectively manage available resources necessary to complete make-ready, such as contractors, who are already in short supply and there are few signs that the workforce shortage is getting any better"); Dominion/Xcel Reply at 4.

[76] UTC Comments at 6; *see also* EEI Reply at 9 (noting that "[t]hrough early coordination and collaboration with attachers, a pole owner can understand the larger picture of a proposed broadband deployment"). UTC in particular supports the idea that "processing applications incrementally is more efficient and enables utilities to process as many applications as quickly as possible and avoids the situation where if there is a hold-up with one application, then the attachers' entire project is held up" and that a pre-planning requirement will enable the parties "to prioritize the work appropriately so that resources can be allocated and projects can be completed as efficiently as possible with the resources that are available." UTC Comments at 6; UTC Aug. 19, 2024 *Ex Parte* Letter at 1; *see also* Dominion/Xcel Comments at 9-10 (noting the benefits of systemic collaboration between the utilities and attachers, with an option for pre-application work sessions); EEI Reply at 8 ("Collaboration between pole owners and communications attachers is necessary for the success of broadband.").

[77] The pole attachment deadlines for all four phases of the pole attachment process apply to all requests for Regular Orders. 47 CFR § 1.1411(g)(1). Utilities currently get an extra 15 days for the survey process and an extra 45 days for the make-ready process for Mid-Sized Orders. *Id.* § 1.1411(g)(2)-(3). There currently are no required timelines for the processing of orders exceeding the lesser of 3,000 poles or 5 percent of a utility's poles in a state; rather, the current rules require the parties to negotiate such timelines in good faith. *Id.* § 1.1411(g)(4). Note also that attachers have the right to engage in self-help for surveys and make-ready work if utilities fail to complete those items by the deadlines established in our rules. *Id.* § 1.1411(i).

[78] *See* NCTA Reply at 1; ACA Connects Reply at 5-7; Crown Castle Comments at 3-4; INCOMPAS Reply at 2.

Large Order Timeline	
Pole Access Phase	**Time for Completion**
Application Completeness Review	10 business days after receipt
OTMR Application Review	10 business days for completeness, 45 days on the merits after application is complete
Survey/Review on Merits	90 days after application is complete
Estimate	29 days after survey
Communications Space Make-Ready	120 days after attacher payment
Above Communications Space Make-Ready (Power space)	180 days after attacher payment

For orders that exceed the lesser of 6,000 poles or 10 percent of a utility's poles in a state (Very Large Orders), we leave in place the requirement that utilities and attachers negotiate in good faith the pole attachment timelines for such orders.[79] However, consistent with the Commission's clarification in the *Declaratory Ruling*,[80] the lesser of the first 6,000 poles (or 10 percent of the utility's poles in the state) of that application are subject to the new make-ready timelines that we adopt today for Large Orders, so long as the attacher designates in its application the first 6,000 poles (or 10 percent of the utility's poles in the state) to be processed, which the utility must permit the attacher to do.[81]

21. We adopt the 6,000 pole cap for the expanded timeline for Large Orders after consideration of comments from parties on both sides of the equation.[82] In particular, we agree with NCTA's judgment that "[i]n NCTA members' experience, the cap should not be less than 6,000 poles or 10% of the utilities' poles in the state to correspond with NCTA members' collective experience to date deploying funded broadband projects."[83] Dominion/Xcel also advocate for a 6,000 pole cap on the next level of applications subject to a timeline, while noting that their ultimate preference is for the Commission to refrain from adopting a timeline for orders over 3,000 poles.[84]

22. We agree with attacher commenters that an additional defined timeline layer is needed to process these Large Orders.[85] As NCTA asserts, having defined timelines only for applications up to

[79] *See* NCTA Comments at 12 (urging the Commission to "extend the good faith negotiation obligation to orders exceeding [Large] Orders").

[80] *See Declaratory Ruling*, 38 FCC Rcd at 12409, para. 50 (stating "we clarify that when an application is submitted requesting access to more than the lesser of 3,000 poles or 5 percent of a utility's poles in the state, the lesser of the first 3,000 poles or 5 percent of the utility's poles in the state of that application are subject to the make-ready timeline set forth in section 1.1411(g)(3), which gives utilities 45 additional days beyond the standard make-ready timeline to process attachment applications, so long as the attacher designates in its application the first 3,000 poles (or 5 percent of the utility's poles in the state) to be processed, which the utility must permit the attacher to do").

[81] *See, e.g.*, NCTA Comments at 13 (stating that "for any size order that is subject to good faith negotiation, the utility must process the preceding number of poles subject to the timelines in accordance with such timelines").

[82] *Id.* at 3, 8; Dominion/Xcel Reply at 13; *see also* ACA Connects Reply at 7; EEI Aug. 29, 2024 *Ex Parte* Letter at 3 (noting, however, that such a Large Order timeline must include a pre-application notice and consultation requirement and only apply to broadband projects funded by government programs).

[83] NCTA Comments at 8; *see also* Dominion/Xcel Reply at 13 & n.46; ACA Connects Reply at 7.

[84] Dominion/Xcel Reply at 12-13.

[85] *See* NCTA Reply at 1 (noting that "an additional fixed timeline for applications exceeding 3,000 poles . . . is essential to facilitate the thousands of pole attachments that are necessary to ensure that broadband is deployed to

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3,000 poles, and requiring attachers to negotiate the timing of applications exceeding this threshold, fails to provide the required certainty and expediency necessary to meet critical broadband buildout needs and requirements.[86] As the Commission noted when it first adopted timelines to govern the pole attachment process, "in the absence of a timeline, pole attachments may be subject to excessive delays."[87] Since that time, when the Commission established a good-faith negotiation solution for the processing of orders exceeding the lesser of 3,000 poles or 5 percent of a utility's poles in a state,[88] circumstances have changed, with an established nationwide priority on broadband deployment and the need for communications attachers to move quickly to achieve the needed buildouts.[89]

23. Utilities' opposition to an additional layer of defined timelines for Large Orders centers on the desire for flexibility, especially with regard to the allocation of contractor resources for pole attachment work;[90] as USTelecom notes, no utility can "escape the realities of workforce shortages, staffing issues, permitting delays, supply chain difficulties, and the need to divert resources to address storms or other emergencies, which can add time to a deployment project."[91] While we recognize these

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unserved rural areas in accordance with Congress' and the Commission's fixed construction milestones"); ACA Connects Reply at 7; Crown Castle Comments at 3-4; INCOMPAS Reply at 2.

[86] NCTA Comments at 2, 6-9 ("To ensure that construction milestones are met, the Commission's proposal to establish a new timeline for pole attachment jobs that exceed the current Larger Order threshold ('Grant-Size Orders') is imperative."); *see also* ACA Connects Comments at 4 (stating that "the 'good faith' standard does not, in practice, compel utilities to process Large Orders in a timely manner"); Crown Castle Comments at 3; INCOMPAS Comments at 7-8; INCOMPAS Reply at 5; Connect the Future Comments at 1; Schools, Health & Libraries Broadband Coalition Comments at 10 (SHLB Coalition); *2011 Report and Order*, 26 FCC Rcd at 5257, para. 31 (having longer pole attachment timelines for complicated orders "promote[s] a higher success rate that attachers and their investors can depend on").

[87] *2011 Report and Order*, 26 FCC Rcd at 5250, para. 21; *see also id*. at 5255, para. 24 (noting that "[m]ore than half of the missed deadlines are caused by either the size of the project or errors in the application").

[88] *Id.* at 5270-72, paras. 63-66 (finding "this approach to be a reasonable method that appropriately scales the work required with the existing resources of the utility").

[89] *See* SHLB Coalition Comments at 10 ("We urge the Commission to adopt a presumption that projects above 3,000 poles will be handled in a defined period of time in order to emphasize to pole owners the importance of achieving the goal of solving the digital divide in the next few years."); Connect the Future Comments at 2 ("CTF strongly supports Commission action on its proposal that requires utilities to adhere to defined timelines for make-ready requests exceeding 3,000 poles or five percent of the utility's poles in a state. Delayed action significantly increases the risk of lengthy and costly delays associated with the pole access needed for broadband deployment."); NCTA Reply at 6 (stating that "the Commission's proposal to add a timeline for [Large] Orders is well founded and critically needed. Over the next several years, grant awardees must deploy hundreds of thousands of miles of fiber to currently unserved areas. Unless the Commission requires utilities to process [Large] Orders in some defined time period, the resulting delays could prevent these projects from being built in accordance with grant requirements."); *cf.* Dominion/Xcel Comments at 8 (acknowledging that "the payout of state and federal funds for broadband deployment has increased the number and frequency of expanded pole attachment orders received by pole owners in recent years," while also noting that "the utility resource constraints that shaped the Commission's rules continue to exist"); EEI Aug. 29, 2024 *Ex Parte* Letter at 3 (arguing that there should be a "a timeline for Large Orders that are expected in the BEAD program" and that a timeline for Large Orders "should be limited to those pole attachment applications related to a funded project subject to specific build-out deadlines or milestones imposed by the fund administrator").

[90] *See, e.g.*, Dominion/Xcel Comments at 7-8 ("The Commission's rules must provide sufficient flexibility for parties to manage large-scale broadband projects."); Electric Utilities Comments at 17 ("The Electric Utilities believe that eliminating flexibility from the equation would be a disservice to the Commission's ultimate goal of improving the efficiency of broadband deployment."); CCU Reply at 2; UTC Reply at 3-4; EEI Comments at 9; USTelecom Comments at 3.

[91] USTelecom Comments at 3 ("For these reasons, USTelecom's members have learned that the best way to
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realities and the benefits of flexibility, we address utilities' concerns by adopting the advance notice and meet-and-confer requirements that will jump start the pole attachment process for Large Orders earlier than under our current rules, a requirement that utilities have identified as crucial to adopting timelines for Large Orders.[92] With additional planning added to the process on the front end (especially with regard to planning for contractor resources), and given the over-arching need of communications attachers to deploy broadband as quickly as possible, we find that a defined pole attachment timeline for Large Orders will greatly facilitate the pole attachment process.[93] And we agree that in adopting new timelines for Large Orders, "the parties will remain free to negotiate alternative solutions."[94]

24. *Timelines for Large Orders.* We find that the new timelines for Large Orders strike a balance between a utility's need for sufficient time to process such orders and an attacher's need for a quicker pole attachment process in order to meet buildout deadlines. For ease of reference, the pole attachment timelines for all sizes of orders will now be as follows:

Pole Attachment Timelines			
Pole Access Phase	**Regular Orders**	**Mid-Sized Orders**	**Large Orders**
Application Completeness Review	10 business days	10 business days	10 business days
OTMR Application Review	10 business days for completeness, 15 days on the merits after application is complete	10 business days for completeness, 30 days on the merits after application is complete	10 business days for completeness, 45 days on the merits after application is complete
Survey/Review on Merits	45 days after application is complete	60 days after application is complete	90 days after application is complete
Estimate	14 days after survey	14 days after survey	29 days after survey
Communications Space Make-Ready	30 days after attacher payment	75 days after attacher payment	120 days after attacher payment
Above Comms Make-Ready (Electric Space)	90 days after attacher payment	135 days after attacher payment	180 days after attacher payment

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expedite a large order is through advance coordination and negotiation, not strict timelines."); *see also* Electric Utilities Comments at 5 ("The Commission should abandon its tentative conclusion to impose a make-ready timeline on High-Volume Applications because it: (1) does not provide stakeholders with clear guidance regarding how the new make-ready timeline will be applied; (2) does not address the primary challenge to broadband deployment—scarce contractor resources; and (3) exacerbates existing flaws within the Commission's access rules."); EEI Comments at 11 ("There are outside factors beyond the control of the electric company that can impact the time required for make-ready for large orders. Such factors include permitting delays, workforce shortages and staffing issues, and required coordination among all the attachers to the poles (which can present competitive issues among attachers)."); Dominion/Xcel Comments at 3 ("In certain cases, delays in the pole access process are caused by circumstances beyond the control of any stakeholder, such as a lack of available contractors or materials.").

[92] Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 2 (noting that "any new timeline that may be adopted must be directly coupled with and contingent on an attacher's compliance with an advance notice and consultation requirement"); EEI Aug. 29, 2024 *Ex Parte* Letter at 3 ("A new timeline for [Large] Orders should include a pre-application notice and consultation requirement.").

[93] *See* NCTA Reply at 6; Crown Castle Reply at 4; Connect the Future Comments at 1.

[94] NCTA Reply at 7.

25. While we adopt the Commission's proposal in the *Third Further Notice* to add 90 days to the make-ready timelines for Large Orders,[95] we also find it necessary to adopt longer timelines for other stages of the pole attachment process, not just the make-ready phase.[96] As a result, we add incremental days for the application review, survey, and estimate phases of the pole attachment process for Large Orders in recognition of utilities' concerns that as pole attachment orders become larger, they become more complex and thus require even more time to complete.[97] The new timelines we adopt for Large Orders are the same as those proposed by NCTA,[98] but are shorter than the Large Order timelines proposed by USTelecom[99] and Dominion/Xcel Energy,[100] which we find are too lengthy to help attachers

[95] *Third Further Notice*, 38 FCC Rcd at 12410-11, para. 53. The proposed additional 90 days for make-ready were in addition to the make-ready deadlines for Regular Orders (i.e., 30 days for communications space make-ready and 90 days for make-ready above the communications space). 47 CFR § 1.1411(e)(1)-(2); *see also* NCTA Comments at 5 (supporting the addition of 90 days to the make-ready timelines for Large Orders (the 90 days being in addition to the make-ready timeline for Regular Orders)); ACA Connects Reply at 7; INCOMPAS Comments at 8.

[96] *See* NCTA Comments at 10-11 ("Based on NCTA members' experience, an additional timeline also is necessary for a utility's review of an application on the merits, including for surveys of jobs exceeding the existing Larger Order threshold."); Crown Castle Comments at 4 (stating that the Commission should apply a timeline to the survey and make-ready estimate stages for Large Orders); Electric Utilities Comments at 16 ("To be consistent with the Commission's existing rules, this concept would need to be applied not only to the make-ready process, but also to the survey and estimate timeframes."); USTelecom Comments at 7; Dominion/Xcel Comments at 12-13; UTC Mar. 14, 2024 *Ex Parte* Letter at 2; Letter from David D. Rines, Lerman Senter PLLC, Counsel to Dominion Energy and Xcel Energy Services Inc, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Mar. 19, 2025) (Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter).

[97] *See, e.g.*, USTelecom Comments at 6; EEI Comments at 10 ("The challenges related to reviewing applications for large pole attachment orders are even more complex than those for smaller projects due to the number of poles involved and the type of attachments required. Pole owners often need time to carefully process larger requests. More attachments on more poles means that pole owners must perform more surveys, more coordination with attachers, and more make-ready work."); Electric Utilities Comments at 17; UTC Comments at 4-5; Dominion/Xcel Comments at 10; EEI Reply at 10; CCU Reply at 2 ("Routine orders over 3,000 poles per month will quickly overwhelm the internal and external resources of utility pole owners, and there simply are not enough contractors in the industry to support such high volumes of pole attachment work."); Letter from Nirali Patel et al., USTelecom—The Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 4 (filed Sept. 12, 2024) ("Make-ready work on poles is not like manufacturing identical widgets; it does not get marginally easier as the number of poles in a project increases. Instead, make-ready becomes more difficult, more complicated, and more time-consuming as the number of poles in a project grows."); Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 1 (noting that "there are a number of variables that affect the timing of the steps necessary to enable pole access, and the impact of these variables is significantly amplified in the case of orders involving large numbers of poles"); USTelecom Mar. 10, 2025 *Ex Parte* Letter at 1-2.

[98] *See* NCTA Comments at 3-4, Appx. 1.

[99] USTelecom Apr. 1, 2025 *Ex Parte* Letter at 4. USTelecom proposes incremental timelines for each 300-pole batch over 3,000 poles in an order, which would be added to the timelines for Regular Orders: (1) *Review of Application for Completeness*—for each increment of 300 poles over 3,000 poles, the utility has 10 additional business days to determine whether an application is complete; (2) *Survey/Application review on the merits*—for each increment of 300 poles over 3,000 poles, the utility has 45 additional days to decide whether to grant a complete application and to complete any surveys; (3) *Estimate*—for each increment of 300 poles over 3,000 poles, the utility has 14 additional days to provide an estimate of make-ready charges; (4) *Attacher acceptance*—for each increment of 300 poles over 3,000 poles, the attacher has 14 additional days, or until withdrawal of the estimate by the utility, whichever is later, to approve the estimate and provide payment; (5) *Make-ready for attachments in the communications space*—for each increment of 300 poles over 3,000 poles, there are 30 additional days to complete make-ready work for attachments in the communications space; and (6) *Make-ready for attachments above the communications space*—for each increment of 300 poles over 3,000 poles, there are 90 additional days to complete make-ready work for attachments above the communications space, and a utility may take an additional 15 days to complete the make-ready. *Id.*

efficiently meet broadband buildout deadlines.[101] For example, the proposed Dominion/Xcel timelines would extend the total make-ready time period to over five months for utilities and existing attachers to complete make-ready work for attachments in the communications space and to over nine months for utilities to complete work for attachments above the communications space.[102] Given that make-ready timelines follow several months already afforded to utilities by the Commission's rules for assessing the completeness of applications, deciding the merits of an application, performing surveys, and providing make-ready estimates, adding an additional 5-7 months for make-ready would extend the pole attachment process to almost a year, thereby unnecessarily delaying the process.[103] While some utility commenters oppose the Commission's proposal for additional make-ready time for Large Orders,[104] we conclude that the 90-day increase in the make-ready deadlines for Large Orders strikes a balance between getting attachers onto poles faster while still making it more likely that a utility will be able to meet our pole attachment timelines.[105] The new timelines we adopt today would mean that Large Orders would be processed more slowly than if an applicant broke the requests up into two smaller applications and submitted them separately a month apart.[106] As a result, attachers will have an incentive to submit smaller orders that allow utilities to better manage their workflows and contractors and thus complete applications in a timely manner.[107]

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[100] *See* Dominion/Xcel Reply at 13. We note that Dominion/Xcel generally are opposed to additional pole attachment timelines for Large Orders, but are proposing timelines in the alternative "if the Commission is compelled to reach this result." *Id.* at 12. Dominion/Xcel also caveat that their proposed timeline should be limited to broadband projects funded by government programs and expressly conditioned on their proposed notice requirement. *Id.* at 13. The Dominion/Xcel timeline for Large Orders would provide: (1) 30 days for application completeness review; (2) 75 days for OTMR application review; (3) survey/application review on the merits 150 days after application is complete; (4) estimate due 30 days after the survey is completed; (5) communications space make-ready within 165 days after attacher payment; and (6) make-ready work above the communication space within 285 days after attacher payment. *Id.*

[101] *See* Letter from Pamela Arluk, Vice Pres. and Assoc. Gen'l Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed May 9, 2025) (NCTA May 9, 2025 *Ex Parte* Letter) ("Under USTelecom's proposal, for an order of 3,000 poles, instead of the current 75 days for make-ready under the Commission's rules, the utility would have 270 days, 3.6 times longer than the current requirements. Such an approach runs counter to the Commission's goal of streamlining and speeding broadband deployment.").

[102] Dominion/Xcel Reply at 13.

[103] NCTA Comments at 7-8; INCOMPAS Reply at 5 ("With the anticipation that billions in broadband funding will be awarded in the next few years with major deployments occurring that will require large builds of 3,000 and more poles, the public interest cannot afford any more delays in trying to bridge the digital divide due to the lengthy and uncertain negotiations new attachers must undertake with utilities.").

[104] *See* Electric Utilities Comments at 8; UTC Comments at 3; CCU Comments at 9; EEI Comments at 8, 11; Dominion/Xcel Comments at 11-12; USTelecom Comments at 7. Utilities argue that if we set extended make-ready timelines for Large Orders that we also need to extend the Large Order timelines for the survey and estimate phases as well. Electric Utilities Comments at 16; Dominion/Xcel Comments at 12-13; UTC Mar. 14, 2024 *Ex Parte* Letter at 2; Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 2.

[105] *See* ACA Connects Comments at 2 (supporting additional 90 days for utility to complete make-ready for Large Orders); NCTA Comments at 8-9 ("In NCTA members' experience, this timeline is both essential and eminently feasible."); INCOMPAS Comments at 6. Under section 1.1411(g)(5) of our rules, "[a] utility may treat multiple requests from a single new attacher as one request when the requests are filed within 30 days of one another." 47 CFR § 1.1411(g)(5).

[106] NCTA Comments at 9.

[107] *See, e.g.*, UTC Comments at 6 (agreeing with EEI's explanation that processing applications incrementally is more efficient and enables utilities to process as many applications as quickly as possible and avoids the situation where if there is a hold-up with one application, then the attachers' entire project is held up); EEI Comments at 16 (noting that the Commission's existing pole attachment rule "encourages pole owners to execute smaller orders in a

(continued….)

26. To the extent utilities need additional time for make-ready work,[108] we note that the Commission's rules allow for deviations to the make-ready deadlines "for good and sufficient cause that renders it infeasible for the utility to complete make-ready within the time limits specified in this section."[109] USTelecom requests that we provide additional examples of what constitutes "good and sufficient cause" for deviations to the make-ready timelines,[110] but we decline to do so at this time. Our rules currently provide that a utility may deviate from the make-ready timeline "for good and sufficient cause that renders it infeasible for the utility to complete make-ready within the [specified] time limits."[111] In interpreting this provision, the Commission in 2011 stated that "utilities may toll the timeline to cope with an emergency that requires federal disaster relief, but may not stop the clock for routine or foreseeable events such as repairing damage caused by routine seasonal storms; repositioning existing attachments; bringing poles up to code; alleged lack of resources; or awaiting resolution of regulatory proceedings, such as a state public utilities commission rulemaking, that affect pole attachments. Aside from these examples of very serious occurrences that impede make-ready on the one hand, and routine events that do not justify tolling the timeline on the other hand, a utility must exercise its judgment in invoking a clock stoppage in the context of its general duty to provide timely and nondiscriminatory access."[112] We find that this previous guidance on what constitutes "good and sufficient cause" under our rules affords sufficient flexibility while still providing the certainty and expediency needed to ensure timely broadband buildouts.[113]

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shorter amount of time"); Dominion/Xcel Comments at 8 ("This approach is a proverbial 'win-win' because, on one hand, it permits attachers to identify areas where pole access is a priority, and to enjoy certainty as to when requested poles will be available for attachment; and on the other hand, it enables utility pole owners to process pole access requests more efficiently, in smaller batches, and at a relatively steady cadence."); USTelecom Reply at 8-9; Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 2.

[108] Letter from Nirali Patel et al., USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 5 (filed Apr. 21, 2025) (USTelecom Apr. 21, 2025 *Ex Parte* Letter) (listing deployment issues that can delay make-ready work).

[109] 47 CFR § 1.1411(h)(2); *see also* ACA Connects Reply at 8 (stating that "the Commission's deviation rule provides utilities with a safety valve to address unforeseen events"); Crown Castle Reply at 5; NCTA Comments at 14-15; USTelecom Apr. 1, 2025 *Ex Parte* Letter at 6; Letter from Aryeh Fishman et al., Associate General Counsel, EEI, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed May 12, 2025) (EEI et al. May 12, 2025 *Ex Parte* Letter). While utilities are concerned about the increased complexities associated with increasingly larger orders and the inability to predict what might arise in the course of the work related to these orders, *see, e.g.*, EEI Comments at 18; UTC Reply at 4-5; USTelecom Mar. 10, 2025 *Ex Parte* Letter at 1-2, the advance notice and meet-and-confer requirements will go a long way toward obviating these concerns.

[110] USTelecom Apr. 1, 2025 *Ex Parte* Letter at 6; EEI et al. May 12, 2025 *Ex Parte* Letter at 2-3 (supporting USTelecom's request and stating that "[c]learly defined non-exclusive, real-world examples that justify timeline deviations, should include adverse weather, permitting delays, preexisting safety violations, the need to obtain easements or rights-of-way from a third party, the need for a customer outage to perform make-ready work above the communication space, material or labor shortages, or the need for complex pole-by-pole make-ready estimates").

[111] 47 CFR § 1.1411(h)(2). When so deviating, the utility must "immediately notify, in writing, the new attacher and affected existing attachers," and identify the affected poles and provide a detailed explanation of the reason for the deviation and a new completion date." The utility shall deviate from the time limits specified in this section for a period no longer than necessary to complete make-ready on the affected poles and shall resume make-ready without discrimination when it returns to routine operations. A utility cannot delay completion of make-ready because of a preexisting violation on an affected pole not caused by the new attacher." *Id.*

[112] *2011 Report and Order*, 26 FCC Rcd at 5272-73, para. 68 (footnotes omitted).

[113] *See supra* para. 23.

27. While our overall approach provides for shorter timelines than utilities might otherwise prefer,[114] the advance notice and meet-and-confer requirements that we adopt today should obviate any attendant concerns and help both sides set more realistic expectations.[115] For example, USTelecom advocates for the status quo regarding the pole attachment timelines for Large Orders, stating that "[n]egotiated timelines let companies anticipate the challenges that will likely arise in a project, discuss potential solutions or workarounds, and tailor a realistic timeline that accounts for them."[116] However, the status quo results in delay because timeline negotiations do not even begin until after a Large Order is filed. Under the approach we adopt today, attachers are required to provide utilities with advance notice, and attachers and utilities then must meet and confer before a Large Order is submitted, thereby capturing the efficiencies identified by USTelecom much earlier in the pole attachment process.

28. The advance notice and meet-and-confer requirements also will help utilities when multiple attachers submit applications in the same timeframe.[117] As Dominion/Xcel identifies the problem, it is hard to manage utility resources "to the extent that sudden upticks in its workload arise from multiple modest-sized orders, submitted simultaneously by multiple attachers."[118] But, as Dominion/Xcel note, "[t]o ensure that adequate resources are available to process applications submitted in connection with massive deployments, DEV [already] requests that attachers provide prior notice of expanded orders as soon as the details of such orders are known—and some attachers honor this request."[119] As we now mandate advance notice and meet-and-confer requirements before the submission of Large Orders, utilities and attachers can work out beforehand any resource problems caused by multiple such orders being submitted by different attachers around the same time.

29. *Negotiated Timelines for Very Large Orders.* We agree with NCTA that the parties should engage in good faith negotiations for the timelines applicable to Very Large Orders, which we have defined as orders exceeding the lesser of 6,000 poles or 10 percent of a utility's poles in a state. While ACA Connects argues for established timelines for Very Large Orders,[120] we find NCTA's position to be a reasonable accommodation between utilities and attachers for dealing with orders of that size. We reject NCTA's request that, if the utility fails to establish a reasonable timeline for Very Large Orders, the timeline for Large Orders will then govern.[121] We find that there may be reasons beyond the utility's control, including the possible failure of attachers to agree to a reasonable timeline, that may prevent the establishment of a timeline for Very Large Orders.

C. Improvements to the Pole Attachment Timeline

30. *Utility and existing attacher notification requirement to enable quicker self-help for surveys and make-ready.* We require utilities to notify new attachers within 15 days of receipt of a

[114] Electric Utilities Comments at 6; CCU Comments at 9; Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 2.

[115] Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 2; EEI Aug. 29, 2024 *Ex Parte* Letter at 3.

[116] USTelecom Reply at 7; *see also* Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 2 (noting that good-faith negotiations for Large Order timelines are "particularly well-suited to expedite broadband deployment because it requires pole owners and attachers to develop mutually acceptable build-out milestones for the most complex projects based on their respective needs, priorities, and resource availability").

[117] *See, e.g.*, Electric Utilities Comments at 13-15 ("Because the Commission's timelines are applied on a per-attacher basis, the actual volume of applications that fit within the timeline is only limited by the number of attachers within a state."); USTelecom Comments at 7; UTC Reply at 5.

[118] Dominion/Xcel Comments at 4.

[119] *Id.* at 4.

[120] Letter from Max Staloff, VP Regulatory Affairs, ACA Connects, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Aug. 12, 2024) (ACA Connects Aug. 12, 2024 *Ex Parte* Letter).

[121] NCTA Comments at 12.

complete application if they know or reasonably should know that they cannot meet the survey timelines.[122] We further require utilities to notify new attachers as soon as practicable but no later than 15 days after payment of the estimate if they know or reasonably should know that they cannot meet the make-ready timelines.[123] Similarly, existing attachers shall notify the utility and the new attacher as soon as practicable but no later than 15 days after receiving notice from the utility pursuant to section 1.1411(e) of our rules that the existing attacher knows or reasonably should know that it cannot meet the make-ready deadline. Existing attachers giving such notice also must notify the utility of their inability to meet the make-ready deadline,[124] and we note that existing attachers already receive notice of payment of the estimate when the utility sends them make-ready letters pursuant to section 1.1411(e).[125] Where a utility or existing attacher notifies the new attacher that it is unable to meet the survey or make-ready timelines, the new attacher may then elect self-help for the work that the notifying party cannot do pursuant to sections 1.1411(i)(1) (for surveys) or 1.1411(i)(3) (for make-ready) of our rules upon receipt of the notice rather than having to wait until the relevant timeline period runs.[126] However, if either a utility or an existing attacher does not give advance notice to the new attacher that it will be unable to meet the survey or make-ready deadlines, then the new attacher must wait until the end of the survey or make-ready timelines in our rules before availing itself of any self-help remedies for that party's work. Attachers can submit to the RBAT any allegations that the utility or existing attachers knew or reasonably should have known that the survey or make-ready work could not be completed on time and advance notice was not timely given.

31. In the *Third Further Notice*, the Commission sought comment on NCTA's proposal "that the utility notify an attacher 15 days after receiving a complete application that it cannot conduct the survey within the required 45-day period so that the attacher can elect self-help for the survey sooner."[127] Specifically, the Commission asked whether utilities can "feasibly be required to inform attachers within 15 business days of receiving a completed application that they will be unable to conduct a survey, estimate, or make-ready within the required time period."[128] While utilities argue that it is not feasible for them to determine whether they can meet the survey or the make-ready deadlines so soon after their timetable begins,[129] attachers assert that utilities "generally know immediately upon reviewing an

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[122] Letter from Nirali Patel, Sr. VP Policy & Advocacy, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1-2 (filed July 17, 2025) (USTelecom July 17, 2025 *Ex Parte* Letter).

[123] We disagree with NCTA that the 15-day make-ready notification deadline should begin on completion of the survey. Letter from Pamela Arluk, Vice Pres. and Assoc. Gen'l Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 17, 2025) (NCTA July 17, 2025 *Ex Parte* Letter). As USTelecom points out, at completion of the survey, "utilities will lack insight into several relevant facts . . . including when the make-ready period will begin (something that depends on when the attacher pays a make-ready estimate) and whether third-party attachers will comply with deadlines for moving their attachments (something that occurs during the make-ready period)." USTelecom July 17, 2025 *Ex Parte* Letter at 2; *see also* Letter from Brett Kilbourne, Sr. Vice Pres. Policy and Gen'l Counsel, UTC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-3 (filed July 11, 2025) (UTC July 11, 2025 *Ex Parte* Letter) (requesting "the Commission to revise its proposed section 1.1411(f)(4) so that the 15 day notice requirement applies after payment of the estimate is received by the utility, rather than after completion of the survey"); Letter from Aryeh Fishman, Assoc. Gen'l Counsel, Edison Electric Institute, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 15, 2025) (EEI July 15, 2025 *Ex Parte* Letter).

[124] EEI July 15, 2025 *Ex Parte* Letter at 2.

[125] 47 CFR § 1.1411(e).

[126] 47 CFR § 1.1411(i)(1), (3).

[127] *Third Further Notice*, 38 FCC Rcd at 12412-13, para. 56.

[128] *Id.* at 12413, para. 56.

[129] *See* Electric Utilities Reply at 14 (stating that "with respect to surveys, a pole owner should only be required to provide notice in situations where it is obvious—at the time of receiving a complete application—that the pole

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application whether they will be able to facilitate the pole access process in a timely manner" and that such advance notice is key to speeding up the pole attachment process because they can then invoke the self-help option sooner.[130]

32. We agree with Altice that the Commission has recognized the importance "for attachers to receive swift access to utility poles so that they can efficiently deploy networks in new markets. To achieve this goal, early communication is essential, particularly with respect to whether utilities will be able to process applications within the Commission's established timeframes."[131] As Crown Castle notes, "[t]his change will be productive for utilities because it will allow them to dispense with surveys that they will not be able to complete, and it benefits attachers by accelerating their access to the pole."[132] By the same token, we take heed of the fact that utilities may not know within 15 days of receipt of a complete application whether they will be able to meet the make-ready deadline. While the advance notice and Large Order meet-and-confer requirements will help utilities and attachers level-set expectations for potential Mid-Sized Orders associated with a single network deployment and Large Orders, certain factors remain outside the utilities' control, including the timing of the new attacher obtaining required local permits and third-party attachers' compliance with the deadlines for moving their attachments to make room for the new attachers' equipment. We thus have tied that notice obligation to a later point in the process where utilities will have greater certainty regarding their ability to meet the make-ready deadline and have qualified the two separate notification requirements based on whether the utility knows or should know that it cannot meet the deadlines. We also extend the 15-day notice requirement to existing attachers who play a key role in the make-ready process. As UTC notes, "existing attachers on the pole may not be able to meet the make-ready timelines, which in turn will also affect the ability of the utility to meet the make-ready timelines."[133]

33. With these changes to the proposed action, the advance notice and Large Order meet-and-confer requirements should help obviate the utilities' concerns that 15 days may be too short to give notice of being unable to meet the survey and make-ready deadlines, as the pre-planning and coordination that now will occur should give utilities earlier insight into the scope of a project and the viability of the

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owner lacks the capacity to perform surveys in a timely manner. Furthermore, the advance notice requirement must account for the fact that pole owners must have a survey in hand before speculating about their capacity to perform power space make-ready in a timely manner."); USTelecom Comments at 10 ("NCTA improperly assumes that pole owners know early in the process that they will not be able to complete survey and make-ready work within the timelines."); Dominion/Xcel Comments at 17; EEI Comments at 4, 18; UTC Comments at 11-12; CCU Comments at 27; USTelecom Apr. 1, 2025 *Ex Parte* Letter at 10.

[130] Altice USA, Inc. Reply at 4-5 (Altice); *see also* NCTA Reply at 9 ("[U]tilities should be required to notify attachers within 15 days of receiving a complete application if the utility will not be able to meet the survey and make-ready timelines (due to labor shortage or otherwise). Utilities make such predictions about their own projects all the time—at the very least a utility must be aware of its ability to meet an applicable timeline once it has presented the make-ready estimates to attachers for payment, because those estimates include labor charges and are based on the precise scope of work the utilities believe to be required for the project."); ACA Connects Reply at 3 ("[T]he Commission should require utilities to notify attacher applicants on a timely basis should it become aware—and once it becomes aware—that it will be unable to complete either surveys or make-ready on time. This is necessary to preserve and make meaningful attachers' rights to invoke self-help efficiently."); Crown Castle Reply at 7-8; INCOMPAS Comments at 11-12; Connect the Future Comments at 3.

[131] Letter from Jacqueline Clary, Altice USA, Inc., to Marelene Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Nov. 8, 2024) (Altice Nov. 8, 2024 *Ex Parte* Letter).

[132] Crown Castle Comments at 5.

[133] UTC July 11, 2025 *Ex Parte* Letter at 3; EEI July 15, 2025 *Ex Parte* Letter at 2 ("We also recommend requiring existing attachers to notify both the new attacher and the utility within 15 days of receiving notice if they cannot meet the make-ready deadline. This approach will ensure timely information sharing and enable attachers to consider self-help remedies.").

associated deadlines.[134] We also note that in utilities' experience, the self-help remedy is rarely, if ever, used, but we want to provide attachers with access to the tools they need to deploy broadband quickly and cheaply.[135]

34. We reject Altice's proposal requiring utilities that miss the survey and make-ready timelines to refund attachers for any pre-paid and uncompleted survey and/or make-ready work within 30 days of missing the 15-day notice deadline, with interest dating back to the date the pre-payment was made.[136] Altice's proposed remedy could penalize the utility for missed deadlines that may be beyond the control of the utility, especially when make-ready is dependent on existing attachers moving their equipment. In addition, the parties already have a true-up mechanism, usually in their pole attachment agreements, for the refund of any sums paid for work that ultimately is not done.[137]

35. *Self-help for the estimate phase.* In order to further improve the pole attachment timeline, we adopt a self-help remedy for make-ready estimates where the utility is unable to meet the estimate timelines, provided there are certain safeguards as proposed by utility commenters.[138] Currently in our rules, utilities have 14 days after giving notice of granting the new attacher's complete application or receiving the new attacher's self-help survey to complete an estimate of make-ready costs and present the estimate to the attacher.[139] A utility may withdraw the estimate beginning 14 days after it is presented if the attacher has not yet accepted that estimate, and the new attacher may accept the estimate and make payment any time after receiving it unless it has been withdrawn.[140] However, unlike for surveys and make-ready work, there currently is no self-help remedy for attachers if utilities miss the deadline to present the estimate of make-ready costs. In the *Third Further Notice*, the Commission sought comment on NCTA's proposal to make self-help available for the estimate process.[141] In the ensuing record, both utilities and attachers supported this concept as a way to speed the pole attachment process and ensure broadband projects do not get stuck at the estimate phase.[142]

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[134] *See* NCTA Reply at 10 (stating that "several utilities request advance notice and coordination from attachers for large deployments, which NCTA members are willing to accommodate").

[135] *See, e.g.*, Electric Utilities July 11, 2025 *Ex Parte* Letter at 2 ("For far too long, attaching entities have refused to exercise their right to self-help and instead blamed electric utilities for project delays. By further empowering attaching entities to exercise self-help, these rules send a clear message that attaching entities are expected to take responsibility for their own deployments by exercising these rights in a timely manner."); Dominion/Xcel Comments at 16 (observing that "no attacher has ever requested or attempted to perform a self-help survey within the footprint of either Dominion Energy or Xcel Energy, and only one attacher (within Xcel Energy's service area) has attempted to perform self-help make-ready work"); EEI Comments at 17; US Telecom Comments at 9.

[136] Altice July 16, 2025 *Ex Parte* Letter at 4.

[137] *See* UTC July 18, 2025 *Ex Parte* Letter at 3 (stating that "the Commission should reject this proposal because it is wholly unsupported by the record, excessively punitive, and would likely increase disputes and delay broadband deployment"); EEI July 17, 2025 *Ex Parte* Letter at 2 (arguing that Altice's "proposal is ambiguous, lacks evidentiary support in the record, and could create unintended financial and operational burdens")

[138] INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 4 ("The critical issue for deployment of broadband is preventing the estimate phase from impeding the start of make-ready work.").

[139] "Where a new attacher's request for access is not denied, a utility shall present to a new attacher a detailed, itemized estimate, on a pole-by-pole basis where requested, of charges to perform all necessary make-ready within 14 days of providing the response required by paragraph (c) of this section, or in the case where a new attacher has performed a survey, within 14 days of receipt by the utility of such survey." 47 CFR § 1.1411(d). Although note that herein we have adopted a 29-day period for the estimate phase for Large Orders.

[140] 47 CFR § 1.1411(d)(1)-(2).

[141] *Third Further Notice*, 38 FCC Rcd at 12412-13, para. 56.

[142] Crown Castle Comments at 7 (noting that "because there is no self-help remedy for the estimate process, attachers are often left waiting with no recourse when the utility then also fails to produce a make ready estimate

(continued….)

36. To respond to the concerns articulated by some utility commenters, we adopt certain safeguards for a self-help remedy in the estimate context.[143] Specifically: (1) the attacher must wait until the utility's 14-day estimate deadline (or 29 days in the case of Large Orders) has expired before exercising the self-help remedy; (2) the attacher must provide notice that it is exercising its self-help remedy for an estimate; (3) the self-help estimate is to be performed by an approved contractor in accordance with sections 1.1412(a)-(b) of our rules;[144] (4) this remedy is not available for pole replacements; and (5) utilities have the right to review and approve the estimates at the attacher's expense, but such expenses must be reasonable and based on only the actual costs incurred by the utility in reviewing the estimate.[145] We agree with commenters that new attachers should be able to use utility-approved contractors to perform self-help estimates for make-ready work above the communications space because "[w]ithout having the estimate for electric space make-ready, the estimate for communications space make-ready is of little practical use. Make-ready in both the communications and power spaces is necessary to allow attachment to a pole."[146] For self-help make-ready estimates above the communications space, the new attacher must use a utility-approved contractor pursuant to section 1.1412(a) of our rules, and we note that the utility's ability to refuse acceptance of the attacher's estimate obviates any concern over the accuracy of any potential make-ready estimates for work above the communications space.[147]

37. In addition, we adopt a requirement that utilities make a written decision on a self-help estimate within 14 days of receipt or before it is withdrawn by the attacher, whichever is later,[148] noting that this is the same amount of time that a new attacher has to accept an estimate from the utility before the utility has the option to withdraw the estimate. If the estimate is accepted by the utility, then it is subject to the reconciliation process set forth in section 1.1411(d)(3) of our rules.[149] If the estimate is not

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within 14 days after the attacher submits the self-help survey"); INCOMPAS Comments at 12-13 ("To encourage timely responses and provide a meaningful remedy to attachers, the Commission should eliminate this bottleneck and permit attachers to continue with the self-help process if a utility does not timely respond with an estimate."); NCTA Reply at 12 ("Given that the estimate process is nearly always performed by utility contractors, removing the utility middleman in cases where an attacher is already engaging in self-help will eliminate an unnecessary layer of complexity and delay."); Dominion/Xcel Comments at 19-20 ("While a self-help remedy for the estimate process is not likely to accelerate access to poles for broadband deployment, Dominion Energy and Xcel Energy would not oppose such a remedy if it is appropriately limited."); Electric Utilities Comments at 30. *But see* USTelecom Apr. 1, 2025 *Ex Parte* Letter at 11 (asserting that self-help for make-ready estimates "will complicate and confuse, rather than help").

[143] CCU Reply at 20 ("Utilities have no incentive to delay providing make-ready estimates, but make[-]ready estimates can sometimes be complex, often involving both internal and external stakeholders. The complexity is compounded to the extent the request is voluminous."); Dominion/Xcel Comments at 20; Electric Utilities Comments at 30.

[144] 47 CFR § 1.1412(a)-(b).

[145] *See* CCU Comments at 27-28; Dominion/Xcel Reply at 18-19; Electric Utilities Comments at 30.

[146] INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 4.

[147] *Id.* at 4 n.6 ("There is no reason these approved contractors, who consistently perform this work for utilities, cannot generate appropriate estimates for attachers (in place of the utility) for power space make-ready.").

[148] USTelecom Apr. 21, 2025 *Ex Parte* Letter at 2 (noting that the utility's review period of an attacher-prepared estimate "should at least equal the time the attacher needs to prepare the self-help estimate and should never be fewer than 14 days for standard pole orders"). We reject the request of INCOMPAS/Crown Castle to shorten the time period for the utility's acceptance of a self-help estimate from 14 days to 7 days, having provided no rationale for why utilities should have a shorter time period than attachers to accept an estimate. INCOMPAS/Crown Castle July 18, 2025 *Ex Parte* Letter at 4.

[149] 47 CFR § 1.1411(d)(3).

accepted by the utility, then the utility must detail in writing the reasons for non-acceptance. The attacher then can submit a revised estimate to the utility without restarting the pole attachment timeline. If the self-help process does not result in an accepted estimate, then the attacher can resort to the RBAT to have the utility generate an estimate pursuant to section 1.1411(d) of our rules.[150]

38. *Utility limits on the size or frequency of pole attachment applications.* While we agree with USTelecom that reasonable application processing requirements provide benefits to utilities and attachers,[151] we prohibit utilities from imposing application size limits in combination with application frequency limits that have the practical effect of restricting the number of pole attachments attachers may seek in a given timeframe.[152] In determining the applicable pole attachment timelines for Regular, Mid-Sized, Large, and Very Large Orders, utilities have the ability to "treat multiple requests from a single new attacher as one request when the requests are filed within 30 days of one another."[153] However, the Commission noted in the *Third Further Notice* the concern raised by NCTA that utilities may "limit[] 'the size of an application or the number of poles included in an application so as to avoid the timelines.'"[154] More specifically, NCTA noted that even though the rules contemplate attachers filing and utilities considering large orders, various utilities have imposed limits on application size and frequency that may prevent attachers from applying for the attachments they need within the timeframes in the Commission's rules.[155]

39. When the Commission first adopted pole attachment timelines in 2011, it addressed utilities' desire for flexibility by creating three size-categories of applications and allowing utilities to "treat multiple in-state requests from a single attacher during a 30-day period as one request."[156] While the subsequent record shows that utilities use application size and frequency limits to effectively manage application workflow,[157] we want to ensure that such limits do not have the effect, whether intended or not, of restricting the number of pole attachments attachers may seek in a given 30-day period.[158] Utilities

[150] *Id.* § 1.1411(d).

[151] USTelecom Comments at 8-9; USTelecom Apr. 1, 2025 *Ex Parte* Letter at 10.

[152] 47 CFR § 1.1411.

[153] *Id.* § 1.1411(g)(5).

[154] *Third Further Notice*, 38 FCC Rcd at 12411, para. 55.

[155] NCTA June 27, 2022 Comments at 28-29.

[156] *2011 Report and Order*, 26 FCC Rcd at 5250, para. 19.

[157] *See* CCU Comments at ii, 15-16 (explaining that "[l]imiting the number of poles in any one application allows the work for the entire project to be analyzed and completed in sections or batches" and "allows the work to be spread across multiple people more easily, and facilitates discussions about particular areas of deployment"); EEI Comments at 3-4, 15-16 (noting that "electric companies will typically impose limitations on the number of poles that can be included within an application, and these smaller applications can then be allocated across multiple contractors depending on their capacity for work. This practice does not hinder broadband deployment; instead, it promotes broadband deployment by enabling electric companies to assign the survey and make-ready work in a much more efficient manner (as opposed to just sending a large application to a single contractor)."); NCTA Comments at 16 ("NCTA members do not oppose reasonable application size limits in and of themselves, and recognize that imposing a reasonable cap on the number of poles per application can be helpful, particularly where utilities refuse to release any poles on an application until the make-ready work is complete, and attachers pay any cost-overruns demanded by the utility." (footnote omitted)); ACA Connects Reply at 9 (noting that such practices are not unreasonable); Dominion/Xcel Comments at 14-15; Electric Utilities Comments at 26-27; UTC Comments at 8-9; USTelecom Apr. 1, 2025 *Ex Parte* Letter at 10.

[158] *See* Altice Reply at 9-10 ("Altice routinely experiences deployment delays when utilities impose arbitrary pole-per application limits and/or refuse to process more than a certain number of applications at one time—even where the Commission's rules require the utility to process all the applications submitted within a shorter period."); NCTA Comments at 16 (stating that application size limits "cannot be combined with limits on the number of applications (continued….)

still are able to accumulate together all orders received from an attacher within a 30-day period in order to determine the correct timeline for processing the combined orders, but those applications must be processed in accordance with our rules.[159] For example, if an attacher has a 3,500 pole project, the utility cannot impose limits on the size and frequency of the attacher's pole attachment application(s) that would prevent the attacher from submitting a 3,500 pole order in a 30-day period. While the utility can limit the size of a pole attachment application and can treat all applications filed by the attacher in a 30-day period as one application, the limits cannot have the effect of preventing the attacher from applying to access 3,500 poles in a 30-day period (although the utility can process the application(s) under the Large Order timeline).[160] We agree with Crown Castle that "attachers should be allowed to file applications that make sense for their deployment plan, particularly for deployments under RDOF, BEAD, or other programs."[161] Indeed, some utilities already adhere to this rule, thus demonstrating that it is reasonable. For example, Dominion Energy and Xcel Energy explain they "follow administrative policies that prescribe a maximum number of poles per application, but also permit an attacher to submit an unlimited number of applications at its discretion."[162]

D. Deadline for Utilities to Respond to Requests to Add Contractors to Utility Lists

40. We amend section 1.1412 of the Commission's rules to establish a firm deadline by which utilities must respond to requests by attachers to add additional qualified contractors to their existing lists. Specifically, we require utilities to respond to such requests within 30 days of receipt by the utility. The response must state whether the proposed contractor meets the requirements in section 1.1412(c) of the Commission's rules and will be added to the utility's approved list of contractors following the completion of the utility's on-boarding process.[163] If a utility fails to respond to an

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that may be submitted in a month, where doing so thwarts the timelines and self-help remedies"); Dominion/Xcel Reply at 15-16 ("If needed to ease this tension, DE/Xcel would not oppose a discrete clarification of the Commission's current rule that a utility pole owner may not restrict the size of any pole attachment 'order' up to the lesser of 3,000 poles (or 5% of a utility's poles within a state), where 'order' is defined as the total number of poles requested for access by any one attacher within a period of 30 consecutive days."); ACA Connects Reply at 9-10; Crown Castle Comments at 4; INCOMPAS Comments at 9-10.

[159] As the Commission clarified in the *Declaratory Ruling*, "when an application is submitted requesting access to the larger of 3,000 poles or 5 percent of a utility's poles in the state, the lesser of the first 3,000 poles or 5 percent of the utility's poles in the state of that application are subject to the make-ready timeline set forth in section 1.1411(g)(3), which gives utilities 45 additional days beyond the standard make-ready timeline to process attachment applications, so long as the attacher designates in its application the first 3,000 poles (or 5 percent of the utility's poles in the state) to be processed, which the utility must permit the attacher to do." *Declaratory Ruling*, 38 FCC Rcd at 12409, para. 50.

[160] *See* NCTA Comments at 16 ("Some utilities impose application limits as small as 50 poles per application and three applications per month, despite the fact that under the Commission's rules, a utility must review on the merits a [Mid-Sized] Order – of up to 3,000 poles – within 60 days."); Dominion/Xcel Comments at 14.

[161] Crown Castle Comments at 4; *see also* INCOMPAS Comments at 10 (stating that "the limitations on the number of poles per application and subsequent timing of approvals leads to inefficient construction and in some cases requires the utility to extend construction windows").

[162] Dominion/Xcel Comments at 14-15 (noting that "because the pole owner cannot permit the attacher to construct any of its approved attachments before all make-ready work required for an individual application is complete, smaller sized applications typically move more quickly from the time that the application is approved, to the time that an attacher's construction may commence. Moreover, applications that include fewer poles are less likely to be delayed in the event that one pole requires replacement or more extensive make-ready work than other poles requested for access in the same application."); *see also* EEI Comments at 15-16 (noting that maintaining utility flexibility "allows electric companies to limit an application to 50 poles but allow for the attacher to submit unlimited applications, meaning the pole owner can process as many applications as possible but avoid the situation where a hold-up with one application holds up the attachers' entire project").

[163] We seek comment in the *Further Notice* below on contractor on-boarding processes, the time required to
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attacher's request to add a proposed contractor to its approved list within 30 days of receipt, the attacher's request will be deemed approved.

41. In the *Third Further Notice*, the Commission sought comment on whether it should modify the self-help rules to enable attachers to access poles more quickly.[164] The self-help remedy allows attachers to perform surveys and make-ready work using utility-approved contractors.[165] For surveys and make-ready work that is complex or above the communications space, a utility must make available and keep up-to-date a reasonably sufficient list of contractors that it has authorized to perform such work on its poles.[166] A new attacher engaging in self-help for complex or above the communications space make-ready must use a contractor from this list to perform the work.[167] Attachers may, however, request that additional contractors meeting the minimum requirements of the Commission's rules be added to the utility-approved list, and utilities may not unreasonably withhold their consent.[168] For surveys and make-ready work that is simple, utilities may—but are not required to—provide a reasonably sufficient list of contractors they authorize to perform such work. If a utility provides such a list, attachers must use a contractor from that list.[169] Attachers may request that utilities add contractors that meet the minimum qualifications of the Commission's rules to their lists, and utilities may not unreasonably withhold their consent.[170] To be reasonable, a decision to withhold consent "must be prompt, set forth in writing that describes the basis for rejection, nondiscriminatory, and based on fair application of commercially reasonable requirements for contractors relating to issues of safety or reliability."[171]

42. Some attachers contend that certain utilities may not be promptly responding to attacher requests to add additional qualified contractors.[172] They state that utilities take months to respond to such

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complete such processes, and whether the Commission should adopt a deadline for the completion of that process.

[164] *Third Further Notice*, 38 FCC Rcd at 12412, para. 56.

[165] 47 CFR § 1.1412(a)-(b). Note that in this item, the Commission is extending the self-help remedy to the estimate phase as well.

[166] *Id.* § 1.1412(a).

[167] *Id.*

[168] *Id.*

[169] *Id.* § 1.1412(b).

[170] *Id*. If a utility does not provide a list of approved contractors for self-help surveys and make-ready that is simple, or none of the contractors on the utility-approved list are available within a reasonable time, attachers may retain their own contractors that meet the minimum qualifications of the Commission's rules to perform the work. *Id*. § 1.1412(b)(1)-(2).

[171] *See Third Wireline Infrastructure Order*, 33 FCC Rcd at 7757, para. 107.

[172] ACA Connects Aug. 12, 2024 *Ex Parte* Letter at 2 ("[O]ur Members find that pole owners often do not respond promptly, if at all, to their requests to add qualified contractors."); Crown Castle Comments at 6 (stating that Crown Castle has been unable to use qualified contractors that it has identified "because the utility fails or refuses to approve the proposed contractor within a reasonable timeframe"); INCOMPAS Reply at 6 ("Many of the delays faced by INCOMPAS members in deploying telecommunications facilities on utility poles are caused by . . . utilities refusing to approve qualified contractors."); Altice Reply at 7-8 (stating that the Commission's rules require utilities to maintain a reasonably sufficient list of contractors authorized to perform self-help surveys and make-ready and to "not unreasonably withhold consent to place a new qualified contractor on the utility's list" but "utilities often do not comply with this requirement"). *But see* Dominion/Xcel Comments at 20-21 ("To date, Xcel Energy has not received any request to include a contractor on its list of pre-approved contractors maintained pursuant to the Commission's rules, and Dominion Energy has received only one request."); EEI Reply at 21 ("EEI members report that attachers almost never ask to add contractors to the utility-approved list, and EEI is not aware that attachers have filed any complaints before the Commission alleging an electric company failed or refused to approve a qualified contractor within a reasonable time."); Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3 (stating that
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requests, if they respond at all.[173] Indeed, NCTA states that it took one of its members 6 to 8 months to qualify just one contractor with a utility.[174] Attachers argue that these delays are not due to a shortage of qualified contractors for utilities to approve.[175] Rather, NCTA asserts that the "utility approval process isn't working,"[176] and Crown Castle notes that it has identified qualified contractors but has been "unable to use them because the utility fails or refuses to approve the proposed contractor within a reasonable timeframe."[177] Accordingly, attachers argue that utilities should be given a firm deadline to respond to attacher requests to add additional contractors to their approved lists to prevent untimely responses from delaying broadband deployments.[178] Specifically, attachers have asked that the Commission require utilities to respond to such requests within either 21 or 30 days of the submission of the request.[179] They further request that if utilities do not respond to the attacher's request by the deadline, that the attacher's request be deemed approved.[180] NCTA argues that, "[a]bsent such a remedy, utilities will continue to lack any incentive to comply, forcing attachers to file complaints just to enforce bright-line rules."[181]

43. The Commission authorized attachers to request that additional qualified contractors be added to utility-approved lists "to prevent the utility list from being a choke-point that prevents deployment."[182] We conclude that failing to respond to an attacher's request to add an additional contractor for months creates such a choke-point and failing to respond at all certainly does. Indeed, we

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"over the five-plus years that the current self-help rules have been in effect, Xcel Energy has received only one request for approval of a contractor to perform work above the communications space (which was granted) and Dominion has not received any such requests").

[173] *See* NCTA Reply at 15 ("[U]tilities can and do take months to respond, or may not respond at all, notwithstanding the general rule that they cannot 'unreasonably withhold' consent to a proposed contractor."); ACA Connects Aug. 12, 2024 *Ex Parte* Letter at 2.

[174] NCTA Comments at 18 ("If a utility is willing to consider an attacher's contractor, the length process (most recently 6 to 8 months for one NCTA member to qualify one contractor) introduces further delay.").

[175] *See* NCTA Reply at 13-14 (stating that "there are available, qualified contractors . . . willing to assist NCTA members in meeting their pole attachment requirements, if pole owners agree" and that they are "willing and able to work on broadband projects today"); Crown Castle Comments at 6 (". . . Crown Castle does not agree with the utilities' assertion that labor constraints are a problem."); Altice Nov. 8, 2024 *Ex Parte* Letter at 3 (stating "the rank of outside contractors able to perform survey and make-ready work is growing—and is anticipated to continue growing over the next several years . . .").

[176] NCTA Comments at 19.

[177] Crown Castle Comments at 6.

[178] Altice Nov. 8, 2024 *Ex Parte* Letter at 3 (stating that without setting a deadline, "it is highly unlikely utilities will . . . approve non-listed contractors in a reasonable time"); ACA Connects Reply at 12 (characterizing its proposed measures to facilitate contractor approval as seeking "a timely objection to any proffered contractor based on the Commission's and the utility's stated criteria" and stating that "action to facilitate the availability of additional qualified contractors at each stage of the pole attachment process when self-help is available . . . would expedite broadband deployment by removing another potential barrier to timely pole access"); INCOMPAS Comments at 14 ("[T]his delay just to approve a contractor may be prohibitive in deploying broadband to underserved areas, and to that end, there should be quick approval timelines if the contractor meets the qualifications.").

[179] *See* Altice Nov. 8, 2024 *Ex Parte* Letter at 3 (requesting a deadline of 30 days of an attacher's submission unless the utility can demonstrate in writing why such contractor should not be approved); ACA Connects Aug. 12, 2024 *Ex Parte* Letter at 2 (requesting a deadline of 21 days of the attacher's submission); NCTA Comments at 19 (requesting a deadline of 30 days); Crown Castle Comments at 6 (requesting a deadline of 21 days); INCOMPAS Reply at 7 (concurring with a 30[]day deadline).

[180] NCTA Comments at 19; Crown Castle Comments at 6; Altice Reply at 8-9.

[181] NCTA Comments at 20.

[182] *Third Wireline Infrastructure Order*, 33 FCC Rcd at 7757, para. 107.

find that the Commission's prior direction that decisions to withhold consent be "prompt" means that utilities may not simply hold requests in abeyance without providing a response at all.[183] To conclude otherwise would defeat the purpose of allowing attachers to request that qualified contractors be added to utility-approved lists.

44. Thus, we amend section 1.1412 of the Commission's rules to require that utilities respond to any request by an attacher to add an additional contractor to a utility-approved list within 30 days of receipt of the request.[184] The response must state whether the proposed contractor has been approved based on the requirements in section 1.1412(c) of the Commission's rules and will be on-boarded by the utility to work on its poles, after which the contractor will be added to the utility's approved list. We find that 30 days is enough time for utilities to evaluate whether a proposed contractor meets the minimum qualification requirements of the Commission's rules based on the information submitted by the attacher and to provide the response described above. To ensure swift compliance with this deadline by utilities, we require that requests to add attachers to utility-approved lists be deemed approved if a utility fails to respond to such requests by the 30-day deadline, and that the utility promptly on-board the contractor as necessary to commence work on the utility's poles.[185] We find that a deemed approved remedy is appropriate to enable attachers to make meaningful use of the self-help remedy to timely complete their deployments when survey, estimate, and make-ready deadlines under our rules have been missed.

45. Some utilities argue that the Commission should not adopt a deadline to approve or deny requests to add additional contractors to their lists because it can take three months to a year or more to on-board contractors to perform surveys and make-ready work.[186] We are not persuaded by this

[183] We, thus, disagree with USTelecom that there is no need for the Commission to establish a deadline to respond to attacher requests to add additional qualifications because the Commission has already stated that such responses must be "prompt." USTelecom Reply at 12 & n.58; USTelecom Apr. 21, 2025 *Ex Parte* Letter at 3.

[184] Because attachers currently have a remedy to retain their own contractors if a utility does not maintain an approved list of contractors for self-help surveys and make-ready that is simple, 47 CFR § 1.1412(b)(1)-(2), the deadline that we adopt today is particularly important for requests to add contractors to utility-approved lists for self-help surveys and make-ready that is complex or above-the communications space. We, thus, decline to limit the deadline to contractors that would perform work that is in the communications space, as some utilities have requested. *See* UTC July 11, 2025 *Ex Parte* at 1-2; Electric Utilities July 11, 2025 *Ex Parte* Letter at 3; EEI July 14, 2025 *Ex Parte* Letter at 3; Letter from Robin F. Bromberg, Counsel for American Electric Power Service Corporation et al., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-4 (filed July 16, 2025) (Electric Utilities July 16, 2025 *Ex Parte* Letter). We also decline the Electric Utilities' request that we revise sections 1.1412(a) and (b) of our rules to apply to self-help work above and below the communications space, respectively, rather than to self-help work that is complex and above the communications space and self-help work that is simple, respectively. Letter from Robin Bromberg, Counsel for AEP, et al., to Marlene Dortch, Secretary, FCC, WC Docket No. 17-84, Attach. at 1 (filed July 17, 2025) (Electric Utilities July 17, 2025 *Ex Parte* Letter).

[185] Notwithstanding statements from utilities that contractors working on their poles must execute agreements with utilities, NCTA asserts that "it is the attaching entity, not the utility, that is responsible for contracting with and onboarding the contractor and for the tasks the Electric Utilities identify as most time consuming." Letter from Pamela Arluk, Vice Pres. and Assoc. Gen'l Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Apr. 23, 2025) (NCTA Apr. 23, 2025 *Ex Parte* Letter). We find that the information in the record is insufficient for the Commission to determine the exact steps that must be taken to onboard a contractor to work on a utility's poles, how long those steps should take, and who the parties responsible for completing those steps are or should be. As stated above, we seek comment on these points in the Further Notice below.

[186] *See* Dominion/Xcel Reply at 27 ("[S]uch contractors must be trained on the pole owner's specific standards and policies before work can commence—and this process may take over one full year."); Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3 & n.11 ("The timeframe needed to sufficiently vet, approve, and onboard a contractor for work on electric facilities is generally a minimum of three months, but that can also be affected by factors such as the availability of projects for field observation, training, and orientation, which are necessary parts of the process."); Electric Utilities Comments at 10-12 (stating "it takes AEP between 6 to 13 months to onboard new approved contractors" and "[t]hough it is hard to place a sum certain on the time it takes for Alabama Power to 'onboard' a

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argument. We agree with NCTA that the process of approving the addition of a contractor that meets the requirements of section 1.1412(c) of the Commission's rules is distinct from the "on-boarding" requirements described by utilities, such as negotiating an agreement with the new contractor, providing employees of the new contractor with access to the utility's internal systems, and training.[187] Section 1.1412(c) requires the proposed contractor to: (1) agree to follow published safety and operational guidelines of the utility, if available, but if not, to follow National Electrical Safety Code guidelines; (2) acknowledge that it knows how to read and follow licensed-engineered pole designs for make-ready, if required by the utility; (3) agree to follow all local, state, and federal laws and regulations including, but not limited to, requirements regarding Qualified and Competent Persons under the Occupational and Safety Health Administration rules; (4) agree to meet or exceed any uniformly applied and reasonable safety and reliability thresholds set by the utility, if made available; and (5) demonstrate that it is adequately insured or will establish an adequate performance bond for the make-ready it will perform, including work it will perform on facilities owned by existing attachers.[188] We find it is reasonable to

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new approved contractor, a conservative estimate would fall somewhere between 11 and 17 months"); EEI et al. May 12, 2025 *Ex Parte* Letter at 4 (stating that "utility pole owners are rarely, if ever, requested to approve contractors proposed by attachers for work above the communications space—and consequently, denials of attacher-proposed contractors currently do not occur" and that "[a] new rule that requires utility pole owners to approve third-party contractors for work above the communications space within thirty (30) days will inevitably lead to such denials and related disputes because no electric utility can complete its contractor evaluation and approval process within the requested time frame"); *see also* USTelecom Apr. 21, 2025 *Ex Parte* Letter at 3 (stating that its "members report that it can take up to six months to complete the work needed to add a contractor to the list for complex and above-the-communications-space make-ready work").

[187] NCTA Apr. 23, 2025 *Ex Parte* Letter at 2 ("[B]oth Dominion's and the Electric Utilities' estimated timelines muddy the approval process timeline by adding time for tasks that necessarily occur *after* the contractor is approved."); Electric Utilities July 16, 2025 *Ex Parte* Letter at 2 ("The Electric Utilities support the Draft insofar as it draws a distinction between the 'approval' process for proposed new contractors and the 'onboarding' process for such contractors."). *But see* Letter from Brett Heather Freedson, Counsel to Dominion Energy, Inc. and Xcel Energy Services, Inc., to Marelene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed May 7, 2025) (Dominion/Xcel May 7, 2025 *Ex Parte* Letter) ("NCTA's attempt to divorce a utility's 'approval' of a third-party contractor from all related tasks that typically comprise a utility's contractor evaluation process falls flat . . . whether a contractor is 'onboarded' to perform work for Dominion Energy or is 'approved' for the purposes of self-help make-ready work above the communications space, the same four (4) phases of review must be completed before the contractor will be authorized to access the electric supply space on any of Dominion Energy's poles."); EEI et al. May 12, 2025 *Ex Parte* Letter at 4 (stating that, as identified by Dominion, "final approval of a contractor involves: (1) data review, (2) field evaluation, (3) formal evaluation, and (4) orientation/training" and that "[c]ontractor permission to work on utility assets cannot be presumed until all these iterative steps are completed"); Electric Utilities Comments at 10-12 (setting forth steps taken by American Electric Power Company, Inc. and Alabama Power Company to on-board contractors).

[188] 47 CFR § 1.1412(c)(1)-(5). Dominion/Xcel suggests that the minimum qualification requirements in section 1.1412(c) of the Commission's rules are not sufficient as applied to contractors that perform complex or above the communications space make-ready work. Dominion/Xcel May 7, 2025 *Ex Parte* Letter at 2 ("As NCTA and its members certainly are aware, these requirements were adopted specifically for contractor that perform simple make-ready work and are not intended to replace any individual utility pole owner's qualification requirements for contractors that perform complex make-ready work and make-ready work above the communications space."); *see also* EEI et al. May 12, 2025 *Ex Parte* Letter at 5 ("The minimum contractor qualification requirements contained in the Commission's rules may be suitable for simple tasks but are inadequate for complex or high-risk work, such as those involving supply space make-ready."); UTC July 11, 2025 *Ex Parte* Letter at 2 ("[T]he contractor minimum qualification requirements in section 1.1412(c) – which, in essence, are merely self-certification requirements that do not contemplate any form of evaluation by the utility – only apply to work in the communications space, and do not address the higher qualification requirements for contractors to work in the electric space."); Electric Utilities July 16, 2025 *Ex Parte* Letter at 4. The Commission decided otherwise when it authorized attachers to request that utilities add "any contractor that meets the minimum qualifications in paragraphs (c)(1) through (5) of this section" to their lists of contractors authorized to perform self-help surveys and make-ready that is above the

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assume that a utility could review information submitted to demonstrate a proposed contractor's agreement to these requirements and issue a decision within 30 days that either approves the contractor contingent on completion of the utility's on-boarding process or denies the contractor based on the sufficiency of that information.[189]

46. Some utilities argue that allowing a "deemed approved" remedy if utilities miss this deadline will necessarily create safety concerns for workers and the public and risk the reliability of electric distribution systems.[190] We disagree. As an initial matter, we do not believe it will be difficult for utilities to avoid a deemed approved result by simply complying with the deadline. The response we require merely requires the utilities to review information submitted by attachers to determine if the proposed contractor has made the representations required by section 1.1412(c) of the Commission's rules. We acknowledge that utilities thereafter may need to take steps to on-board and train the contractors to perform work on their poles, and that the contractor will not be added to the utility's approved list until that process is complete. In recognition of potential safety concerns associated with work in the supply space, that process may differ in certain respects for contractors that will conduct work above the communications space as compared to contractors that will be working in the communications space.[191] But, the first step is to approve or deny the contractor based on the requirements of section

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communications space and complex, and stated that utilities may not unreasonably withhold their consent. 47 CFR § 1.1412(a). In so doing, the Commission did not "mandate specific qualification requirements for third-party cont[r]actors that perform work on or in the vicinity of electric power facilities . . . ." Dominion/Xcel May 7, 2025 *Ex Parte* Letter at 2-3. To the contrary, section 1.1412(c) of the Commission's rules requires contractors to agree to "follow published safety and operational guidelines of a utility, if available" and "to meet or exceed any uniformly applied and reasonable safety and reliability thresholds set by the utility, if made available." 47 CFR § 1.1412(c)(1), (4). The Commission's rules thus require compliance with any such reasonable, nondiscriminatory requirements as-set by the utility for work that is complex and above the communications space.

[189] *See* NCTA Apr. 23, 2025 *Ex Parte* Letter at 2 ("[T]he process for vetting and approving a contractor comprises only a small portion of the time the Electric Utilities allot to the ***first*** of ***three*** phases they identify as necessary for engaging a contractor. The remaining tasks – including negotiating the terms of the contractor's contract (also included in phase 1) and onboarding the contractor's employees (included in phases 2 and 3) – comprise the bulk of the time allotted to the Electric Utilities' three phases for engaging contractors. Dominion's three month estimate similarly includes time "for vetting, approving *and onboarding*" the contractor. Thus, neither Dominion nor the Electric Utilities adequately explained why it cannot approve (as opposed to onboard) a contractor within NCTA's proposed 30-day window." (emphasis in original)); *see also* Letter from Max Staloff, Vice Pres. Regulatory Affairs, ACA Connects, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 17, 2025) (ACA Connects July 17, 2025 *Ex Parte* Letter) ("Setting a firm deadline for action on contractor approval requests is a valuable first step to address this problem because it will ensure that utilities attend promptly to such requests and, at a minimum, do not ignore them indefinitely . . . The next step is to put reasonable limits on utility 'on-boarding' practices . . . .").

[190] *See* CCU Reply at 14-15 ("The safety of electric works, communications workers, and the public is not negotiable, nor should the integrity and reliability of the utility pole distribution system. Such safety and reliability obligations should not be subject to forfeit because an attacher somehow thinks the utility is not acting fast enough."); Dominion/Xcel Reply at 27-28 ("[A] 'deemed approved' remedy that may be used in any case where an electric utility pole owner fails to onboard a proposed contractor within a particular time period is inappropriate, and in essence would enable inadequately trained and qualified workers to access poles that support electric distribution facilities over the objection of the pole owner."); Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3 ("Dominion and Xcel Energy explained that the proposed 30[]day 'deemed approved' requirement for approval of third-party contractors would undermine electric utilities' ability to ensure the safety and reliability of electric utility services and the safety of workers and the public."); USTelecom Apr. 21, 2025 *Ex Parte* Letter at 3 & n.9 ("The Commission should not adopt a 'deemed approved' remedy because complex make-ready and make-ready above the communications space raises significant safety and service outage concerns, making it 'especially important to give the utility control over who performs such work' on its poles." (quoting *Third Wireline Infrastructure Order*, 33 FCC Rcd at 7756-57, para. 106)).

1.1412(c) of the Commission's rules within 30 days of receiving a request from an attacher, and we do not view that as burdensome—particularly given that utilities insist that attachers rarely invoke the self-help remedy or request to add contractors to utility-approved lists.[192]

47. Further, if an attacher does not submit information sufficient to demonstrate that a contractor has made the representations required by section 1.1412(c) of the Commission's rules, utilities may respond to the attacher within 30 days with a denial, provided that it is "set forth in [a] writing that describes the basis for rejection, nondiscriminatory, and based on fair application of commercially reasonable requirements for contractors relating to issues of safety or reliability."[193] Finally, as has always been the case, the parties are free to negotiate for a longer review period for contractor approvals if needed.[194]

48. Given that complying with the deadline imposes minimal burden on utilities, the parties' ability to extend the deadline by agreement, and the right utilities have to deny a proposed contractor within the deadline if the information submitted by the attacher is insufficient to determine whether the contractor has made the representations required by section 1.1412(c) of the Commission's rules, we find utilities have ample opportunity to avoid any potential risks of having contractors deemed approved to work on their poles.

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[191] *See, e.g.*, UTC July 18, 2025 *Ex Parte* Letter (noting "the heightened safety and reliability concerns related to contractors performing make-ready work above the communications space on the pole, which requires more training and time for onboarding").

[192] *See* Dominion/Xcel Reply at 16, 20-21 ("Collectively, the companies identify only one instance where an attacher exercised a self-help remedy, and in that instance, a contractor was available to complete the make-ready work solicited by the attacher. Additionally, the companies identify only one request for pre-approval of a contractor (to perform survey work), and no instance in which a contractor proposed or hired by an attacher was rejected or disqualified."); EEI Comments at 17 ("Very few attachers take advantage of self-help options, instead preferring electric companies to do the work."); Electric Utilities Comments at 23 (stating that attachers are not availing themselves of the self-help rules "in part because those remedies are too limited in scope to meaningfully expedite broadband deployment"); USTelecom Reply at 9 ("The record establishes that self-help is rarely used . . . .").

[193] *See Third Wireline Infrastructure Order*, 33 FCC Rcd at 7757, para. 107. As explained above, this is the standard that the Commission adopted in 2018 to assess whether a utility's withholding of consent to add additional contractors to its approved list is reasonable. *Id*. We, therefore, decline Dominion's request to exclude the language "fair application of commercially reasonable" from the rule amendment that merely codifies the existing standard. Letter from Brett Heather Freedson, Counsel to Dominion Energy, to Marelene H. Dortch, Secretary, FCC, WC Docket No. 17-84, Appx. A at 1 (filed July 17, 2025) (Dominion July 17, 2025 *Ex Parte* Letter). Further, we disagree with Dominion's assessment that the rules we adopt today do not "contemplate a utility's independent evaluation of any attacher-proposed contractor on the basis of its own standards, processes, and protocols to ensure safety and reliability." *Id*. at 5; *see also* Letter from Brett Kilbourne, Senior Vice Pres. Policy and Gen'l Counsel, Utilities Technology Council, to Marelene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 16, 2025) (UTC July 16, 2025 *Ex Parte* Letter). Section 1.1412(c)(4) of the Commission's rules requires the contractor to agree "to meet or exceed any uniformly applied and reasonable safety and reliability thresholds set by the utility, if made available," 47 CFR § 1.1412(c)(4), and our new rules require proposed contractors to successfully complete a utility's on-boarding process (including its evaluation and training requirements) before they are added to the list of contractors approved to work on the utility's poles. The rules we adopt today, therefore, provide ample opportunity for a utility to evaluate a contractor based on its own standards, processes, and protocols to ensure safety and reliability before the contractor is authorized to perform self-help work.

[194] Parties have always been free to reach negotiated agreements with terms that differ from our rules. *See, e.g.*, *2020 Declaratory Ruling*, 35 FCC Rcd at 7944-45, para. 15.

49. While we believe it is important to improve the self-help remedy by expediting action on requests to add additional qualified contractors to utility-approved lists,[195] we recognize that there may be circumstances where a utility may need to disqualify a contractor that was previously approved by a utility or deemed approved due to reasonable safety or reliability concerns,[196] as is the case when an attacher selects its own contractor to perform surveys and simple make-ready if a utility does not provide a list of approved contractors or the contractors on that list are not available within a reasonable time.[197] We understand that having the right to disqualify contractors causing reasonable safety and reliability concerns is particularly important for work that is complex and above the communications space.[198] We, therefore, make clear that utilities may disqualify a contractor that was previously approved by a utility or deemed approved based on reasonable safety or reliability concerns related to a contractor's failure to meet the minimum qualifications described in section 1.1412(c) of the Commission's rules or to meet the utility's uniformly applied and reasonable safety or reliability standards.[199] We view this as consistent with the right afforded to utilities under our rules to have a representative present when self-help work is performed by a contractor and to "monitor a contractor's work and insist that the work meet utility specifications for safety and reliability, including requirements that may exceed NESC standards" on a nondiscriminatory basis.[200] Although attachers and utilities are obligated to try to resolve any disagreements, electric utilities are entitled to make final determinations in disputes over capacity, safety, reliability, and generally applicable engineering purposes, consistent with section 224(f)(2) of the Act.[201]

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[195] As explained herein, the *Third Further Notice* sought comment on whether the Commission should modify the self-help remedy to enable attachers to access poles more quickly, and the record indicates that setting a deadline that ensures a prompt response to requests to add qualified contractors to utility-approved lists would promote that objective. We, thus, decline the request of some utilities to seek comment on such a deadline in the *Further Notice* rather than adopt one here. *See* Electric Utilities July 11, 2025 *Ex Parte* Letter at 4; EEI July 15, 2025 *Ex Parte* Letter at 4; Electric Utilities July 16, 2025 *Ex Parte* Letter at 4-5.

[196] *See* Crown Castle Comments at 6 (stating that if a utility fails to act on a request to approve the addition of a qualified contractor by a specified deadline "the attaching party should be allowed to use the proposed contractor unless and until the utility rejects the contractor based on Commission criteria"); Altice Reply at 9 (stating that proposals to use additional qualified contractors should "be deemed approved after 30 days unless and until the utility rejects the contractor based on the Commission's existing contractor criteria"); USTelecom July 17, 2025 *Ex Parte* Letter at 2-3; EEI July 15, 2025 *Ex Parte* Letter at 3.

[197] 47 CFR § 1.1412(b)(1).

[198] *Third Wireline Infrastructure Order*, 33 FCC Rcd at 7756-57, para. 106 (requiring utility control of contractors performing work that is complex and above the communications due to the heightened safety and reliability risks associated with such work).

[199] We decline Dominion's request to remove qualifying language from the safety and reliability standards that may be applied to disqualify a contractor. Dominion July 17, 2025 *Ex Parte* Letter, Appx. A at 1; *see also* UTC July 16, 2025 *Ex Parte* Letter, Appx. A at 2; EEI July 15 *Ex Parte* Letter at 6; Electric Utilities July 17, 2025 *Ex Parte* Letter, Attach. at 2. We are concerned that this could lead to discriminatory disqualifications of contractors if the standards applied in disqualification decisions are not uniformly applied and reasonable. We, thus, grant Dominion's request insofar as it seeks removal of a requirement that safety and reliability standards be "public and commercially reasonable," but require that disqualification decisions be based on a contractor's failure to meet the minimum qualifications described in section 1.1412(c) of the Commission's rules or to meet the utility's *uniformly applied and reasonable* safety and reliability thresholds, consistent with section 1.1412(c)(4) of the Commission's rules. 47 CFR § 1.1412(c)(4).

[200] *2011 Report and Order*, 26 FCC Rcd at 5268-69, para. 58; 47 CFR § 1.1411(i)(1)(i), (i)(2)(i).

[201] 47 CFR § 1.1412(d) ("The consulting representative of an electric utility may make final determinations, on a nondiscriminatory basis, where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes."); 47 U.S.C. § 224(f)(2). By making it clear that utilities may disqualify a contractor that was previously approved by a utility or deemed approved based on reasonable safety or reliability concerns, we fully address the concern raised by Dominion/Xcel that section 224(f)(2) of the Act "necessarily encompasses the right of a utility pole owner to prohibit an attacher's use of third-party contractors that have not

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Accordingly, whether a contractor is added to a utility's approved list by the utility or at the request of an attacher, the utility ultimately has the authority to determine whether the contractor remains on the list on a going-forward basis consistent with these standards and the Commission's rules.[202]

50. If a utility disqualifies a contractor that was previously added to its approved list at the request of an attacher or deemed approved pursuant to the requirements we adopt today,[203] we require that it provide written notice to the attacher that it has done so and specify the bases for the disqualification in that notice. An attacher wishing to challenge the reasonableness of the disqualification may avail itself of the Commission's Rapid Broadband Assessment Team process[204] or submit a complaint to the Commission's Enforcement Bureau.[205]

IV. FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING

51. We recognize the complexities attendant to the pole attachment process, with each side of the equation facing their own particular difficulties and concerns. Utilities and attachers have both proposed additional actions the Commission might take to ameliorate those concerns and thus make the process more efficient. We seek comment on certain of these proposals to determine whether they might help further the Commission's goal of expediting broadband deployment by reducing barriers to infrastructure investment. To the extent not already flagged below, we seek comment on our legal authority to adopt each of these proposals as well as any other germane policy points or facts. We also seek comment on how the costs, benefits, or burdens of any rules we adopt might impact businesses of various sizes.

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been fully evaluated and approved by the utility to perform the work for which they were retained on the utility's poles." Dominion/Xcel May 7, 2025 *Ex Parte* Letter at 3 n.10; *see also* EEI et al. May 12, 2025 *Ex Parte* Letter at 5. The rule we adopt today requires that utilities respond within 30 days to a request to add additional contractors to utility-approved lists based on whether attachers submit sufficient information to demonstrate the contractor's agreement to the requirements in section 1.1412(c), which incorporates the utility's published safety and operational guidelines and uniformly applied and reasonable safety and reliability thresholds. 47 CFR § 1.1412(c). Regardless of whether a contractor is approved by a utility or "deemed approved" due to a failure to provide a timely response, the contractor will not start work on the utility's poles until the successful completion of the utility's on-boarding process (e.g., any required training). And, after that, the utility retains the right to remove the contractor from its approved lists due to noncompliance with safety and reliability requirements on a nondiscriminatory basis. Utilities, thus, retain ample and ultimate control over contractors working above the communications space on their poles.

[202] We note that our rules require utilities to "keep up-to-date" their lists of contractors authorized to perform self-help surveys and make-ready. 47 CFR § 1.1412(a)-(b).

[203] We disagree with Dominion that the rule we adopt today does not permit utilities to deny a contractor for safety and reliability reasons. Dominion July 17, 2025 *Ex Parte* Letter at 5; *see also* UTC July 18, 2025 *Ex Parte* Letter, Appx. A at 2. As we state above, the utility will have 30 days to deny a request to add the contractor to the utility-approved if the attacher fails to submit sufficient information to determine that the contractor has made the representations required by section 1.1412(c) of the Commission's rules. If the utility does not respond with a denial or an approval by that deadline, then the contractor will be deemed approved, but may nonetheless be disqualified (i.e., have the approval rescinded) based on reasonable safety or reliability concerns related to a contractor's failure to meet the minimum qualifications described in section 1.1412(c) of the Commission's rules or to meet the utility's uniformly applied and reasonable safety or reliability standards. Further, as we have made clear, a proposed contractor will not be added to the utility's list of contractors approved to perform self-help work until it has successfully completed the utility's on-boarding process, which may include additional evaluations and training. *See supra* Section IV.E. Accordingly, none of the requirements we adopt today will allow a contractor to appear on a utility's approved list unless and until the utility has evaluated, trained, and otherwise completed its on-boarding steps for contractors that perform work on its poles.

[204] 47 CFR § 1.1415.

[205] *Id.* §§ 1.720 *et seq*., 1.1401 *et seq*.

A. Deployment within 120 days of the completion of make-ready work

52. We seek comment on requiring attachers to deploy equipment on poles within 120 days of completion of make-ready work.[206] Utilities assert that attachers do not promptly begin deployment after make-ready is complete and, in some instances, fail to deploy at all.[207] We seek comment on the frequency with which attachers fail to deploy in a timely manner or not at all after make-ready is complete and why this occurs.[208] Utilities state that a failure of attachers to deploy in a timely manner (or at all) is inefficient because it both unnecessarily strains utilities that must process applications and denies space to other attachers whose applications were filed after those of the attacher at issue.[209] The Coalition for Concerned Utilities asserts that requiring attachers to deploy in a timely manner will provide an incentive for them to more carefully plan their deployments further in advance with utilities.[210] Would a rule requiring attachers to deploy equipment by no later than 120 days after completion of make-ready work alleviate this problem? Or do commenters agree with USTelecom that imposing a fixed timeline for deployment would instead "increase disputes and eliminate the coordination and flexibility that is essential to deployment"?[211] If we adopt a fixed timeline for deployment, is 120 days reasonable, or

[206] *See, e.g.*, Letter from Thomas B. Magee, Attorney for the Coalition of Concerned Utilities, Keller and Heckman LLP, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Aug. 14, 2024) (CCU Aug. 14, 2024 *Ex Parte* Letter) ("Require installation of new attachments within 120 days after make-ready construction is complete."); Electric Utilities Aug. 19, 2024 *Ex Parte* Letter at 2 ("The Electric Utilities support the Commission's adoption of a rule requiring that attaching entities make their attachment within a fixed period (such as 90 or 120 days) following notice from the pole owner to proceed with attachment following the completion of make-ready."); Letter from Brian M. O'Hara, Senior Regulatory Affairs Director, Broadband and Telecommunications, National Rural Electric Cooperative Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1 (filed Sept. 3, 2024) (NRECA Sept. 3, 2024 *Ex Parte* Letter) ("To avoid confusion caused by overlapping make-ready work, communications companies should install their new attachments within 120 days after the completion of make-ready."); EEI Aug. 29, 2024 *Ex Parte* Letter at 5-6 ("[T]he Commission should require installation of new attachments within 75-120 days of the date of completion of all make-ready work necessary for the attachment."); Letter from Aryeh Fishman, Associate General Counsel, Regulatory Legal Affairs, Edison Electric Institute, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Sept. 13, 2024) (EEI Sept. 13, 2024 *Ex Parte* Letter); Letter from Aryeh Fishman, Associate General Counsel, Regulatory Legal Affairs, Edison Electric Institute, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Dec. 10, 2024) (EEI Dec. 10, 2024 *Ex Parte* Letter).

[207] CCU Comments at 24 ("In addition, once make-ready engineering, design and construction work has been completed, even on an expedited basis, new attachers are sometimes ill-prepared to install their attachments in a timely manner."); Dominion/Xcel Comments at 6 ("[N]ew attachers fail to attach in a timely manner after make-ready work is complete, and in some cases, do not attach at all.").

[208] We note that the Electric Utilities provide two concrete examples of attachers delaying deployment. Electric Utilities Comments at 28 ("This is not just a hypothetical concern. In Entergy's Arkansas territory, a broadband company recently put a very large project 'on hold' even though many of the permits had been approved over 120 days before that. And in Oncor's service territory, there is an average lag of 11 months between when the new attacher is released to attach (following the completion of any required power space make-ready) and when Oncor receives notice that the new attacher has completed its construction.").

[209] Dominion/Xcel Comments at 6 ("[T]his practice is inefficient both from the standpoint of the new attacher and of the utility pole owner."); CCU Comments at 24 ("[Not deploying in a timely manner] wastes the time of valuable utility personnel and ties up distribution plant resources for indefinite periods of time."); EEI Aug. 29, 2024 *Ex Parte* Letter at 6 (explaining that these practices are "inefficient overconsumption of scarce approved contractor resources"); Electric Utilities Aug. 19, 2024 *Ex Parte* Letter at 2 (echoing that this would deter an inefficient use of scarce resources).

[210] CCU Comments at 24 ("In addition, to encourage better planning and management by new attachers and to avoid wasting valuable utility resources, the Commission should require new attachers to plan further in advance for any future attachment requests, and to complete the installation of their facilities within 120 days after make-ready construction is complete.").

should attachers be given more or less time?[212] Should attachers be required to begin deployment by the end of any timeframe that we adopt or, as utilities argue, complete deployment by that time?[213]

53. We seek comment on the potential repercussions for an attacher that fails to deploy equipment within 120 days after the completion of make-ready work. Would requiring these attachers to restart the pole attachment process negatively impact broadband deployment such that any benefit would be outweighed by the cost?[214] Should we tie any potential repercussion for attachers to whether a utility completed the prior phases of the pole attachment process in a timely manner? If a utility fully complied with the Commission's timelines, does the utility incur any costs from an attacher's late deployment or failure to deploy? Alternatively, rather than the Commission codifying rules on these issues, should any deployment timeframes and noncompliance fees be dealt with through the Commission's complaint process, the Rapid Broadband Assessment Team, other enforcement mechanisms, or by the parties in their pole attachment agreement?[215] Should there be any Commission rules, policies, or guidance governing the terms of such provisions in a pole attachment agreement?

B. Deadline to Make Payment

54. We seek comment on whether we should require attachers to make payment on an estimate to a utility within a specific period of time after the attacher's acceptance of the estimate. Utilities suggest that attachers should be required "to pay all estimated make-ready costs, in full, within 30 days of the date on which the estimate is accepted by the attacher. If an attacher fails to make any payment within the time frame specified in the rule, the applicable make-ready timeline should be deemed waived."[216] We seek comment on this request. Is such action necessary and, if so, why? Is 30 days reasonable, or should we specify a different time interval?

55. Under the Commission's rules, an attacher currently may accept and pay a valid estimate any time after receipt, unless the utility withdraws the estimate before acceptance.[217] The timelines for

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[211] USTelecom Mar. 10, 2025 *Ex Parte* Letter at 1-2 (arguing for a flexible approach because "the Commission's current pole attachment application and make-ready rules are the most effective and efficient approach to dealing with the many site-specific and often unpredictable circumstances that impact the timing of a deployment project").

[212] Dominion Aug. 19, 2024 *Ex Parte* Letter at 4 ("The Commission should adopt a new rule that requires an attacher to make each attachment within seventy-five (75) days of the date on which all make-ready work necessary for the attachment is complete."); Electric Utilities Aug. 19, 2024 *Ex Parte* Letter at 2 (suggesting a timeframe of 90 to 120 days after the completion of make-ready work); UTC Aug. 19, 2024 *Ex Parte* Letter at 2 ("UTC also supported requiring attachers to install new attachments within 120 days after make-ready construction is complete."); EEI Aug. 29, 2024 *Ex Parte* Letter at 5-6 (suggesting a timeframe of 75-120 days after the completion of all make-ready work); EEI Sept. 13, 2024 *Ex Parte* Letter at 5-6; EEI Dec. 10, 2024 *Ex Parte* Letter at 2.

[213] CCU Comments at 24; CCU Aug. 14, 2024 *Ex Parte* Letter at 3; Electric Utilities Aug. 19, 2024 *Ex Parte* Letter at 2; UTC Aug. 19, 2024 *Ex Parte* Letter at 2.

[214] Electric Utilities Aug. 19, 2024 *Ex Parte* at 2 ("If the attaching entity fails to [timely deploy], the utility should be permitted to cancel the application. This would dissuade attaching entities from inefficient overconsumption of scarce approved contractor resources."); EEI Aug. 29, 2024 *Ex Parte* Letter at 6.

[215] 47 CFR §§ 1.720-1.740, 1.1415.

[216] Dominion Aug. 19, 2024 *Ex Parte* Letter at 4; *see also* Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 4 (agreeing that the Commission should adopt Dominion's proposal); EEI Aug. 29, 2024 *Ex Parte* Letter at 5 (providing additional support for Dominion's proposal); EEI Sept. 13, 2024 *Ex Parte* Letter at 2; Letter from David D. Rines, Lerman Senter PLLC, Counsel to Dominion Energy and Xcel Energy Services Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Dec. 9, 2024) (Dominion/Xcel Dec. 9, 2024 *Ex Parte* Letter); Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3.

[217] 47 CFR § 1.1411(d)(1)-(2). Note, however, that a utility must leave the estimate open at least 14 days after presenting it to the attacher.

make-ready, however, do not begin to run until after the attacher makes payment. Therefore, the pole access timeline is effectively paused until the attacher makes payment. Utilities state that this leads to deployment delays that create significant uncertainty and unpredictability that make it difficult for them to determine how to allocate their resources effectively.[218] Utilities further explain that attachers' current payment practices compound this difficulty, as attachers often "make a single, lump-sum payment for the total of all estimated make-ready costs for multiple applications submitted weeks or months apart."[219] This "floods the pole owner's make-ready queue" and requires the utility "to determine which specific make-ready projects the lump-sum payments should be allocated to before work begins."[220] How common is it for attachers to delay payment after accepting an estimate? In those instances, why are attachers delaying payment to utilities? Will imposing a deadline to make payment incentivize broadband deployment and allow utilities to more efficiently allocate their resources?

56. NCTA and Altice ask that we prohibit utilities from requiring full or partial payment upon an attacher's acceptance, and instead implement a payment schedule based on make-ready work progress,[221] something the Commission explicitly declined to do in 2011.[222] They argue that prohibiting prepayment will better incentivize utilities to meet timelines for make-ready work, claiming that utilities frequently fail to do so.[223] Utilities disagree, explaining that they will instead be less incentivized to complete work quickly if they can only recoup costs later and that prepayment is the only way they can be certain that they will recover make-ready costs.[224] Should we prohibit utilities from requiring full or

[218] Dominion/Xcel Comments at 5-6 ("[N]ew attachers fail to accept make-ready estimates and/or to remit full payment of estimated make-ready fees in a timely manner. Within the past six months, DEV found that new attachers required, on average, 61 days to accept make-ready estimates provided upon approval of an application, and 89 additional days to pay all estimated make-ready fees. In other words, new attachers delayed their own deployments by approximately 150 days (or five months) between the time that DEV provided a make-ready estimate, and the start of make-ready work."); Dominion/Xcel Dec. 9, 2024 *Ex Parte* Letter at 3; Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3.

[219] Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 5; Dominion/Xcel Dec. 9, 2024 *Ex Parte* Letter at 3; Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3; *see also* Dominion/Xcel Comments at 6 n.14 ("Dominion Energy and Xcel Energy have reason to believe that certain attachers submit pole attachment applications for multiple tentative routes simultaneously, rather than to select and plan specific routes beforehand. This practice creates abrupt and unnecessary surges in application volume.").

[220] Xcel Energy Aug. 23, 2024 *Ex Parte* Letter at 5; Dominion/Xcel Dec. 9, 2024 *Ex Parte* Letter at 3; Dominion/Xcel Comments at 6 n.14.

[221] NCTA Comments at 22 (urging "the Commission to consider prohibiting utilities from requiring upfront payments or, at least, prohibiting utilities from requiring 100% payment up front" and explaining that there is "urgent and pressing need to address the utilities' misaligned incentives; requiring utilities to wait for full payment until *after* work is complete is one such solution"); Altice Nov. 8, 2024 *Ex Parte* Letter at 2 ("[T]he Commission should prohibit pole owners from requiring attachers to pay for survey and make-ready work in advance of the work being performed or impose a cap on the percentage of pre-payment that the pole owner can require without firm commitments to complete the work within a specified timeframe.").

[222] *2011 Report and Order*, 26 FCC Rcd at 5280, para. 88 ("Although a staggered payment system might motivate pole owners to perform make-ready work more quickly . . . it would also unfairly expose them to a greater risk of non-payment for make-ready work necessary to accommodate attachers." (Footnotes omitted)).

[223] NCTA Comments at 22-23; Altice Nov. 8, 2024 *Ex Parte* Letter at 2.

[224] CCU Reply at 5 ("First, regarding incentives, why would a pole owner be incentivized to do survey work, engineering work, or make-ready construction work any quicker if the cost is out of pocket? Cost-recovery for such work is the assurance that costs will be paid, not the incentive for completing the work. If anything, the opposite is true. When attachers pay upfront for work, it means the utility owes them the work, and the utility now has the incentive to do the work. Conversely, when attachers do not pay upfront, it sends a signal that they may not eventually attach in those locations, which signals to the utility that its work may not get paid for."); EEI Dec. 10, 2024 *Ex Parte* Letter at 2 (explaining that the burden of a system that prohibits full or partial prepayment would

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partial up-front payment? Alternatively, should we allow utilities to require that attachers pay a portion of make-ready costs up-front and make further payments based upon make-ready work progress? If so, what percentage of the estimate should be paid up-front and as the work progresses? For example, NCTA cites to Utah's approach, which requires attachers to pay 50% up-front, 25% after half the work is done, and then the remaining 25% upon completion, but allows attachers to elect to make full up-front payment.[225] Are there other examples of states limiting prepayment or basing payment on work progress that we should consider? If we were to require a percentage of the make-ready costs to be paid as work progresses, what specific metrics should be used to define that progression? For instance, if the Commission adopted a 50/25/25 payment schedule for make-ready costs, should the determination of when the utility has completed half of the make-ready work be based upon the number of poles for which make-ready is completed by application? If we allow for partial upfront payment, should we require a commitment from utilities to complete the work within a specific timeframe?[226] How should utilities demonstrate this commitment? Would prohibiting utilities from requiring partial or full prepayment violate section 224 of the Act by "precluding utilit[ies from] full recovery of costs that [they] incur[] to provide pole access?"[227] While utilities also observe that the Commission previously declined to adopt any form of payment schedule for make-ready work in the *2011 Report and Order*,[228] NCTA asserts that the subsequent record supports its proposal.[229] Do commenters agree with NCTA? Why or why not? Have circumstances changed since 2011 such that the Commission's concerns at that time either no longer exist or are outweighed by other factors? Alternatively, rather than the Commission codifying rules on these issues, should establishing payment deadlines and schedules similarly be left to the parties in their pole attachment agreement? If that is the better option, should there be any Commission rules, policies, or guidance governing the terms of such provisions in a pole attachment agreement?

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burden utilities and could delay the make-ready process); *see also* Dominion/Xcel Reply at 28-29 ("This claim lacks any foundation, and is solidly disproven by the documented descriptions of the efforts made by utility pole owners to continuously build their base of available contractors to assist with broadband projects. Furthermore, because self-help remedies are seldom used, utility pole owners apparently do, in fact, complete the make-ready."); Dominion/Xcel Dec. 9, 2024 *Ex Parte* Letter at 2-3; USTelecom Apr. 1, 2025 *Ex Parte* Letter at 11.

[225] Utah Admin. Code § R746-345-3(C)(7); NCTA Comments at 22 ("Specifically, in Utah, attachers must pay only 50% of the make-ready estimate in advance of construction.").

[226] Altice Nov. 8, 2024 *Ex Parte* Letter at 2.

[227] EEI Dec. 10, 2024 *Ex Parte* Letter at 2; Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3 ("It is a long-standing and fundamental principle of the Pole Attachment Act and of the Commission's implementing rules and policies that pole owners must be able to fully recover the costs they incur to accommodate new communications attachments.").

[228] Dominion/Xcel Reply at 29 ("The Commission considered NCTA's specific proposal previously, and – on the basis of a complete record – concluded that requiring up-front payment of estimated make-ready and survey costs is not a barrier to broadband deployment, and concluded further that NCTA's proposal would unfairly prejudice the ability of utility pole owners to collect payment for work that is necessary to accommodate pole access."); Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3-4 (asserting the same conditions apply as 2011); Dominion/Xcel Dec. 9, 2024 *Ex Parte* Letter at 3; *see 2011 Report and Order*, 26 FCC Rcd at 5270, para. 88 ("Although a staggered payment system might motivate pole owners to perform make-ready work more quickly, as some commenters point out, it would also unfairly expose them to a greater risk of non-payment for make-ready work necessary to accommodate attachers."); *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, Order and Further Notice of Proposed Rulemaking, WC Docket No. 07-245, GN Docket No. 09-51, 25 FCC Rcd 11864, 11896, para. 70 (2010) (proposing to adopt Utah's payment schedule because the Commission sought "to correctly align the incentives to perform make-ready work on schedule").

[229] NCTA Comments at 22-23 ("In the more recent record, being fully developed here, it is clear that utilities increasingly fail to meet prescribed timelines for completing make-ready work . . .").

C. Imposing a Cost Ceiling

57. We seek comment on limiting the amount that final make-ready costs can exceed the utility's estimate without requiring the utility to have obtained prior approval from the attacher.[230] Attachers had previously reported instances where the costs in final invoices for make-ready work significantly exceeded those in accepted estimates, often attributing this discrepancy to delays in utilities completing the various pole attachment phases.[231] While the Commission subsequently required detailed make-ready cost estimates and post-make-ready invoices,[232] the record reflects continued attacher frustration with utility delay and unexpectedly high final make-ready costs.[233] Some states that regulate pole attachments themselves have imposed a ceiling, or upper limit, on the range of costs that a utility can incur while completing make-ready work and bill to the attacher.[234] For example, New York requires that "[m]ake-ready estimates shall be binding within a certain range, specified by the parties, and then be trued up to actual costs within the range."[235] And Utah provides that "if [an attacher] accepts the make-ready estimate and make-ready construction time line, the work must be done on schedule and for the estimated make-ready amount, or less, and the [attacher] will be billed for actual charges up to the bid amount."[236]

58. In practice, we believe that imposing any cost ceiling would require a utility to gain an attacher's approval before the utility can incur make-ready costs beyond those contemplated in the estimate. Do commenters believe that a cost ceiling would incentivize utilities to meet the Commission's pole attachment timelines to avoid price increases that could lead to significantly higher costs than had been estimated? Should the cost ceiling differ in any way for an attacher that has exercised the self-help

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[230] *But see* EEI July 15, 2025 *Ex Parte* Letter at 3 (opposing seeking comment on "make-ready cost ceilings, which could limit cost recovery for legitimate utility work").

[231] *See, e.g.*, Letter from Thomas Cohen and J. Bradford Currier, Counsel for the American Cable Association, Kelley Drye & Warren, LLP, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Mar. 26, 2018) (explaining that "numerous attachers experience 'bill shock' when the final invoice far exceeds the estimate"); American Cable Association June 16, 2017 Comments at 50 ("Multiple ACA members reported receiving 'true-up' invoices for make-ready that differed substantially from estimates and that included, at best, minimal detail on the work conducted. There is no reason for there to be such a wide discrepancy between the estimate and final invoice, and permitting it to occur only encourages utilities to provide misleading estimates.").

[232] 47 CFR § 1.1411(d) ("After the utility completes make-ready, if the final cost of the work differs from the estimate, it shall provide the new attacher with a detailed, itemized final invoice of the actual make-ready charges incurred, on a pole-by-pole basis where requested, to accommodate the new attacher's attachment."); *Third Wireline Infrastructure Order*, 33 FCC Rcd at 7758-59, paras. 109-10.

[233] *See* NCTA Comments at 20 ("It is therefore commonplace for attachers to pay tens to hundreds of thousands of dollars to pole owners who have no intention of performing the work, knowing that the timelines will pass and that attachers will have to hire contractors to do the work only after critical months have passed."); Letter from Christopher L. Shipley, Exec. Dir. of Public Policy, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1 (filed Aug. 20, 2024) ("[P]roviders continue to experience barriers when seeking to attach to utility poles, including significant delays in the application and make-ready process (particularly around large pole orders) and the imposition of unsubstantiated fees for engineering and survey work.").

[234] *See 2011 Report and Order*, 26 FCC Rcd at 5243, para. 7 (explaining that "state experience with regulation of pole attachments provides an invaluable opportunity for the Commission to observe what works and what does not work to achieve policy goals").

[235] Case 03-M-0432—Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues, *Order Adopting Policy Statement on Pole Attachments* Appx. A, Policy Statement on Pole Attachments at 12 (New York Comm'n, rel. Aug. 6, 2004) (New York Policy Statement); *see also* Case 03-M-0432—Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues, *Order Adopting Policy Statement on Pole Attachments*, at 9 (New York Comm'n, rel. Aug. 6, 2004) ("The Policy Statement is hereby adopted and shall govern the relationship between attachers and utilities, unless they mutually agree otherwise, on a prospective basis.").

[236] Utah Admin. Code § R746-345-3(C)(6).

remedy we adopt today for the estimate phase of the pole attachment process? What cost ceiling would best motivate utilities and attachers to timely deploy broadband? If the cost ceiling is a range, should it be a percentage of a make-ready estimate, or would a dollar amount added on top of all estimates be more appropriate? What percentage or dollar amount do commenters believe is reasonable? Like Utah, should we prohibit utilities from billing attachers for any true-up costs without prior attacher approval rather than specifying a cost ceiling? Have any other reverse-preemption states adopted different cost-ceiling approaches that we should consider? Should a cost ceiling instead be a negotiable term of the make-ready estimate, similar to New York's approach? Do pole attachment agreements already include such cost ceilings? Would such cost ceilings best be left to private agreement?

59. We seek comment on our tentative conclusion that adopting a cost ceiling will prevent some disputes over unexpectedly high final make-ready costs by increasing transparency between attachers and utilities during the make-ready process. Do commenters agree? Does the cost ceiling's impact on disputes depend on its size? To the extent parties are already free to negotiate a cost ceiling, are disputes regarding final invoices amenable to resolution through the Rapid Broadband Assessment Team or the Commission's complaint process?[237] If we prohibit utilities from billing true-up costs without prior attacher approval, should we combine that with a requirement that attachers remit full or partial up-front payment for make-ready work?[238] If we adopt a cost ceiling, do we need to account for any conditions or provide certain guardrails for attachers or utilities? If so, what would such guardrails entail? Is there other Commission action regarding make-ready estimates or final costs that would increase transparency between utilities and attachers, encourage compliance with the Commission's pole attachment timelines, or promote faster broadband deployment? Are there concerns with imposing a cost ceiling at the federal level? For example, reverse-preemption states have authority over their utilities to require them to recoup any excess costs, presumably through regulation of electric rates. Does the Commission's lack of similar authority over utilities in Commission-regulated states counsel against adopting cost ceilings?

D. Availability of OTMR for Complex Work

60. We seek comment on whether to expand the availability of the OTMR process to include complex survey and make-ready work.[239] Under the Commission's current rules, an attacher has the

[237] New York Policy Statement at 12 (providing that "[i]f extraordinary, unforeseen circumstances occur, the [utility] may seek relief through the [New York Public Service] Commission's dispute resolution services"); *see also* 47 CFR §§ 1.720-1.740, 1.1415.

[238] Utah Admin. Code § R746-345-3(C)(7) ("Applicants must pay 50% of the make-ready estimate in advance of construction, and pay the remainder in two subsequent installment payments: an additional 25 percent payment when half of the work is done and the balance after the work is completed. Applicants may elect to pay the entire amount up front.").

[239] *See* 47 CFR § 1.1411(j). Electric Utilities proposed that the Commission establish an "enhanced" OTMR rule that would require new attachers to perform all required make-ready within the communications space, whether simple or complex. Electric Utilities Comments at i, 22-26; Electric Utilities Aug. 19, 2024 *Ex Parte* Letter at 4-5; Letter from Robin F. Bromberg, Counsel to the Electric Utilities, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 4-5 (filed Aug. 23, 2024) (Electric Utilities Aug. 23, 2024 *Ex Parte* Letter); Letter from Robin F. Bromberg, Counsel to the Electric Utilities, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 5-6 (filed Aug. 26, 2024) (Electric Utilities Aug. 26, 2024 *Ex Parte* Letter); Dominion Aug. 19, 2024 *Ex Parte* Letter at 8; UTC Mar. 14, 2024 *Ex Parte* Letter at 2-3. Attachers strongly oppose this proposal because they claim it: (1) is counter to the purpose of OTMR; (2) would eliminate their investment in current practices and procedure while requiring further resources to adapt to the proposal; (3) would revert control of the survey process; (4) would prevent performance of make-ready in one touch for simple make-ready; and (5) would force existing attachers to allow competitors to do work that could reasonably cause a service outage or facility damage. *See, e.g.*, NCTA Reply at 3; Altice Reply 11-12; USTelecom Reply at 15-16; Letter from Jacqueline Clary, Altice USA, Inc. to Marelene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Nov. 1, 2024); Altice Nov. 8, 2024 *Ex Parte* Letter at 3-4; USTelecom Apr. 1, 2025 *Ex Parte* Letter at 11.

option to elect the OTMR process for attachments involving simple make-ready, an election the attacher makes in its application.[240] When an attacher avails itself of this option, it achieves certain efficiencies by not having to rely on the utility to complete each phase of the pole attachment process within the prescribed timelines.[241] The record suggests that very few attachers have elected to use OTMR since it was created in 2018.[242] According to utility commenters, one of the impediments is that it is not available for complex work.[243] We seek comment on whether attachers would be more likely to elect OTMR if it were available for complex work. Are there other obstacles to the use of OTMR that would prevent its use even if it were available for complex work? For example, what, if any, role does attacher reticence to touch third-party equipment play in decisions to not make use of OTMR? If we were to make OTMR available for complex work, would we need additional requirements for contractors to safely perform complex work in the communications space, such as any qualification requirements necessary for contractors to do work on wireless equipment in the communications space? Would any additional safeguards be necessary or appropriate for complex OTMR?

E. Deadline for On-Boarding Approved Contractors

61. In Section III.D of today's Report and Order, we improve the self-help remedy by requiring utilities to respond to requests to add additional qualified contractors to a utility's existing approved contractor list within 30 days of receiving the request, while recognizing that utilities may need to take additional steps to on-board the contractors for work on the utility's poles.[244] We understand that utilities must ensure that the individuals working on their poles are properly trained, have access to their internal systems, and do not present a safety or security risk.[245] Some utilities suggest, however, that the process to on-board a newly approved contractor can take three months to a year or more.[246] That is little

[240] 47 CFR § 1.1411(j).

[241] *Cf. Third Wireline Infrastructure Order*, 33 FCC Rcd at 7717, 7718-19, paras. 22, 24 (explaining that "[OTMR] puts the parties most interested in efficient broadband deployment—new attachers—in a position to control the survey and make-ready processes" and that "[b]y shifting responsibilities from the utility to the new attacher to survey the affected poles, determine the make-ready work to be done, notify affected parties of the required make-ready work, and perform the make-ready work, our new OTMR regime will alleviate utilities of the burden of overseeing the process for most new attachments and of some of the costs of pole ownership").

[242] Electric Utilities Comments at 23 (providing internal data on the number of poles for which attachers used OTMR or self-help); Electric Utilities Aug. 19, 2024 *Ex Parte* Letter at 4 ("Between 2019-2023, attachers used OTMR on just 0.7% of the Electric Utilities' poles for which they submitted application"); Dominion/Xcel Comments at 5, 7, 20-21 (asserting that attachers rarely use OTMR or self-help remedies and noting that attachers "have rejected OTMR and self-help as viable options to accelerate deployment in rural areas – even over [Dominion]'s recommendation – where the majority of [Dominion]'s poles need only simple make-ready prior to attachment"); Electric Utilities Aug. 23, 2024 *Ex Parte* Letter at 4; Electric Utilities Aug. 26, 2024 *Ex Parte* Letter at 5.

[243] Electric Utilities Comments at 24 ("Because the current OTMR rule applies only to applications where 'simple make-ready' is required, OTMR is hardly ever useful."); Electric Utilities Aug. 19, 2024 *Ex Parte* Letter at 4 ("OTMR under the current rule is too limited in scope because it can only be used for 'simple' communications space make-ready."); Electric Utilities Aug. 23, 2024 *Ex Parte* Letter at 4; Electric Utilities Aug. 26, 2024 *Ex Parte* Letter at 5.

[244] *See* CCU Reply at 15 ("Even for survey and design work, a rigorous on-boarding process is required to properly evaluate and approve attacher-requested contractors, who must demonstrate they are familiar with the utility's specifications and construction practices.").

[245] *See* Electric Utilities Comments at 12 ("[T]he onboarding process for new approved contractors takes time because it is critical to worker safety, system reliability, and contractor proficiency."); CCU Reply at 15 ("[T]he reason that utilities review and approve contractors is for the safety of the workers and the public, and to protect the integrity and reliability of utility facilities.").

[246] *See* Dominion/Xcel Reply at 27; Dominion/Xcel Mar. 19, 2025 *Ex Parte* Letter at 3 n.11; Electric Utilities (continued….)

help to an attacher that has invoked its right to self-help under our rules because a utility has missed survey or make-ready deadlines,[247] finds that none of the contractors on the utility's approved list are available, and needs to request the addition of qualified contractors to the list in order to get the work done.[248] In such a circumstance, an excessively long on-boarding process could effectively thwart the goals of the self-help remedy.[249] We, therefore, seek comment on how much time it actually takes for a utility to responsibly on-board a new contractor and whether we should modify section 1.1412 of the Commission's rules to set a deadline for utilities to complete the on-boarding process.[250]

62. The Electric Utilities describe the processes used by two utilities to on-board newly approved contractors.[251] At a high level, both processes involve three steps. The first is to negotiate and execute an agreement with the contractor, which the Electric Utilities state can take between three and six months depending on the utility.[252] The second step is to on-board the newly approved contractor into the utility's internal systems, including its pole attachment-related software systems.[253] This step can involve background checks, credential checks, drug-screening, and can take one to four months depending on the utility.[254] The third step is to train the contractor's employees to use the utility's software and to perform work on the utility's poles.[255] The Electric Utilities indicate that the time necessary to complete this step depends on the utility and the role that the contractor will perform. For instance, AEP may only need one to two weeks to train a survey crew to use AEP's survey tools, but training engineering employees may take between two and six months.[256] Alabama Power, on the other hand, only needs one to two weeks to train contractor engineers before on-boarding is technically complete, but that contemplates an additional six to 12 months of on-the-job training.[257]

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Comments at 10-12; *see also* USTelecom Apr. 21, 2025 *Ex Parte* Letter at 3.

[247] 47 CFR § 1.1411(i)(1)-(2).

[248] *Id.* § 1.1412(a)-(b).

[249] *See* INCOMPAS Comments at 14 ("[T]he process is different for each utility, and often involves months of long training of contractors on top of the minimum qualifications and any other qualifications set by the pole owner. This delay just to approve a contractor may be prohibitive in deploying broadband to underserved areas, and to that end, there should be quick approval timelines if the contractor meets the qualifications."). *But see* EEI July 15, 2025 *Ex Parte* Letter at 3 (opposing seeking comment on "deadlines for on-boarding of approved electric space contractors, which could unlawfully restrict electric utilities' right to manage pole access safely and reliably, and to deny pole access for reasons of safety and reliability pursuant to Section 224(f)(2)").

[250] 47 CFR § 1.1412. We, thus, decline EEI's request to remove this subject from this Further Notice. EEI July 15, 2025 *Ex Parte* Letter at 3.

[251] The entities represented in the comments filed by the Electric Utilities include Southern Company, Oncor Electric Delivery Company LLC, Entergy Corporation, Duke Energy Corporation, American Electric Power Service Corporation, and Ameren Services Company. Electric Utilities Comments at 1.

[252] *Id.* at 10-12 (stating that it takes American Electric Power Company (AEP) three to six months to enter an agreement with a contractor and Alabama Power three to four months to vet the contractor, identify a scope of work, and finalize a contract).

[253] *Id.* at 11-12.

[254] *Id.* at 10-12 (stating that the second step takes AEP between one to three months to complete and Alabama Power two to four months to complete).

[255] *Id.* at 11-12.

[256] *Id.* at 11.

[257] *Id.* at 12.

63. Do other commenters agree that these are generally the three steps that need to be completed to on-board a contractor?[258] Are there other on-boarding steps not mentioned above?[259] Are the steps the same for on-boarding contractors that do survey and make-ready work? Do commenters agree that the intervals of time mentioned by the Electric Utilities reflect the amount of time actually needed to complete each step? Could the steps be completed in a shorter amount of time? For instance, when utilities execute an agreement with newly approved contractors, do they typically use form agreements that require little modification from contractor-to-contractor, and thus could be executed in a few weeks versus the suggested one to four months?[260] If it really takes months to negotiate and execute agreements with newly approved contractors, why is that the case? As a threshold matter, is it correct that the utility is the entity responsible for executing an agreement with a contractor and on-boarding the contractor when the contractor is proposed by an attacher to perform self-help work?[261] Can or does an attacher execute an agreement with a proposed contractor to perform work on a utility's poles and on-board that contractor to perform the work without the utility's involvement?[262] Stated differently, is it necessary for a utility to also enter into an agreement with the proposed contractor to ensure it retains the control necessary to ensure that work performed on its poles does not create safety and reliability hazards?[263] If only the attacher enters into an agreement with the proposed contractor, through what

[258] *See* Dominion/Xcel Reply at 21 ("The process to onboard a new contractor for work on electric distribution poles is extensive . . . an electric utility pole owner must vet the contractor, finalize rates, terms, and conditions for the contractor's services, screen the individual employees of the contractor who will perform work on the utility pole owner's facilities, and finally, train the contractor's employees in accordance with the utility pole owner's construction standards, safety protocols, and policies with respect to ethics and compliance."); USTelecom Apr. 21, 2025 *Ex Parte* Letter at 3 ("USTelecom members report that it can take up to six months to complete the work needed to add a contractor to the list for complex and above-the-communications space make-ready work, as they need time to confirm the contractor meets the required qualifications, gather and review the contractor's documents and safety records, negotiate a contract with the contractor, screen and clear the contractor's employees, ensure the contractor has sufficient bonding and insurance, and train the contractor about the pole owner's processes and standards.").

[259] Dominion/Xcel describe a four step "vetting and approval" process: (1) "Data Review" that takes four weeks and looks at seven categories of safety data (including, but not limited to, OSHA 300 logs, fatalities, safety programs, and citations) and four categories of environmental data (including policy, performance, and mitigation plan); (2) "Field Evaluation" that takes three weeks; (3) "Formal Evaluation/All Metrics" that takes two weeks and looks at "[c]ompany data (employees, customers, references)," "Work experience (types, voltages, related experience)," "Crew availability (relevant experience, location)," and equipment; and (4) "Orientation and Training" that takes two weeks. Dominion/Xcel May 7, 2025 *Ex Parte* Letter, Attach. at 1.

[260] *See* NCTA Apr. 23, 2025 *Ex Parte* Letter at 2 ("The utilities undoubtedly have template agreements they require their contractors to execute.").

[261] Dominion/Xcel May 7, 2025 *Ex Parte* Letter at 3 ("Under no circumstances would an electric utility pole owner 'rely' on an attacher to vet a proposed contractor for work above the communications space on its poles. Rather, every contractor that performs work on or in the vicinity of the electric power facilities on a utility's poles, on behalf of *any* party, must be vetted by the utility itself, in accordance with the processes adopted by the utility for evaluation and approval of third-party contractors.").

[262] *See* NCTA Apr. 23, 2025 *Ex Parte* Letter at 2 ("[W]here the self-help remedy is triggered (because utilities have missed timelines) or, in the case of OTMR, where no utility-approved contractor is available within a reasonable time period, it is the attaching entity, not the utility, that is responsible for contracting with and onboarding the contractor and for the tasks the Electric Utilities identify as most time consuming."); *see also* Crown Castle Reply at 3 ("[W]hen some utilities 'approve' a contractor for self-help use, they will require that the contractor become a contractor for the utility itself. Through this process, which can add many months of administrative hoops to bring the contractor into the utility's roster of contractors, the utility essentially gains economic and practical control over the contractor's availability, and in so doing, interferes with the contractor's availability for new attachers.").

[263] *See* NCTA Apr. 23, 2025 *Ex Parte* Letter at 2 ("Not only are attaching entities equally vested in ensuring that their contractors' work conforms to governing safety standards and technical specifications, attaching entities are contractually obligated to ensure that they do so in accordance with the terms of their pole attachment agreements,

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specific means could the attacher ensure that the contractor complies with the utility's safety standards and technical specifications, and do they have the experience necessary to do so for work performed above the communications space?[264]

64. We assume that if a contractor is able to make the representations required by section 1.1412(c) (e.g., it knows how to read and follow licensed-engineered pole designs for make-ready),[265] it already has skilled professional staff, and the training that takes place during the on-boarding process is to ensure that the contractor's employees can use utility-specific software systems and execute utility-specific construction standards, protocols, and policies. Is that correct? If so, could that training be completed in a matter of weeks versus months? In the case of larger contractors that work with a number of utilities, would some employees already be familiar with a particular utility's systems and requirements or have a level of familiarity that could expedite the training process? For instance, NCTA points to mutual aid agreements in which utilities send crews to other parts of the country where there are power outages due to natural disasters to help restore power as examples of when contractors are able to work on utility poles without extensive on-boarding processes.[266] While NCTA "recognizes mutual aid agreements exist for emergency circumstances" and does not request "the same process a utility may invoke in an emergency,"[267] do such agreements indicate that it is possible for large contractors with experienced staff to be on-boarded faster than utilities suggest? If not, why not? Are there significant variations between utility software systems, standards, and policies that require months to address, or are the variations minor such that contractors should be able to use them with minimal training? Could any of the steps described by utilities be expedited by having them run on parallel tracks? Are there steps in the on-boarding process that are or could be expedited by the contractors themselves (e.g., any internal vetting required for individual contractor employees)? On average, what is the actual overall time needed to complete all steps to on-board a newly approved contractor?[268]

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which require attachers to indemnify pole owners against any claims related to their contractors' work."); NCTA May 9, 2025 *Ex Parte* Letter at 3 ("[I]t is not necessary for pole owners to enter into separate contracts with the contractors on their list of authorized contractors . . . . The pole owner is protected against any damage or injury resulting from the contractors work on the poles under the attacher's pole agreement with the pole owner."); *But see* Dominion/Xcel May 7, 2025 *Ex Parte* Letter at 4 ("[W]hile contractual liability limitations, indemnification, and an ability to disqualify contractors for cause are necessary protections for all pole owners, they do not prevent accidents that could result in serious injury or loss of life."); EEI et al. May 12, 2025 *Ex Parte* Letter at 5 ("Utilities continue to face litigation and liability exposure from accidents tied to third-party attachments—even when indemnity clauses are in place—and are forced to settle without recovery.").

[264] *See* Dominion/Xcel May 7, 2025 *Ex Parte* Letter at 2 ("NCTA members do not own or operate electric distribution infrastructure, do not provide electricity, and have no need to retain line workers or to train their own employees to work in the immediate vicinity of energized electric power facilities for any purpose related to their operations. Thus, NCTA has no basis to assert that the 'experience' of its members qualifies them, or the association, to opine on the evaluation and approval processes used by utility pole owners to onboard contractors for work on their power delivery systems."). *But see* NCTA May 9, 2025 *Ex Parte* Letter at 3 ("NCTA member's facilities are on the poles as well, and its members would be required to indemnify the utility for any damage its contractors cause on the poles. Accordingly, NCTA's members have the exact same incentives to ensure that work is completed correctly and safety and that no damage occurs to utilities' poles on which communications lines and equipment are placed.").

[265] 47 CFR § 1.1412(c).

[266] NCTA May 9, 2025 *Ex Parte* Letter at 4.

[267] *Id.* (suggesting that mutual aid agreements nonetheless indicate that "parties can rely on existing agreements (whether a mutual aid agreement or a pole agreement) to allocate risk and establish cost allocations and insurance requirements associated with the work performed by one party's contractors on the other party's poles").

[268] *See* NCTA Apr. 23, 2025 *Ex Parte* Letter at 2-3 (stating that in the experience of NCTA's members, the on-boarding tasks identified by utilities "should take no more than 30 days once the contractor is approved").

65. In seeking comment on these topics, our goal is to understand the amount of time actually needed to complete the contractor on-boarding process, based on the steps taken by different utilities, and how that timing impacts an attacher's ability to invoke the self-help remedy and request that utilities add additional qualified contractors to their approved lists to complete the self-help work. Would the Commission improve the viability of the self-help remedy by setting a deadline for utilities to complete the on-boarding process for a contractor that meets the requirements of section 1.1412(c) of the Commission's rules? If so, based upon all of the steps a utility needs to take to address safety, reliability, and security concerns, what should that deadline be?

F. Defining the Term "Pole" for the Purposes of Section 224

66. We seek comment on whether a light pole is a "pole" for purposes of section 224 of the Act. Neither section 224 nor the Commission's implementing rules define the term "pole." In September 2019, CTIA filed a petition seeking a declaratory ruling that a light pole is a "pole" under section 224 and that, consequently, utilities must afford nondiscriminatory access to light poles at rates, terms, and conditions, consistent with section 224 and the Commission's implementing rules.[269] In its Petition, CTIA argued, in short, that: (1) light poles are optimal locations for small cells[270] and are likely to be the only feasible location along rights-of-way where electric lines are buried;[271] (2) utilities are denying access to light poles, or are charging high fees for access, in a manner that impedes deployment;[272] (3) excluding light poles from the definition of "pole" under section 224 would be inconsistent with the Commission's rules and congressional intent;[273] (4) construing section 224 to apply to light poles would be "consistent with the real-world practice of commingling street lights and communications attachments on the same poles;[274] and (5) applying section 224 to light poles would advance the public policy goals of promoting competition and the deployment of infrastructure to support broadband and 5G without harming utilities.[275]

67. Promoting broadband and 5G deployments is one of our top priorities. The Commission is committed to expediting and removing obstacles to such deployments,[276] and to that end, has

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[269] CTIA Petition at 21-25.

[270] For the purposes of this Further Notice, we assume that the small cells referred to in CTIA's Petition and comments filed in response to the Petition are facilities meeting the definition of Small Wireless Facilities in section 1.6002(l) of the Commission's rules, 47 CFR § 1.6002(l), and we use that defined term going forward.

[271] CTIA Petition at 21 (stating that "electric lines are most commonly placed underground in urban areas, where the demands for mobile data and the small cells to support network densification are the greatest").

[272] *Id.* at 22; *see also* AT&T Oct. 29, 2019 Comments at 22 (stating that some electric utilities assert "that 'light poles' are not governed by Section 224" and that "[a]s a result, these electric utilities are demanding excessive fees (or in-kind contributions) for access to light poles or denying access altogether, impeding deployment of 5G facilities"); Crown Castle Oct. 29, 2019 Comments at 39 (stating that some utilities "provide no access to any poles with streetlights attached. In the majority of instances where standalone streetlights are made available for communications attachments, availability is conditioned upon fees and terms that significantly exceed the regulated rate and may undermine the feasibility of using these poles for telecommunications attachments").

[273] CTIA Petition at 22-25.

[274] *Id.* at 23.

[275] *Id.* at 24.

[276] *See Third Wireline Infrastructure Order*, 33 FCC Rcd at 7711, para. 13; *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, WC Docket No. 17-84, Declaratory Ruling and Third Report and Order, 33 FCC Rcd 9088, 9091, para. 8 (2018) (*Small Cell Order*) ("The FCC will keep pressing ahead to ensure that every community in the country gets a fair shot at the opportunity that next-generation wireless services can enable."); *see also In the Matter of Updating the Commission's Rule for over-the-Air Reception Devices*, 36 FCC Rcd 537, 541, para. 11 (2021) (The Commission expanded the scope of the Over-the-Air-Receptive-Device rule to cover hub-and-relay antennas in order to "help spur the rapid deployment of (continued….)

recognized that light poles are suitable hosts for Small Wireless Facilities.[277] 5G wireless networks rely on dense deployment of smaller antennas across provider networks in locations closer to customers. Requiring nondiscriminatory access to light poles for communications attachments at rates, terms, and conditions that are just and reasonable could thus be a significant positive step toward the Commission's connectivity goals.[278] The question of what constitutes a "pole" for the purposes of section 224 raises complex issues, however, so we take this opportunity to refresh the record on the CTIA Petition and seek targeted comment on whether the Commission should codify a definition of the term "pole," whether any codified definition should include light poles, whether any rule changes would be necessary to implement a definition that includes light poles, and the impact that requiring nondiscriminatory access to light poles at rates, terms, and conditions that are just and reasonable would have on the deployment of broadband and 5G.[279]

1. The Best Reading of the Term "Pole": an Ordinary or Technical, Industry-Specific Meaning?

68. We seek comment on the best reading of the term "pole" in section 224.[280] We start by seeking comment on whether the term "pole" as used in the text of the Pole Attachment Act of 1978 (1978 Act)[281] has an ordinary meaning (e.g., one consistent with a common dictionary definition)[282] or a

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fixed wireless networks needed for 5G and other fixed wireless high-speed Internet services.").

[277] *Small Cell Order*, 33 FCC Rcd at 9112-13, para. 50 (referencing government property in rights-of-way "such as light poles, traffic lights, utility poles, and other similar property" as "suitable for hosting Small Wireless Facilities" in the context of assessing whether certain state and local fees violate sections 253 and 332 of the Communications Act).

[278] *See* ACT | The App Association Oct. 29, 2019 Comments at 10 (stating that construing "pole" to include light poles "will promote the widespread deployment of small cells in cities by providing clarity to state and local authorities, and promoting predictability and certainty in their processes"); Crown Castle International Corp. Oct. 29, 2019 Comments at 38-39 (Crown Castle) ("The network densification needed to ensure the capacity vital to next generation technologies demands that the Commission clarify that access to utility infrastructure granted under Section 224 applies equally to utility light poles as to any other utility poles."); Letter from Mike Beirne, Director, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed July 16, 2025) (CTIA July 16, 2025 *Ex Parte* Letter) ("[A]ccess to light poles is especially important as wireless providers seek to increase capacity in their networks and expand competitive home broadband offerings.").

[279] *See* CTIA July 16, 2025 *Ex Parte* Letter at 1 ("CTIA urges the Commission to adopt its Draft FNPRM in the above-captioned proceeding and seek comment on defining the term 'pole' for purposes of Section 224 of the Communications Act[.]"). *But see* EEI July 15, 2025 *Ex Parte* Letter at 4 (opposing "revisiting whether Section 224 includes light poles" and asserting that "[i]f addressed at all, this issue should be handled in a separate rulemaking with its own notice and comment cycle").

[280] *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024); *Pharm. Coal. for Patient Access v. United States*, 126 F.4th 947, 953 (4th Cir. 2025) ("To determine a statute's plain meaning, this court looks not only to the statute's language, but also to the context in which that language appears, and the broader context of the statute as a whole.").

[281] Pole Attachment Act of 1978, Pub. L. No. 95-234, 92 Stat. 33, codified at 47 U.S.C. § 224 (cited herein as 1978 Act).

[282] *See Ohio Telecom Ass'n v. Federal Communications Commission*, 124 F.4th 993, 1001 (6th Cir. 2025) ("Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses its legislative purpose." (internal quotation omitted)); *Sandifer v. U.S. Steel Corp*., 571 U.S. 220, 227-28 (2014) (stating that undefined statutory words are interpreted based on their ordinary meaning at the time that Congress enacted the statute and looking at dictionaries from the time that the statute was enacted to consider the ordinary meaning of a term); *Wisconsin Cent. Ltd v. United States*, 585 U.S. 274, 277 (2018); *Paresky v. United States*, 995 F.3d 1281, 1285 (11th Cir. 2021) (stating that when "examining the plain and ordinary meaning of a statute, one of the ways to figure out that meaning is by looking at dictionaries in
(continued….)

technical, industry-specific meaning (e.g., a utility pole built for providers of electric and local exchange services to attach their distribution facilities).[283] The 1978 Act authorized the Commission to regulate the rates, terms, and conditions of pole attachments to provide that they are just and reasonable,[284] and defined "pole attachment" as "any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility."[285] Congress defined a "utility" that may be subject to section 224 as "any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication."[286] Congress further codified a standard for determining whether a pole attachment rate is just and reasonable, stating, in pertinent part, that a rate is just and reasonable "if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space . . . which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole . . . ."[287] "Usable space" is defined in the statute as "the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment."[288]

69. Do these provisions, and the statute as a whole, show that Congress intended the term "pole" to have an ordinary, common meaning (as understood in 1978) or a technical or industry-specific meaning? Were the only poles used in 1978 for cable television system attachments traditional utility poles used for local distribution of electric and telecommunications services, or were other poles used for cable television system attachments as well? What poles were: (1) owned or controlled by "any person whose rates or charges are regulated by the Federal Government or a State;"[289] and (2) "used, in whole or in part, for wire communication" in 1978? Is "usable space" a term of art and if so, to what industries and/or for what purposes did it apply in 1978? Are other words used in the 1978 Act terms of art? Is there other language in the 1978 Act that the Commission should consider to determine whether Congress intended the term "pole" to have an ordinary, common meaning or a technical, industry-specific meaning when the statute was enacted? In either case, what was that meaning?

70. The Telecommunications Act of 1996 (1996 Act)[290] amended section 224 to, in pertinent part, expand the definition of pole attachments to include attachments by providers of telecommunications service[291] and to add a new requirement that utilities "provide a cable television system or any

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existence around the time of enactment" (internal quotation marks and citation omitted)).

[283] Courts may look beyond the common meaning of statutory language "where a statutory or regulatory term is a technical term of art, defined more appropriately by reference to a particular industry usage than by the usual tools of statutory construction," *In re Pharm. Indus. Average Wholesale Price Litig.*, 582 F.3d 156, 168 (1st Cir. 2009) (quotation marks and citation omitted), in the which case "the term should be construed with reference to the actual context of the regulated industry in question." *Concert Inv., LLC v. Small Bus. Admin.*, 100 F.4th 215, 222 (D.C. Cir. 2024) (quotation marks and citation omitted).

[284] 1978 Act § 224(b)(1).

[285] *Id.* § 224(a)(4).

[286] *Id.* § 224(a)(1). Congress excluded from the definition of utility "any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State." *Id*.

[287] *Id.* § 224(d)(1).

[288] *Id.* § 224(d)(2).

[289] "State" was defined in the statute as "any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof." 1978 Act § 224(a)(3).

[290] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. § 151 *et seq*.

[291] 47 U.S.C. § 224(a)(4) (defining a "pole attachment" as "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility.").

telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it."[292] Congress codified an exception to this nondiscriminatory access provision, stating that "a utility providing electric service may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes."[293] Congress retained its standard for determining whether a pole attachment rate is just and reasonable and the definition of the term "usable space" used in that standard.[294]

71. Some attachers have argued that the reference to "any pole" in the nondiscriminatory access provision enacted via the 1996 Act demonstrates that section 224 applies to any type of pole that is owned or controlled by a utility. Specifically, they have argued that in the absence of a statutory definition, "pole" should be given its ordinary meaning,[295] pointing to dictionary definitions,[296] and that courts construe the term "any" expansively to mean "all."[297] Thus, these attachers have argued that the enactment of the "any pole" language in the 1996 Act language evinces that all types of poles owned or controlled by a utility are subject to the nondiscriminatory access provision in section 224(f)(1).[298] Some have gone further and suggested that while whether a person or entity owns or controls poles that are "used . . . for any wire communications" dictates that person's or entity's status as a "utility" under section 224(a)(1), as long as an entity is a "utility" by virtue of its ownership or control of such poles, it must provide access to all poles it owns or controls, even those that are not used for wire communications.[299]

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[292] *Id.* § 224(f)(1).

[293] *Id.* § 224(f)(2).

[294] *Id.* § 224(d)(1)-(2).

[295] *See* CTIA Petition at 23 ("In the absence of a statutory definition, terms are to be given their 'ordinary meaning.'"); T-Mobile Oct. 29, 2019 Comments at 23; ExteNet Nov. 20, 2019 Reply at 4; CTIA July 16, 2025 *Ex Parte* Letter at 2 ("The ordinary meaning of a pole includes a pole that hosts lights.").

[296] *See* Verizon Oct. 29, 2019 Comments at 3 ("[T]he ordinary meaning of pole is generic – 'a long slender usually cylindrical object' or a 'long, relatively slender, generally rounded piece of wood or other material' – and inclusive, covering both distribution and light poles." (citations omitted)).

[297] *See* T-Mobile Oct. 29, 2019 Comments at 23 ("[R]ead naturally, 'any' means 'all.'"); Crown Castle Oct. 29, 2019 Comments at 40 ("[T]he term 'any' as used before 'pole, duct, conduit, or right-of-way' is all encompassing."); *see also* Verizon Oct. 29, 2019 Comments at 3-4 ("Congress's decision to use the word 'any' to modify 'pole' in Section 224(f)(1) further supports interpreting 'pole' broadly, since courts consistently read 'any' to emphasize the wide scope of the words it modifies.").

[298] *See* ExteNet Oct. 29, 2019 Comments at 6 (observing "the plain language of Section 224(f)(1), which requires a utility to provide nondiscriminatory access to 'any pole' that the utility owns or controls" and stating "[a] light pole falls within the ambit of "any pole"); Verizon Oct. 29, 2019 Comments at 6 ("Congress expressly extended Section 224's coverage to 'any poles' a utility owns or controls"); Crown Castle Oct. 29, 2019 Comments at 41 ("[U]tility-owned light poles are clearly 'any poles' under the plain language of section 224(f).").

[299] *See* CTIA Petition at 25 ("Section 224's reference to 'any' pole meant that Congress intended to grant the right of access to *all* of a utilities' poles, including those that were not being used for wire communications.") (emphasis in original). *But see* ACA Connects Oct. 29, 2019 Comments at 3 ("Section 224 only uses the generic term 'poles' without qualification or modifier – provided that the pole is 'used, in whole or in part, for any wire communications.'"). We note that in the 1996 Act, Congress modified the language in the definition of "utility" to state "any person who is a local exchange carrier or an electric gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications." 47 U.S.C. § 224(a)(1). It retained an exclusion for "any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State." *Id*.

72. We seek comment on this view. In so doing, we take note of the Eleventh Circuit's decision in *Southern Company v. FCC*.[300] After the enactment of the 1996 Act, the Commission adopted rules to implement its requirements, including rules to implement the new nondiscriminatory access provisions in section 224(f).[301] Construing that statutory provision, the Commission found that the "breadth of the language contained in section 224(f)(1) precludes us from making a blanket determination that Congress did not intend to include transmission facilities."[302] In an order on reconsideration in 1999, the Commission "reaffirm[ed its] decision . . . that electric transmission facilities are not exempted from the pole attachment provisions of section 224."[303] The Eleventh Circuit overturned this conclusion insofar as it referred to transmission towers or other transmission plant, stating in *Southern Company* that "Congress intended to limit [section 224's] application to local distribution facilities."[304]

73. Utilities have argued that *Southern Company* limits the Commission's authority under section 224 to the regulation of local distribution poles only, and that the Commission does not have authority to regulate other types of property that may be owned or controlled by a utility and commonly called a pole, but that is not used in local distribution.[305] Attachers have argued that the Eleventh Circuit did not go that far in *Southern Company*. They have argued that the only issue before the Court was whether the Commission could regulate interstate transmission facilities that are already regulated by Federal Energy Regulatory Commission (FERC), not whether the Commission has jurisdiction to regulate other poles that are local in nature, such as light poles.[306] Attachers have suggested that, in fact, *Southern Company* supports their argument that the term "pole" should be given an ordinary meaning because the

[300] *Southern Company v. FCC*, 293 F.3d 1338 (11th Cir. 2002) (*Southern Company*).

[301] *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 et al*., CC Docket Nos. 96-96 and 95-185, First Report and Order, 11 FCC Rcd 15499, 16059-88, paras. 1123-92 (1996) (subsequent history omitted) (*First Local Competition Order*).

[302] *First Local Competition Order*, 11 FCC Rcd at 16084, para. 1184.

[303] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket Nos. 96-98, 95-185, Order on Reconsideration, 14 FCC Rcd 18049, 18059, para. 27 (1999) (*Local Competition Reconsideration Order*).

[304] *Southern Company*, 293 F.3d at 1345-1346 ("[T]he Act generally covers all 'poles, ducts, conduits and rights-of-way,' and these local distribution facilities are covered by the Act, regardless of whether they are used in part for transmission wires or other transmission facilities."). In reaching this conclusion, the Court found that poles are regular components of local distribution systems and not interstate transmission systems, which are regulated by the Federal Energy Regulatory Commission (FERC) pursuant to the Federal Power Act (FPA). *Id*. The Court noted that the FPA divests FERC of jurisdiction over facilities used for local distribution and that the primary facility used to carry transmission wires (i.e., towers) is not mentioned in section 224. *Id*. at 1344-45. The Court also looked at section 224's reverse preemption provision and noted that states lack jurisdiction to regulate interstate transmission facilities. *Id*. at 1345.

[305] POWER Coalition Oct. 29, 2019 Opposition at 4 ("[There] is binding judicial precedent that Section 224 applies exclusively to a utility's 'local distribution facilities.' Because an appellate court has ruled that the unambiguous language of the act mandates such a conclusion, the Commission has no discretion to decide otherwise."); CCU Oct. 29, 2019 Comments at 9; Electric Utilities Oct. 29, 2019 Comments at 8 ("[T]he Eleventh Circuit interpreted 'pole' under Section 224 to mean a utility's 'distribution facilities.'"); Utility Associations Oct. 29, 2019 Opposition at 8 (filed Oct. 29, 2019) ("[T]he Eleventh Circuit found that the Commission's jurisdiction only extended to poles that are part of the electric distribution network.").

[306] *See* AT&T Oct. 29, 2019 Comments at 25 ("Light poles are 'poles' (not interstate transmission towers or plant) and do not fall within the jurisdiction of FERC or any other federal agency."); Crown Castle Oct. 29, 2019 Comments at 40-41 ("[T]he focus of the Court's analysis was the local versus interstate nature of the facilities at issue."); Verizon Oct. 29, 2019 Comments at 5; CTIA Nov. 20, 2019 Reply at 29 ("A fair reading of the opinion makes clear that the court referenced the components of a *local* distribution systems solely in order to distinguish them from the components of an *interstate transmission* system, which was the issue before the court." (emphasis in original)).

Court stated in another part of its opinion that: (1) the term "any" is construed expansively to mean "all" unless Congress adds language limiting its breadth; and (2) "the lack of a limitation upon the adjective 'any' means that § 224(f)(1) expands the Act's coverage to all 'poles, ducts, conduits, or rights-of-way owned or controlled by a utility.'"[307] The Court made these statements when concluding that utilities must provide nondiscriminatory access to all of their poles under section 224(f)(1) "regardless of whether the facility is presently being used for telecommunications purposes,"[308] upholding a prior determination by the Commission that "use of any utility pole, duct, conduit, or right-of-way for wire communications triggers access to all poles, ducts, conduits, and rights-of-way owned or controlled by the utility, including those not currently used for wire communications."[309]

74. Does *Southern Company* limit the Commission's jurisdiction under section 224 to the regulation of local distribution poles as utilities have suggested, or does it recognize that section 224 applies to any type of pole that is owned or controlled by a utility, as some attachers have suggested? Does the Court's conclusion that the Commission's jurisdiction does not extend to facilities used for interstate transmission necessarily limit the "any pole" language used in section 224(f)(1), i.e., does the decision eliminate a class of poles subject to section 224(f)(1)?[310] Do attachers contend that the "transmission facilities" exempt from section 224(f)(1) pursuant to *Southern Company* are not and do not include poles?[311] Does the Court's conclusion that utilities must provide access to any pole irrespective of whether it is currently being used for wire communications mean that utilities must provide access to all poles of all types, irrespective of whether a particular type ever has been or ever would be used for wire communications?[312] Or, given that *Southern Company* was decided in the specific context of poles

[307] *Southern Company,* 293 F.3d at 350; *see* CTIA Petition at 25; Crown Castle Nov. 20 Reply at 10; AT&T Oct. 29, 2019 Comments at 25.

[308] *Southern Company*, 293 F.3d at 1349-50. The Court concluded that the definition of a "utility" in the statute is not limited to entities that use "all" of their facilities for wire communications, and that "the natural inference" from the lack of such limiting language is "that a utility is an entity that owns or controls *some* facilities used for that purpose." *Id*. at 1349 (emphasis in original). The Court coupled that inference with the language of section 224(f)(1) to conclude that utilities must provide nondiscriminatory access to all of their poles if they use some of them for wire communications. *Id.* at 1349-50.

[309] *Local Competition Reconsideration Order*, 14 FCC Rcd at 18059, para. 27; *First Local Competition Order*, 11 FCC Rcd at 16080, para. 1173; *see also Local Competition Reconsideration Order*, 14 FCC Rcd at 18077, para. 79 (rejecting arguments that "the access provisions of section 224(f) should be invoked on a pole-by-pole rather than a system-wide basis").

[310] *See* Electric Utilities Nov. 20, 2019 Reply at 2 ("Though stakeholders might fairly dispute the legal import of the *Southern Company* case, no stakeholder can credibly dispute the central holding of *Southern Company*: that transmission poles fall outside the coverage of Section 224 . . . This, alone, means that Section 224 does not cover **all** poles owned or controlled by a utility . . ." (emphasis in original)); POWER Coalition Nov. 20, 2019 Reply at 3 ("The Eleventh Circuit concluded that Congress's grant of authority to the Commission under Section 224 is constrained by the language of Section 224(a) and Section 224(c), and therefore, does not extend to **all** poles owned or controlled by a utility, as CTIA asserts. To the contrary, the Eleventh Circuit determined that the unambiguous language of Section 224 **limits** the Commission's jurisdiction to 'utilities' local distribution facilities." (emphasis in original)). *But see* AT&T Nov. 20, 2019 Reply at 19-20 ("Section 224(a)(1), which is just a definitions section, 'concerns only *whose* poles are covered' it does not address what poles are covered or what those entities are required to do. Those questions are answered in Section 224(f)(1), which unambiguously requires utilities to 'provide . . . nondiscriminatory access to *any* pole . . . owned or controlled by [them].'" (emphasis in original)).

[311] In *Southern Company*, the Court referenced an argument by the Commission that the distinction between electric transmission facilities and electric distribution facilities is not as clear as utilities argued, and concluded that the fact that a pole may have some transmission facilities attached to it "does not exclude it from the coverage of the Act. These local distribution facilities, festooned as they may be with transmission wires, are plainly within the FCC's jurisdiction under the terms of the Act." 293 F.3d at 1345-46. This appears to recognize that poles may be used in some capacity for interstate transmission, but as stated above, we seek comment on this point.

[312] *See* AT&T Nov. 20, 2019 Reply at 20 ("[T]he Eleventh Circuit has also explicitly rejected the argument that

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used for local distribution of electric service, does the decision simply hold that a particular local distribution pole does not need to have communications wires attached for the section 224(f)(1) access obligation to apply if any of the utility's other local distribution poles have communications wires attached?[313] Does the fact that the Court interpreted the scope of the "used, in whole or in part, for any wire communications" language in section 224(a)(1) to interpret the scope of access required under section 224(f)(1) indicate that section 224(a) is a limiting factor on the "any pole" language of the latter provision? Fundamentally, should *Southern Company* be viewed as definitively determining what constitutes a "pole" for the purposes of section 224 as opposed to the reach of the Commission's jurisdiction with respect to particular use cases or circumstances (e.g., use for interstate transmissions, whether wire communications are currently attached)?[314]

75. Does the text of the 1996 Act otherwise establish a clear meaning of the term "pole" or demonstrate congressional intent to limit or expand the meaning of that term? For instance, the exception to the nondiscriminatory access provision in section 224(f)(1) states that "a utility *providing electric service* may deny a cable television system or any telecommunications carrier access to its poles . . . on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes."[315] Does the specific reference to utilities providing electric service in the statutory text suggest that Congress had a particular type of pole (i.e., a local distribution pole for electricity) in mind when it enacted section 224(f)? Or, does limiting the exception to electric facilities simply "reflect[] Congress' acknowledgment that issues involving capacity, safety, reliability and engineering raise heightened concerns when electricity is involved, because electricity is inherently more dangerous than telecommunications services"?[316] Does other language in the text of section 224 demonstrate that Congress clearly intended a specific meaning for the term "pole"?

76. If commenters argue that Congress' intent regarding the meaning of the term "pole" as used in section 224 is not clear from the text, what extrinsic sources should the Commission consider to determine the best reading of the statutory language?[317] Does the statute's legislative history clearly indicate the scope of poles that Congress intended to be regulated under the statute? The Senate Report for the 1978 Act indicates that Congress was concerned about electric utilities and telephone companies using their monopoly ownership or control of existing utility poles to extract exorbitant fees from cable system operators for access to the existing poles they needed to distribute their facilities.[318] It states that the poles to which cable television systems need to attach their facilities "are usually owned by telephone

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Section 224(a)(1)'s reference to poles that are 'used, in whole or in part, for wire communications' limits the scope of a utility's duties under Section 224(f)(1).").

[313] *See* Utility Associations Nov. 20, 2019 Reply at 3 ("[T]he references made by certain commenters to *Southern Company*'s discussion of Section 224(f), when considered in the full context of the court's decision, mean only that the 'poles' **within the scope of Section 224(a)** need not be used for wired communications in each individual case to be subject to the access requirements of Section 224(f)." (emphasis in original)).

[314] *See* Crown Castle Nov. 20, 2019 Reply at 10 ("No inquiry was made regarding the inclusion of utility owned streetlight poles in the Section 224 definition of poles."); AT&T Nov. 20, 2019 Reply at 21 ("The Eleventh Circuit was not asked and did not find that Section 224 does not apply to light poles or other types of poles . . . ."); CTIA Nov. 20, 2019 Reply at 29 (stating that the Eleventh Circuit's holding was limited to reversing the Commission's prior statement that electric transmission facilities are not exempted from Section 224 and to "create a carve-out solely for transmission poles; it did not carve out light poles or any other facility").

[315] 47 U.S.C. § 224(f)(2) (emphasis added).

[316] *First Local Competition Order*, 11 FCC Rcd at 16081, para. 1177.

[317] *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 568 (2005) ("Extrinsic materials have a role in statutory interpretation only to the extent they shed a reliable light on the enacting Legislature's understanding of otherwise ambiguous terms.").

[318] *See* S. Rep. No. 95-580 at 13 (1977), *as reprinted in* 1978 U.S.C.C.A.N. 109 (hereinafter S. Rep. No. 95-580).

and electric utilities,"[319] and refers to poles used for the provision of telephone and electric service when discussing a formula to be used by the Commission to determine whether pole attachment rates are just and reasonable.[320]

77. Do commenters interpret the Senate Report for the 1978 Act as contemplating a particular type of pole that would be subject to the Commission's jurisdiction under section 224? We would expect the legislative history of the 1978 Act to discuss existing poles owned and controlled by providers of electric and telecommunication services as obvious examples of structures to which cable system operators needed to attach their facilities, but discussing certain types of poles may not necessarily evidence congressional intent to exclude others.[321] Are there other statements from the legislative history of the 1978 Act or the 1996 Act that indicate Congress's intent? We note that, in 1996, the Commission held that the "intent of Congress in section 224(f) was to permit cable operators and telecommunications carriers to 'piggyback' along distribution networks owned or controlled by utilities, as opposed to granting access to every piece of equipment or real property owned or controlled by the utility."[322] Was that conclusion correct? Are there other extrinsic sources the Commission should consider if we determine that the term "pole" is ambiguous and seek to adopt a definition based on the best reading of the statutory language?

2. Whether the Best Reading of the Term "Pole" Specifically Includes Light Poles

78. If the Commission were to give the term "pole" in section 224 its ordinary, common meaning, such as "a long slender usually cylindrical object (such as a length of wood),"[323] objects falling within that definition would arguably still need to satisfy explicit requirements in the text of section 224 to be subject to regulation under that statute.[324] In this section, we seek comment on whether light poles meet those requirements, and whether they would qualify as local distribution poles if the Commission were to conclude that its jurisdiction is limited to regulating such poles.

79. *Scope of Light Poles.* We begin this inquiry by seeking comment on the types of light poles that attachers seek to have regulated by section 224 and their characteristics, so that the Commission may evaluate how the requirements of section 224 would apply to them.[325] We assume that

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[319] *Id.* at 12.

[320] *See id.* at 19-21. For instance, the legislative history discusses make-ready costs as "those necessary to rearrange existing telephone and power lines to maintain clearances between different pole lines required by individual utility construction and safety standards and National Electrical Safety Codes and to reinforce poles when necessary to increase load capacity." *Id.* at 19. The Report also explains how "usable space" factors into its formula, and states that "on a typical utility pole 35 feet in length there are 11 feet of usable space (that space above the minimum grade level clearance used to attach cable, telephone, and electric wires and associated equipment)." *Id.* at 20. The Report also states that the jurisdictional reach of the Commission under section 224 "extends only to those entities which participate in the provision of communications space on utility poles." *Id.* at 15.

[321] CTIA Nov. 20, 2019 Reply at 31 ("[T]he fact that a Senate report does not mention 'lighting' does not convey an intent to exclude light poles—indeed, the same report also includes no mention of 'distribution.'"); *compare* Electric Utilities Oct. 29, 2019 Comments at 6 (stating that "neither the Committee Report nor the Act itself contains a single reference to any form of lighting asset (*e.g.,* streetlights, lampposts, light standards, light poles, lighting brackets, etc.)").

[322] *First Local Competition Order*, 11 FCC Rcd at 16085, para. 1185.

[323] Merriam-Webster, *Pole*, https://www.merriam-webster.com/dictionary/pole (last visited July 24, 2025).

[324] *See* 47 U.S.C. § 224(a).

[325] Utility Associations Oct. 29, 2019 Opposition at 3-4 (stating that "CTIA's Petition fails to identify what 'light poles' its members seek to access or to consider the substantial variations in how utility-owned light poles are constructed and used. For example, a 'light pole' could be a 100-foot metal or concrete structure on the side of an interstate highway or in shopping mall parking lot. Or it could be a decorative fiberglass structure in a residential

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attachers are not concerned about poles that are already subject to section 224 because they are local distribution poles that also have lamp attachments.[326] Is that assumption correct? What are the light pole structures that attachers seek access to under section 224? Are they limited to street lighting? Do they include area lighting poles located away from streets (e.g., along walking paths, in parking lots)? Do they include light poles on both private or public property, e.g., in or out of the public rights-of-way?[327] Would they include flag poles owned or controlled by utilities and that have a lamp attachment? Do the light poles that attachers seek to have regulated have particular dimensions or features? Are they constructed using a particular type of material? Do they already meet certain loading and power requirements for communications attachments? Are they all regulated by federal, state, or local government agencies or do they include light poles that are unregulated?[328] At a basic level, what are the common attributes of light poles that attachers seek to have regulated under section 224 and why do commenters believe these attributes should cause those light poles to be regulated? Would the Commission need to define what constitutes a light pole if it were to determine that light poles are subject to regulation under section 224, and if so, what should that definition be? How many light poles would be brought within the Commission's jurisdiction if we determine that they are poles within the meaning of section 224? What else does the Commission need to know to understand the type and scope of light poles that attachers seek to have regulated under section 224?

80. *Owned or Controlled by a Utility*. Section 224 only applies to poles that are owned or controlled by a utility.[329] What utilities own or control light poles? Are most light poles owned or controlled by electric utilities versus other types of utilities? The record on the CTIA Petition indicates that many light poles are installed pursuant to private agreements with third parties, including localities, that confer rights and obligations on the third parties with respect to the poles.[330] Under those agreements, what entity owns the light pole and what entity controls it? Are there arrangements where the light pole may be owned by the utility but a third party controls it? Is the reverse true, where a third

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subdivision, or on a golf course"); POWER Coalition Oct. 29, 2019 Comments at 9-10 ("CTIA takes a one-size-fits-all approach and incorrectly presumes that all utility-owned light poles are standardized, if not identical, in terms of construction, maintenance, and use. This is simply not the case.").

[326] *See* Electric Utilities Oct. 29, 2019 Comments at 5 n.3 ("[T]he Electric Utilities do **not** contend that distribution poles with streetlights are outside the Commission's jurisdiction. The support structures at issue, here, are those that exist exclusively or primarily for the purpose of street and/or outdoor area lighting." (emphasis in original)); POWER Coalition Nov. 20, 2019 Reply at 2 n.5 ("Although the Petition does not attempt to define 'light poles,' for purposes of POWER Coalition Comments, and these reply comments, 'light poles' are understood to be poles that do not support any component of a utility owner's electric distribution system.").

[327] *See* Electric Utilities Oct. 29, 2019 Comments at 11 (stating that "Alabama Power Company . . . owns approximately 152,000 structures used primarily to support street and outdoor area lights, approximately 113,000 of which are located on private property").

[328] *See id.* at 12 ("[U]nlike distribution poles, many lighting support structures are not part of any regulated base.").

[329] 47 U.S.C. § 224(a)(1) (defining the term "utility" as "any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles . . . used, in whole or in part, for wire communications"); *id.* § 224(a)(4) (defining a "pole attachment" as "any attachment by a cable television system or provider of telecommunications service to a pole . . . owned or controlled by a utility").

[330] *See* National Assoc. Telecomm. Officers and Advisors (NATOA) Oct. 29, 2019 Comments at 14 ("[M]unicipalities often have contractual rights related to street lights, including the right to purchase or require removal of any poles, and obligations like maintenance costs and indemnification, that do not apply to standard utility poles."); Utility Association Oct. 29, 2019 Comments at 4 (stating that all dedicated light poles owned by electric utility companies "are custom-built pursuant to private contracts between the utility pole owner and its customer, at the customer's direction and expense"); Xcel Energy Oct. 29, 2019 Comments at 6 ("Xcel Energy installs and maintains street light poles at the request of the customer (e.g., a municipality or homeowners' association) pursuant to the terms of a privately-negotiated agreement between the parties.").

party owns the light pole but a utility controls it? Are there co-ownership and/or co-controller arrangements? Who are the third parties that may have an ownership or control interest in a light pole (e.g., private residential communities, private retailers or venue owners)?[331] How frequently is the third-party owner or controller of the light pole a state or municipality,[332] and what are the implications of that given that section 224(a) excludes states and "any political subdivision, agency, or instrumentality" of a state from the definition of "utility" subject to regulation under section 224?[333] How frequently is the third-party owner or controller another entity excluded from the definition of "utility" under section 224(a)(1)? What specific rights are conferred on third parties with respect to the location, design, construction, modification, and removal of light poles?[334] Do the third-party agreements contain any express provisions prohibiting utilities from providing access to light poles for communications attachments, either at all or without the third party's consent? [335]

81. What percentage of light poles that attachers seek to have regulated under section 224 are installed pursuant to third-party agreements? The record on CTIA's Petition indicates that attachers are currently obtaining at least some access to light poles under private agreements.[336] How has that process worked, and could it serve as a model for enabling access if it were mandated under section 224(f)(1)? Who are the parties to light pole access agreements when a third party has some degree of ownership or control of the light pole? Just the attacher and the utility, or does the third party also execute the agreement?[337] If the third party is a party to the agreement, how would that impact the Commission's

[331] *See* National League of Cities et al. Oct. 29, 2019 Comments at 7 n.26 ("[I]n some cases, pursuant to a development plan, a light pole is owned or controlled by a home owners' association."); POWER Coalition Oct. 29, 2019 Comments at 8 ("[I]n some states, such as Virginia, light poles are provided for newly constructed residential communities pursuant to private contracts.").

[332] *See* National League of Cities et al. Oct. 29, 2019 Comments at 7 ("Localities commonly control the design of light poles installed by utilities, and pay utilities not only for the service provided, but the cost of the poles and fixtures in a locality's selected design. The poles are not placed on the basis of utilities' preferences, but in a manner that ensures lighting is properly placed and that the lighting design fits in with the community. Installation, maintenance, and ongoing costs are paid by localities, and local rights to assume control of the poles are protected in many cases by contract or tariff. The electric utility may have limited authority to control use of the poles.").

[333] 47 U.S.C. § 224(a)(1) (excluding "any person owned by . . . any State" from the definition of "utility"), (a)(3) (defining "State" to include "any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof").

[334] Utility Associations Oct. 29, 2019 Comments at 4 n.16 ("[T]hese private contracts also require a utility pole owner to *remove* a light pole at the request of the party that commissioned it. In other words, a utility pole owner can make no assurances with respect to the continuing availability of a dedicated light pole.") (emphasis in original); Xcel Energy Oct. 29, 2019 Comments at 6 ("The customer – not Xcel Energy – determines the specific type of street light or street light pole to be installed at an particular location, and the customer must consent to the modification or replacement of any street light installed pursuant to the street light agreement.").

[335] Utility Associations Oct. 29, 2019 Comments at 4 ("[A] utility pole owner has no discretion to modify or replace a dedicated light pole to accommodate communications equipment and has no authority to grant access to the pole without the consent of the party that commissioned it."); Xcel Energy Oct. 29, 2019 Comments at 6 ("The decision of whether to allow the colocation of wireless equipment on a street light pole is . . . not within the sole discretion of Xcel Energy, even when Xcel Energy owns the street light pole in question.").

[336] Letter from Lisa Koop, Senior Attorney, Alliant Energy to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1 (filed Nov. 20, 2019) (Alliant Energy Nov. 20, 2019 *Ex Parte* Letter) ("[O]ver the last five years, Alliant Energy has developed solutions with wireless and small cell providers who have requested access to street lights, wanted to use the unusable space on those poles, and developed negotiated agreements that have benefitted both parties."); POWER Coalition Oct. 29, 2019 Comments at 12 ("[E]lectric utilities do, in many cases, provide access to light poles where capacity exists, and such access would not be unsafe, or compromise the integrity of the pole."); Xcel Energy Oct. 29, 2019 Comments at 8-11 (describing Xcel Energy's "Small Cell Dual Use Street Light Pole" program).

jurisdiction to adjudicate matters under the access agreement, i.e., could the Commission require the third party to comply with any ordered relief?

82. We observe that in the context of private easements, the Commission has found that the extent of a utility's ownership or control is a question of state law,[338] and that "consistent with the purposes of Section 224, utility ownership or control of rights-of-way and other covered facilities exists only if the utility could voluntarily provide access to a third party and would be entitled to compensation for doing so."[339] Do commenters agree that the extent of a utility's ownership or control of poles is also determined under state law, and what are the implications of that for light poles that are installed pursuant to private agreements with third parties? If the Commission were to determine that at least some light poles are subject to section 224, would it have to create an exception for cases in which utilities cannot provide access in exchange for a fee voluntarily and/or unilaterally under state law?

83. *Used, in Whole or in Part, for Wire Communications.* Are light poles used, in whole or in part, for any wire communications?[340] If so, for what specific forms of wire communication? We note that the Commission has found that "[a]lthough internal communications are used solely to promote the efficient distribution of electricity, the definition of 'wire communication' is broad and clearly encompasses an electric utility's internal communications."[341] Do utilities use internal wire communications for their light poles? If so, in what manner? If light poles are not used in whole or in part for wire communications, does that necessarily mean that light poles must be excluded from regulation under section 224? As stated above, in *Southern Company*, the Eleventh Circuit agreed with the Commission that it is not necessary for *all* of a utility's poles to be used for wire communications for the nondiscriminatory access provision in section 224(f)(1) to apply.[342] Does that mean that if a particular

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[337] *See* Electric Utilities Oct. 29, 2019 Comments at 11 ("Any collocation of communications facilities on lighting support structures is a three-party transaction at minimum: the structure owner, the collocating entity, and the lighting customer.").

[338] *First Local Competition Order*, 11 FCC Rcd at 16082, para. 1179.

[339] *Promotion of Competitive Networks in Local Telecommunications Markets et al*., WT Docket No. 99-217, CC Docket Nos. 96-98, 88-57, First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket No. 96-98, and Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57, 15 FCC Rcd 22983, 23023, para. 87 (2000) (*2000 Competitive Networks Order*); *see also UCA, L.L.C. v. Lansdowne Cmty. Dev*., 215 F. Supp. 2d 742, 751-52 n.29 (E.D. Va. 2002) (Section 224 "mandates access to all telecommunications easements owned or controlled by a utility even though the utility uses only one of those easements for wire communications. But the breadth of the access requirement in this respect does not support Adelphia's contention that the Pole Act requires a utility to grant cable television providers access to a right-of-way when the utility has any degree of ownership or control of the right-of-way. Adelphia's proposed construction would require a utility to grant access to rights it does not possess, a result Congress neither contemplated nor directed in the Pole Act.").

[340] 47 U.S.C. § 224(a)(1); CCU Oct. 29, 2019 Comments at 10 ("Not only are streetlight-only poles not part of utility distribution systems, they are also not used for wire communications."); Utility Associations Oct. 29, 2019 Comments at 9 ("[L]ight poles are not part of an electric utility's local electric distribution system and do not carry or support any communications or electric distribution lines, and thus they are not facilities that are 'used, in whole or in part, for any wire communications.'").

[341] *First Local Competition Order*, 11 FCC Rcd at 16080, para. 1174; *see also Local Competition Reconsideration Order*, 14 FCC Rcd 18049, para. 80 ("We continue to reject the contention that, because an electric utility's internal communications do not pose a competitive threat to third-party cable operators or telecommunications carriers, such internal communications are not 'wire communications' and do not trigger access obligations. Although internal communications may be used solely to promote the efficient distribution of electricity, the definition of "wire communication" is broad and clearly encompasses an electric utility's internal communications.").

[342] *Southern Company*, 293 F. 3d at 1349-50 (finding that the language of sections 224(a)(1) and (f)(1) "mandates that utilities make all of their 'poles, ducts, conduits, or rights-of-way' available to third-party attachers (unless one of the exceptions listed in § 224(f)(2) applies), regardless of whether the facility is presently being used for

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utility owns or controls both light poles and local distribution poles, and uses any of them for wire communications, that is enough to bring all of them under section 224?[343]

84. *Local Distribution Poles*. Crown Castle has suggested that light poles are local distribution poles within the meaning of the Eleventh Circuit's decision in *Southern Company*.[344] Specifically, it observes that "Street Lighting and Signal Systems" are facilities listed under "Distribution Plant" in FERC Form 1, the comprehensive financial and operating report utilities submit annually for electric rate regulation, market oversight analysis, and financial audits, and a primary source of data in the Commission's pole attachment rate formulas.[345] "Poles, Towers, and Fixtures" are listed separately under "Distribution Plant," however.[346] Does that suggest that light poles are local distribution *plant*, but something different than local distribution *poles* under FERC's Uniform System of Accounts? Or, are those merely semantics? Is FERC's Uniform System of Accounts dispositive with respect to what constitutes a local distribution pole?[347] What factors determine what constitutes a local distribution pole? In *Southern Company*, the Eleventh Circuit considered a state public service commission's description of an electric utility's distribution system as being "comprised of substations, underground cables, poles, overhead conductors, transformers, service drops, and meters that supply power to the customers."[348] Are light poles part of an equivalent local distribution system to provide lighting? If so, is that lighting a similar public utility service, what are the components of the distribution system, and who are the customers?[349]

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telecommunications purposes.") (quoting 47 U.S.C. § 224(f)(1)).

[343] CTIA Nov. 20, 2019 Reply at 30 ("[I]f the utility engages in wire communication, then all of its poles are subject to Section 224.").

[344] *See* Crown Castle Oct. 29, 2019 Comments at 41 ("Under the Court's analysis in *Southern Company*, streetlight poles are local distribution facilities subject to the mandatory access obligations of Section 224(f) . . . ."); Crown Castle Nov. 20, 2019 Reply at 11-12.

[345] *See* Crown Castle Oct. 29, 2019 Comments at 41; Crown Castle Nov. 20, 2019 Reply at 11; FERC Form No. 1: Annual Report of Major Electric Utilities, Licensees and Others, *available at* https://www.ferc.gov/general-information-0/electric-industry-forms (last visited July 24, 2025) (FERC Form 1). As discussed below, FERC Form 1 provides key data inputs for the Commission's pole attachment rate formulas. *See infra* Section IV.F.3.

[346] FERC's rules for its Uniform System of Accounts state that Account 364, used for "Poles, Towers, and Fixtures," "shall include the cost installed of poles, towers, and appurtenant fixtures used for supporting overhead distribution conductors and service wires." 18 CFR pt. 101, Electric Plant Accounts, 364 Poles, towers and fixtures. Account 373, used for "Street Lighting and Signal Systems," "shall include the cost installed of equipment used wholly for public street and highway lighting or traffic, fire alarm, police, and other signal systems." 18 CFR pt. 101, Electric Plant Accounts, 373 Street lighting and signal systems.

[347] *See* CCU Nov. 20, 2019 Reply at 3 ("[S]imply because the Uniform System of Accounts places streetlight-only poles in the broad category of 'distribution facilities' does not make them part of the electric distribution system covered by the Act.'"); Electric Utilities Nov. 20, 2019 Reply at 5 (asserting that there is some precedent suggesting that the organization of FERC accounting is not dispositive with respect to the classification of street light assets).

[348] *Southern Company*, 293 F.3d at 1343-44 (citation omitted).

[349] *See* Electric Utilities Oct. 29, 2019 Comments at 11 ("The Electric Utilities do not construct 'networks' of lighting support structures for the generic purpose of meeting any kind of service requirements within their designated service areas. Instead, the Electric Utilities construct street and outdoor area lights only where and when a specific customer makes a specific request. Lighting support structures thus lack the public purpose characteristic of local distribution poles."); POWER Coalition Oct. 29, 2019 Comments at 6 ("Utility-owned light poles simply are not local distribution facilities. They do not 'supply power to the customers' and they are not in any way a component of the facilities that are involved in supplying power to customers. Instead, they are distinct, special purpose facilities custom-provided to light an area."). *But see* CTIA Nov. 20, 2019 Reply at 28 ("Light poles serve an obvious public purpose when they illuminate a busy street or a private, secluded property and thereby enhance
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85. *Prior Commission Statements.* Some utilities have suggested that the Commission has already determined that light poles are distinct from utility poles for the purposes of section 224, citing a proceeding in which the Commission addressed exclusions from routine historic preservation review under the National Historic Preservation Act (NHPA).[350] In the *2014 Infrastructure Order*, the Commission considered the impact wireless deployments have on the environment and historic properties, and expanded the scope of existing structures excluded from routine historic preservation review to include "collocations on existing utility structures, including utility poles and electric transmission towers, to the extent they are not already excluded in the Collocation Agreement," subject to certain criteria and limitations.[351] The Commission defined "utility structures" for the purpose of the exclusion as "utility poles or electric transmission towers in active use by a 'utility' as defined in Section 224 of the Communications Act, but not including light poles, lamp posts, and other structures whose primary purpose is to provide public lighting."[352] The Commission explained that "[u]tility structures," as it was defining them for purposes of the NHPA exclusion, "are, by their nature, designed to hold a variety of electrical, communications, or other equipment, and they already hold such equipment. Their inherent characteristic thus incorporates the support of attachments, and their uses have continued to evolve with changes in technology since they were first used in the mid-19th century for distribution of telegraph services."[353]

86. Does the Commission's decision to define "utility structures" for the specific purpose of exclusions from routine historic reviews under the NHPA determine the scope of poles that may be regulated under section 224? What inference, if any, should we draw from the fact that the *2014 Infrastructure Order* expressly defined "utility" by reference to the definition of that term in section 224 of the Act,[354] but did not similarly expressly define "pole," "utility pole" or "utility structure" by reference to language in section 224? Was the Commission focused on drawing distinctions relevant to the regulatory context at issue—exclusion from historic preservation review under NHPA— that could be entirely unrelated to the interpretation of a "pole" under section 224 of the Act?[355] We note that the Commission's definition of "utility structures" includes "electric transmission towers," which are outside of the Commission's jurisdiction under section 224 pursuant to the Eleventh Circuit's holding in *Southern Company*. We also note that since the *2014 Infrastructure Order,* the Commission has stated that "light poles, traffic lights, utility poles, and other similar property" are suitable hosts for Small Wireless Facilities.[356] Nevertheless, we seek comment on whether the Commission's statements in the NHPA

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public safety.").

[350] *See* Electric Utilities Oct. 29, 2019 Comments at 10; CCU Nov. 20, 2019 Reply at 4-5; *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies et al*., WT Docket Nos. 13- 238 and 13-32, WC Docket No. 11-59, Report and Order, 29 FCC Rcd 12865 (2014) (*2014 Infrastructure Order*).

[351] *2014 Infrastructure* Order, 29 FCC Rcd at 12906-07, paras. 88, 90.

[352] *Id.* at 12907, para. 91.

[353] *Id.*

[354] *Id.*

[355] *See, e.g.*, *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies et al*., WT Docket Nos. 13- 238 and 13-32, WC Docket No. 11-59, Notice of Proposed Rulemaking, 28 FCC Rcd 14238, 14261, para. 61 & n.122 (2013) (seeking comment on how to define a "utility pole" for purposes of exclusions from historic preservation review, including whether to leave structures "such as street lamps" outside that definition because structures like street lamps "may be more likely to have historic value"); *see also 2014 Infrastructure Order*, 29 FCC Rcd at 12907, para. 91 (omitting from the definition of "utility structure" excluded from NHPA review "light poles, lamp posts, and other structures whose primary purpose is to provide public lighting").

[356] *Small Cell Order*, 33 FCC Rcd at 9112-13, para. 50. We recognize, as utilities suggest, that the Commission made this statement in the context of access to government-owned property in state and local rights-of-way under sections 253 and 332 of the 1996 Act. *See* CCU Light Pole Reply at 3-4. Nevertheless, the statutory basis for
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proceeding and other relevant proceedings are consistent or inconsistent with including light poles within a definition of poles regulated by section 224.

3. Applying the Commission's Rules to Light Poles and Other Implementation Matters

87. *Rule Application and Amendments*. We seek comment on whether the Commission's existing pole attachment rules can be applied to light poles if we conclude that they should be regulated under section 224 and whether there are any specific rules that would need to be amended to do so. If commenters contend that some of the Commission's rules cannot be applied to light poles, we ask that commenters identify the specific rules at issue, the reasons the rule cannot be applied as currently written, and any proposed amendments that would enable the rule to be applied to light poles.

88. In particular, we seek comment on how the rate formulas that the Commission has adopted to determine whether a pole attachment rate is just and reasonable would apply to light poles. For instance, when an attacher submits a complaint to the Commission that a particular rate is unjust or unreasonable, it is required to submit data and information supporting the complaint, including all information necessary to apply the rate formulas, and those "[d]ata should be derived from ARMIS, FERC 1, or other reports filed with state or federal regulatory agencies . . . ."[357] Two components of the Commission's recurring rate formulas[358] for attachments to poles by telecommunications carriers are the Net Cost of a Bare Pole[359] and the Carrying Charge Rate,[360] the product of which represents the annual expense incurred by the utility in owning and maintaining poles regardless of the presence of pole attachments.[361] Data used to calculate values for these two components include pole investment, the

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regulating access does not alter the Commission's general conclusion that the equipment is functionally suitable for wireless attachments.

[357] 47 CFR § 1.1404(e).

[358] Capital costs that the utility recovers up-front via non-recurring make-ready fees are excluded from the recurring pole attachment rates determined by these formulas. *See id.* § 1.1409(c).

[359] Net Cost of a Bare Pole = (Net Pole Investment/Total Number of Poles) x .95 (for ILEC-owned poles) or x .85 (for Electric Utility-Owned Poles). *See Amendment of Commission's Rules and Policies Governing Pole Attachments; Implementation of Section 703(e) of The Telecommunications Act of 1996*, CS Docket Nos. 97-98 and 97-151, Consolidated Partial Order on Reconsideration, 16 FCC Rcd 12103, 12176, Appx. E-2 (2001) (*Pole Attachment Rates, Terms, and Conditions Reconsideration Order*).

[360] Carrying Charge Rate = Administrative + Maintenance + Depreciation + Taxes + Return Elements, where:

> Administrative Element = Total General and Administrative Expense/Net Plant Investment;
> Maintenance Element = Pole Maintenance Expense/Net Pole Investment;
> Depreciation Element = (Gross Pole Investment/Net Pole Investment) x Depreciation Rate for Gross Pole Investment;
> Taxes Element = Tax Expense/Net Plant Investment;
> Return Element = State Authorized Rate of Return (or FCC Authorized Rate of Return if there is no State Authorized Rate of Return); and
> Net Investment = Gross Investment - Accumulated Depreciation - Accumulated Deferred Income Taxes with respect to a particular type of plant.

Pole Attachment Rates, Terms, and Conditions Reconsideration Order, 16 FCC Rcd at 12176, Appx. E-2.

[361] The maximum just and reasonable rate for attachments to poles by any telecommunications carrier or cable operator providing telecommunications services is the higher of the rates determined by using the formulas specified under sections 1.1406(d)(2)(i) and 1.1406 (d)(2)(ii) of the Commission's rules. 47 CFR § 1.1406(d)(2)(i)-(ii). Typically, the section 1.1406(d)(2)(i) formula yields the higher of these two rates. The two formulas, re-written for ease of understanding, are:

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number of utility-owned poles, total plant investment, pole maintenance expense, pole depreciation rate, accumulated depreciation, accumulated deferred income taxes, total general and administrative expense, tax expense, and the rate of return. An appurtenance factor (.85 for electric utility-owned poles) is used to remove estimates of crossarm and other non-pole investment from the pole investment account.[362]

89. Are all the cost and other data necessary to run the Commission's existing rate formulas available for light poles in FERC Form 1 or other reports filed with state or federal regulatory agencies? Utilities point out that FERC's Uniform System of Accounts establishes separate investment accounts for "Poles, Towers, and Fixtures" (Account 364) and "Street Lighting and Signal Systems" (Accounts 371 and 373).[363] Do the latter accounts contain equivalent data, such that the Commission could use these data to calculate rates for light pole attachments? Would the investment data reflected in these accounts have to be adjusted to remove investments other than investment that is strictly for light poles (e.g., lamp investment) or to remove signal system investments? Would the expense data reflected in these accounts have to be adjusted to remove expenses other than expenses that are incurred strictly to maintain light poles (e.g., labor expenses incurred to replace or clean lamps) or to remove signal system expenses? As for depreciation expense, is the deprecation rate needed to calculate the depreciation element reflected in the Carrying Charge Rate routinely stated on FERC Form 1 for light poles in particular? Do the Commission's rules mandate use of data from specific FERC accounts (e.g., Account 364) in its rate formulas, to the exclusion of data from accounts related to light poles (e.g., Account 373) or other accounts? Some utilities have argued that some light poles are not regulated, suggesting that there is no accounting data submitted for those poles to regulatory bodies that could be used in the Commission's rate formula[364] Is that accurate? If that is the case, what information could the Commission use in its pole attachment rate formulas to determine whether an attachment rate is just and reasonable? What other data issues may preclude use of the Commission's pole attachment rate formula to determine a rate for attachment to light poles?

90. A third component of the Commission's pole attachment rate formula is the Space Factor, which apportions the annual expense the utility incurs to provide space on a pole among all of the attachers including the utility. It requires estimates of the space occupied by an attachment, pole height, usable space, unusable space, and the average number of attachers on a pole.[365] The Commission's rules

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Section 1.1406(d)(2)(i) Telecom Rate = Space Factor x Net Cost of a Bare Pole x Carrying Charge Rate x Cost Allocator, where:

Space Factor = (Space Occupied + (2/3 x Unusable Space/No. of Attachers))/Pole Height

Cost Allocator =

.66 where there are 5 attachers;
.56 where there are 4 attachers;
.44 where there are 3 attachers;
.31 where there are 2 attachers; and
an interpolated percentage where the number of attachers is not a whole number.

Section 1.1406(d)(2)(ii) Telecom Rate = Space Factor x Net Cost of a Bare Pole x Maintenance and Administrative Carrying Charge Rate.

[362] The specific FERC Form 1 accounts used in the Commission's pole attachment rate formulas are set forth in the *Pole Attachment Rates, Terms, and Conditions Reconsideration Order*, 16 FCC Rcd at 12176, Appx. E-2.

[363] *See* Electric Utilities Oct. 29, 2019 Comments at 12; CCU Oct. 29, 2019 Comments at 10-11; POWER Coalition Oct. 29, 2019 Comments at 10-11; Xcel Energy Oct. 29, 2019 Comments at 5 n.6.

[364] *See* Electric Utilities Oct. 29, 2019 Comments at 12.

[365] 47 CFR § 1.1406(d)(2). The fourth and final component of the Commission's Telecom Rate formula in section 1.1406(d)(2)(i) of the Commission's rules, the cost allocator, reduces the rate that would otherwise be calculated as the number of attachers decreases. *Id.* § 1.1406(d)(2)(i). It operates to equate the rate obtained for attachments by (continued….)

contain rebuttable presumptions that "the space occupied by an attachment is presumed to be one foot. The amount of usable space is presumed to be 13.5 feet. The amount of unusable space is presumed to be 24 feet. The pole height is presumed to be 37.5 feet."[366] We are not convinced that these presumptions could reasonably be applied to light poles.[367] A 37.5-foot local distribution pole, for example, would have a buried depth of approximately six feet, reducing its otherwise usable space by an equal number of feet.[368] In contrast, some light poles are bolted into a concrete footing at or above ground level,[369] so otherwise usable space on these poles is not lost underground. Moreover, local distribution poles historically were built to accommodate attachments by incumbent local exchange carriers and electric utilities, and more recently cable operators, and thus the Commission's rebuttable presumptions were designed to reflect the specific pole height and usable space requirements of these particular attachers, rather than light poles.[370] If these presumptions do not apply, would the Commission need to adopt new presumptions specific to light poles, or would attachers and utilities seek to rebut the existing presumptions each time a rate complaint is filed? Do commenters believe that the Commission's existing pole attachment rate formulas and FERC Form 1 or data filed with other regulatory bodies are sufficient to determine whether attachments to light poles are just and reasonable, or would the Commission need to revise its rate formulas or specify use of a different set of FERC Form 1 or other reported investment and expense accounts to make that determination?[371] The Commission's rate formulas (other than the specific FERC Form 1 accounts and rebuttable presumptions) reflect the specific requirements of the section 224.[372] What discretion does the Commission have to revise these rate formulas to better apply to attachments to light poles?

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telecommunications carriers using the Commission's formula under section 1.1406(d)(2)(i) to the rate for attachments to poles by cable operators providing cable services using the Commission's formula for such attachments under section 1.1406(d)(1) of the Commission's rules, 47 CFR § 1.1406(d)(1), given use of the Commission's rebuttable assumptions in both formulas.

[366] *Id.*§ 1.1410.

[367] POWER Coalition Oct. 29, 2019 Comments at 11 ("[L]ight poles come in all different shapes, sizes, and materials. The unique and varying dimensions and characteristics of light poles would render meaningless each of the Commission's rebuttable presumptions, and complicate the current rate methodology.'").

[368] *Amendment of Rules and Policies Governing Pole Attachments*, CS Docket No. 97-98, Report and Order, 15 FCC Rcd 6453, 6465, 6468-6469, paras. 16, 22-23 (2000) (*Fee Order*); *Pole Attachment Rates, Terms, and Conditions Reconsideration Order*, 16 FCC Rcd at 12129-31, paras. 47-52.

[369] *See, e.g.*, LED Light Expert, *Light Poles: Direct Burial vs. Surface Mount Review*, https://www.ledlightexpert.com/Light-Poles-Direct-Burial-vs-Surface-Mount-Review-_b_148.html?srsltid=AfmBOor3gLyCc5CLZB2aYinZfVtqlfYQ2uwusLvYFZTNzGDxmAndsio7 (last visited July 24, 2025); Lyte Poles, *Anchor-Based vs. Embedded: What's the Difference?*, https://lytepoles.com/blog/anchor-based-vs-embedded-whats-the-difference/ (last visited July 24, 2025); LightMart, *Light Pole Buying Guide*, https://www.lightmart.com/blog/light-pole-buying-guide/?srsltid=AfmBOor4v4zFX19-9TQpmD5ZzLwk2C3C1y2tsDGIV-wJn7jEQOuMXNiP (last visited July 24, 2025).

[370] *See, e.g.*, *Fee Order*, 15 FCC Rcd at 6464-72, para. 16-30; *Pole Attachment Rates, Terms, and Conditions Reconsideration Order*, 16 FCC Rcd at 12128-46, paras. 46-85; *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, WC Docket No. 07- 245, GN Docket No. 09-51, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240, 5334-5335, para. 66 nn. 651-52, 654 (2011), *aff'd sub. nom. Am. Elec. Power Serv. Corp. v. FCC*, 708 F.3d 183 (D.C. Cir. 2013).

[371] *See* AT&T Nov. 20, 2019 Reply at 23 ("[U]tilities can apply the existing rates to light pole attachments. Pole attachment rates have always been based on averages – they are not priced differently on a pole-by-pole basis – and the existing rates, even to the extent they do not specifically incorporate light pole costs, can be reasonably applied to light pole attachments.").

[372] 47 U.S.C. § 224(d) ("[A] rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole
(continued….)

91. Are there any other rules that the Commission would need to amend to regulate light poles under section 224? Would we need to examine whether our rules establishing deadlines for pole attachment surveys, estimates, and make-ready are appropriate as-applied to light poles?[373] Are there provisions of the Commission's pole attachment rules that have no relevance to light poles or that would unduly hamper attachments to light poles?

92. *Light Pole Replacements*. As stated above, the record developed in response to the CTIA Petition indicates that attachers are obtaining at least some access to light poles through private agreements with utilities.[374] The record also indicates, however, that many light poles need to be replaced to accommodate telecommunications attachments.[375] Section 224(f)(2) authorizes utilities to deny access to poles on a nondiscriminatory basis "where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes."[376] In *Southern Company*, the Eleventh Circuit ruled that, pursuant to section 224(f)(2), utilities are not required to expand capacity on their poles to accommodate new attachments,[377] rejecting the Commission's prior determination that section 224(f)(1) may require utilities to replace poles to provide nondiscriminatory access to them.[378] Utilities have suggested that if the Commission were to determine that light poles are "poles" within the meaning of section 224, and that utilities must provide nondiscriminatory access to light poles under section 224(f)(1), utilities will no longer be incentivized to work with attachers to replace light poles to accommodate their attachments and will simply deny access under section 224(f)(2).[379] Are attachers

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attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.").

[373] *See, e.g.*, CCU Oct. 29, 2019 Comments at 20 (stating that the Commission's existing make-ready timelines would not work for attachments to light poles).

[374] Utility Associations Oct. 29, 2019 Comments at 11 ("[A] number of utilities actively are marketing and providing access to appropriate light poles for small cells by wireless communications service providers."); Crown Castle Oct. 29, 2019 Comments at 39 (acknowledging that "some utilities make their light poles available for wireline and wireless attachments"); POWER Coalition Nov. 20, 2019 Reply at 3 ("A number of utility companies already voluntarily provide access to 'light poles' that they own or control, and do so on reasonable terms and conditions.").

[375] CCU Oct. 29, 2019 Comments at 12 (stating that because "[s]treetlight-only poles are designed and engineered for the use they were installed to accommodate, which is to support a lighting fixture that illuminates a certain area" and "is not designed for the additional load associated with a wireless antenna and its associated equipment, accommodating the attachment of such facilities would require replacement of the pole and potentially the pole's foundation to support the wireless facilities."); Electric Utilities Oct. 29, 2019 Comments at 12 ("[T]he vast majority of lighting support structures will require complete replacement in order to accommodate small cell and other wireless antenna installations because those structures are not of sufficient strength to accommodate wireless antenna equipment."); Xcel Energy Oct. 29, 2019 Comments at 6 ("[T]he vast majority of street light poles in Xcel Energy's service area do not have the structural capacity or capability to support wireless communications facilities. This means that in order to accommodate wireless colocation, the entire street light pole must be replaced with a new street light pole with expanded capacity.").

[376] 47 U.S.C. § 224(f)(2).

[377] *Southern Company*, 293 F.3d at 1347 ("When it is agreed that capacity is insufficient, there is no obligation to provide third parties with access to that particular 'pole, duct, conduit, or right-of-way'") (quoting 47 CFR § 224(f)), 1352 ("[T]he FCC lacks the authority to order utilities to expand the capacity of their infrastructure to accommodate third-party attachers in situations where it is agreed that existing capacity is insufficient.").

[378] *Local Competition Reconsideration Order*, 14 FCC Rcd 18049, para. 52-53 (stating that "a utility that denies access to, for example, a 40 foot pole due to lack of capacity should be able to demonstrate why there is no capacity and enumerate the specific reasons for declining to replace the pole with a 45 foot pole . . ."); *Southern Company*, 293 F.3d at 1347 ("The FCC's attempt to mandate capacity expansion is outside of the purview of its authority under the plain language of the statute.").

[379] CCU Oct. 29, 2019 Comments at 17 ("Since accommodating wireless attachments on streetlight-only poles
(continued….)

concerned that including light poles within the definition of "pole" for the purposes of section 224 would actually result in fewer attachments to light poles than are currently completed pursuant to private agreements, due to refusals by utilities to replace poles to create capacity for their attachments?[380] How many light poles need to be replaced to accommodate communications attachments? Why are the pole replacements necessary?[381] Are there particular types of light poles that need to be replaced and others that do not? What are the categories of costs of replacing a light pole to be able to host communications attachments (e.g., construction, materials)? Are those costs significantly different than those incurred when replacing a local distribution pole? Do utilities contend that a fair allocation of the costs would not be possible under the Commission's rules if light poles were regulated under section 224? Is there something the Commission can do to keep any need to replace light poles to accommodate communications attachments from being an impediment to nondiscriminatory access under section 224(f)(1)?

93. *Reverse Preemption*. Twenty-three states and the District of Columbia have certified that they regulate pole attachments and have complied with associated requirements to reverse preempt the Commission's jurisdiction under section 224(c) of the 1996 Act.[382] We seek comment on how defining the term "pole" to include light poles would impact the regulation of pole attachments by those states. Would any definition codified by the Commission apply to states that have reverse preempted the Commission's jurisdiction? Do the pole attachment rules and regulations adopted by such states encompass attachments to light poles?[383]

94. What if the reverse preemption states assert that they do not regulate attachments to light poles and that they decline to do so? Could jurisdiction over such attachments revert back to the

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almost always requires a pole replacement, utilities likely will decide not to replace such poles at all rather than become subjected to burdensome regulations with little compensation"); POWER Coalition Oct. 29, 2019 Comments at 12 ("The FCC's intervention in these efforts, and its regulation in a functioning market would serve first to upset successful negotiated arrangements. After that, it would serve to dis-incentivize electric utilities from accommodating wireless attachments by working to include them on existing light poles."); Electric Utilities Oct. 29, 2019 Comments at 13-14 ("To put it more bluntly, if the Commission regulates lighting support structure collocation anywhere near the way it currently regulates distribution pole attachments, the collocation [depicted in an example of Duke Energy converting a decorative streetlight into a miniature cell tower] will become extinct.").

[380] *See* POWER Coalition Oct. 29, 2019 Comments at 13 (suggesting that the Commission's intervention "would harm wireless attachers by encouraging increased barriers to deployment"). *But see* CTIA Nov. 20, 2019 Reply at 32 ("[R]equiring access will not halt light pole attachments, since for those who are already providing access, it will merely validate them, and for those who are not, it will require them.").

[381] For instance, CCU has asserted that street lights must be replaced "because they were not designed or installed to provide access for fiber, to mount equipment, to conceal equipment, to disconnect power, or to provide necessary National Electrical Safety Code [] clearances, all of which wireless attachments require," and that "most streetlight-only poles do not have separate raceways in which to run communications fiber separate from electrical power, as required by NESC." CCU Oct. 29, 2019 Comments at 13; *see also* Xcel Energy Oct. 29, 2019 Comments at 7 ("The replacement of a street light pole with a pole that is robust enough to accommodate wireless colocation also requires the installation of a new foundation capable of supporting the greater weight on the site, as well as providing the necessary protection from 'knock-down' or other damage.").

[382] 47 U.S.C. § 224(c)(1)-(3) (stating "[n]othing in this section shall be construed to apply to, or give the Commission jurisdiction with respect to rates, terms, and conditions, or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f), for pole attachments in any case where such matters are regulated by a State" and setting forth requirements for states to reverse-preempt the Commission's jurisdiction over pole attachments); *Reverse-Preemption Certification Public Notice*, 37 FCC Rcd 6724.

[383] *See* 47 U.S.C. § 224(c)(1) (requiring states reverse preempting the Commission's jurisdiction to certify that they regulate the rates, terms, and conditions of pole attachments); 47 U.S.C. § 224(c)(3)(A) (stating that a state "shall not be considered to regulate the rates, terms, and conditions for pole attachments . . . unless the State has issued and made effective rules and regulations implementing the State's regulatory authority over pole attachments").

Commission? If so, what would the process for implementing that be? Should the Commission require all states that have reverse preempted the Commission's jurisdiction to date to refile the certifications required under section 224(c) to specify the pole attachment matters over which they assert jurisdiction, including with respect to light poles? Should the Commission amend its rules implementing section 224(c) to require states seeking to reverse preempt the Commission's jurisdiction in the future to specify such details? What impact would bifurcating a state's pole attachment jurisdiction have on pole attachment regulation in the states and at the federal level, generally and/or specifically with respect to attachments to light poles? Could a state that has reverse preempted the Commission's jurisdiction over pole attachments determine that light poles are not "poles" under section 224 and should not be regulated within its borders, irrespective of any determination by the Commission?

95. *Safety and Reliability*. Utilities and other commenters have contended that mandating access to light poles implicates safety and reliability concerns that are not at issue with standard local distribution poles.[384] Attachers have pointed out that section 224(f)(2) authorizes utilities providing electric service to deny attachments "for reasons of safety, reliability and generally applicable engineering purposes,"[385] and have argued that such concerns should not serve as an impediment to a threshold determination that nondiscriminatory access to light poles must be provided pursuant to section 224(f)(1).[386] What are the specific light pole attachment issues that utilities claim present safety and reliability concerns and why are they more significant than in the context of an electric utility's local distribution pole? Is it equipment associated with Small Wireless Facilities? If the issue is the need to run additional power to the pole for the Small Wireless Facilities,[387] are the safety concerns mitigated if the utility that owns or controls the pole is the electric utility that will either be handling that work or has expertise in that work? We ask about the types of utilities that own or control light poles above. Are there utilities that own or control light poles that do not provide electric service and would not be able to deny access under section 224(f)(2)?

96. *Types of Attachments.* Section 224(a)(4) defines a pole attachment, in pertinent part, as "any attachment by a cable television system or provider of telecommunications service to a pole . . . owned or controlled by a utility."[388] If the Commission were to codify a definition of the term "pole" that includes light poles, would that mean that utilities would have a legal obligation to provide nondiscriminatory access to the light poles that they own and control for any cable or telecommunications service attachments, and not just for Small Wireless Facilities? Would wireline attachers seek access to

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[384] *See* Utility Associations Oct. 29, 2019 Comments at 8 (stating that "dedicated light poles are . . . not the equivalent of electric distribution poles in terms of size, strength, or capacity" and "the reality is that pole access would in many, if not all cases, be denied under 47 U.S.C. § 224(f)(2), for reasons of safety, engineering, and insufficient capacity"); *see also* NATOA Oct. 29, 2019 Comments at 14 ("[T]he issues related to placing wireless facilities and providing electricity to these sites are complex and create safety hazards for workers and the public that are different from attachments to standard utility poles.").

[385] 47 U.S.C. § 224(f)(2).

[386] *See* AT&T Nov. 20, 2019 Reply at 22 ("To the extent there are valid reasons for not permitting access to a particular light pole, Section 224(f)(2) and its implementing rules permit the utility to deny access on those grounds.").

[387] CCU Oct. 29, 2019 Comments at 14 (stating that "[s]treet lights are powered by streetlight-only electric circuits that have minimal electric capacity and limited capabilities for metering . . . [i]n order to provide sufficient power to operate new antenna or other equipment, utilities often need to run a larger secondary conductor to the pole."); Xcel Energy Oct. 29, 2019 Comments at 7 ("Dedicated street light poles are generally fed by underground electric lines, and the existing feeder to the street light pole is generally rated to carry only the level of power necessary for the street light. Colocating a small cell or other wireless equipment on a street light pole therefore also requires the installation of a new power run to the nearest available transformer, which – depending on the specific site – could potentially require excavation or even the installation of another transformer.").

[388] 47 U.S.C. § 224(a)(4).

light poles for attachments? Would utilities uniformly deny such access under section 224(f)(2), or is there a way for wireline attachments to be accommodated on light poles? Does the Commission have the authority to condition any definition of the term "pole" that it adopts so that access is limited to Small Wireless Facilities if the pole in question is a light pole?

97. *State and Local Regulation*. Localities have argued that requiring utilities to provide nondiscriminatory access to light poles at rates, terms, and conditions that are just and reasonable pursuant to section 224 would interfere with local requirements applicable to light poles, agreements that they have entered for the installation of light poles, and the management of their rights of way.[389] We seek comment on the specific local requirements, agreements, and right-of-way management concerns that would be impacted by regulating light poles under section 224 and why those concerns are unique to light poles.[390] Stated differently, how and why would regulating utility owned or controlled light poles under section 224 impinge on local requirements, agreements, and rights-of-way management in a way that is different than the current regulation of local distribution poles under section 224?[391] Is it because localities may contract with utilities for the installation of light poles and have ownership or control rights under those agreements?[392] If so, could any concerns that localities have about access to utility owned or controlled light poles be addressed in an access agreement? The record indicates that attachers are currently obtaining some access to light poles under private agreements.[393] How are the concerns of

[389] *See* City of Frederick Oct. 29, 2019 Comments (stating that "[l]ight poles owned by utilities and placed in municipal right-of-way are subject to municipal regulations governing the use of the right-of-way as well as agreements between the municipality and the utility[,]" "mandatory access to light poles on terms and conditions dictated by the federal government unravels carefully crafted work done at the local level with the agreement of both utilities and municipalities[,]" and that "[w]e see this as further erosion of local authority to govern an area in which local governments and utilities have operated on a mutually beneficial basis for many years"); *accord* Chevy Chase Village Oct. 29, 2019 Comments at 2; *see also* National League of Cities et al. Oct. 29, 2019 Comments at 7-8 ("[T]o simply open up light poles owned by utilities for attachment under Section 224 . . . directly implicates local rights including contractual rights, the financial interests of the locality, and its interest in designing and providing street lighting. In many instances, a locality may stop service to a particular pole at any time, and have that pole removed, pursuant to the provisions of street lighting tariffs applicable to electric utilities.").

[390] *See* POWER Coalition Oct. 29, 2019 Comments at 8 ("[I]n certain states, electric utilities provide light poles to customers pursuant to state commission-approved tariffs. Florida is such a state . . . use of the light pole, access to it, and any modification of it are governed by the [Florida Public Service Commission]-approved agreements between [Florida Power & Light Company] or Gulf Power and their customers. Those agreements do not contemplate attachment of wireless antennas to light poles. The FCC could not mandate access to such light poles, nor regulate the rates, terms, and conditions of access, without intervening in a state-sanctioned contract between an electric utility and its customer.'").

[391] *See* CTIA Nov. 20, 2019 Reply at 33 ("All CTIA seeks is a determination that Section 224 encompasses utilities' light poles. It asks for changes neither to the rules that were established to protect the interests of pole owners and other attachers, including localities, nor to the rules or standards governing safety-relating obligations.").

[392] We note that government owned property in public rights-of-way, "such as light poles," are subject to sections 253 and 332(c)(7) of the Communications Act. 47 U.S.C. §§ 253, 332(c)(7); *Small Cell Order*, 33 FCC Rcd at 9113, para. 50 (concluding that right-of-way access fees, and fees for use of government property in rights-of-way "such as light poles" violate sections 253 and 332(c)(7) of the Communications Act "unless these conditions are met: (1) the fees are a reasonable approximation of the state or local government's costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations"). Pursuant to those statutes, state and local governments may not impose legal requirements that unlawfully prohibit or have the effect of prohibiting the provision of telecommunications or personal wireless services. 47 U.S.C. § 253(a) ("No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."); *Id.* § 332(c)(7)(B)(i)(II) ("The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services.").

localities currently being addressed when such agreements are reached, and why could the concerns not be similarly addressed in the future if nondiscriminatory access were mandated under section 224(f)(1)?

4. Additional Legal and Policy Considerations

98. *Current Efforts to Obtain Access to Light Poles for Deployments*. In general, Small Wireless Facilities have a range of 1,000 to 1,500 feet. As a result, 5G networks rely on a dense distribution of antennas making point-to-point-to-point connections. Attachers have claimed that utilities commonly deny access to light poles or charge high fees for attachments in a manner that is impeding deployments.[394] Promoting deployment of infrastructure that supports broadband and 5G is a priority for the Commission,[395] so we seek specific data about these denials of access and the impact they are having on competition and connectivity. Specifically, we seek comment on the need to mandate nondiscriminatory access to light poles to expedite and expand the deployment of 5G technology and enable the densification necessary to meet capacity, coverage, and performance needs.[396] How frequently are attachers being denied access to poles altogether? Has that resulted in certain deployments being derailed entirely? Have attachers been required to develop alternate plans to complete build outs due to denials of access? How have denials of access to light poles affected the ability of attachers to compete in certain areas? Is there evidence that denials have resulted in coverage gaps, dropped calls, data overloads, or otherwise resulted in poor service? What is the impact of light pole access denials on the cost and pace of deployment projects? What are the common reasons that utilities give for denying a request to attach to a light pole? Where a utility denies access to a light pole in a right of way, what alternative means of establishing adequate network coverage are available to service providers and what are the cost and deployment timeline differences when service providers pursue these alternatives to light pole attachments?

99. We ask that attachers provide specific examples of these impacts, including identifying the types of light poles involved, the utilities that own them, the geographic areas where access to lights poles is being denied or delayed, and other details that will help the Commission assess the consequences of the denials and delays.[397] For example, AT&T has reported that "three electric utilities operating in Texas refuse to allow AT&T access to light poles."[398] AT&T has explained that it received assistance from one Texas city that required the utility to remove its light poles so that AT&T could install its own similar pole at its own expense, but even then, there were delays resulting in increased deployment costs.[399] Verizon has stated that it has "encountered a utility in Massachusetts that refuses access to any of its metal light poles and a utility in Wisconsin that does not allow attachments to any of its light poles."[400] Who are the specific utilities that denied access in these examples and what were their stated

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[393] *See supra* notes 343, 381.

[394] *See* CTIA Petition at 22; AT&T Oct. 29, 2019 Comments at 22; T-Mobile Oct. 29, 2019 Comments at 22-23; Verizon Oct. 29, 2019 Comments at 4-5.

[395] *See* T-Mobile Oct. 29, 2019 Comments at 23 ("By declaring that the term 'pole' in Section 224 includes light poles, the Commission will advance Section 224's pro-competition goals and the Commission's efforts to promote the deployment of wireless infrastructure to support broadband and 5G.").

[396] *See* ExteNet Oct. 29, 2019 Comments at 6 ("Reading 'pole' as including light poles will . . . ensure that the Commission's implementation of Section 224 remains current with industry developments and the state of technology in wireless broadband. This is especially so with respect to wireless broadband deployments that rely on millimeter wave ('mmWave') spectrum which, due to the spectrum's limited propagation characteristics, require ubiquitous small cells placed relatively close together.").

[397] We remind commenters that they may request confidential treatment of information submitted to the Commission consistent with section 0.459 of the Commission's rules. 47 CFR § 0.459.

[398] AT&T Oct. 29, 2019 Comments at 22.

[399] *Id.* at 22 n.70.

grounds upon which they denied access? What other concrete examples are there of attachers being denied access, and how long does it take attachers to receive responses to their requests?

100. We also seek comment on how frequently utilities approve access to light poles and the terms under which those approvals are granted. In particular, we seek specific data on the fees that utilities charge for access to light poles and how those fees compare to attachments on other facilities, such as local distribution poles.[401] How are the fees calculated? Are they based on costs, and if so, which costs? How are the fees charged (e.g., annually, biannually) and what is the term of the agreements under which they are charged? Are the fees significantly higher than those charged for attachments to standard local distribution poles? If so, what impact does that have on the attacher's ability to compete and finance future deployments? What else should the Commission consider when weighing the impact that regulating light poles under section 224 will have on expediting broadband and 5G deployments?

101. *Additional Costs and Benefits*. We seek comment on the costs and benefits of defining the term "pole" for the purposes of section 224 generally and specifically to include light poles. Would it result in additional administrative, operational, or capital costs for attachers, utilities, and states that have reverse preempted the Commission's jurisdiction over pole attachments? Are there other burdens stakeholders would need to assume to comply with a definition of "pole" that includes light poles? How do these costs, benefits, or burdens impact businesses of various sizes? What would the benefits of codifying such a definition be? Is there a way to quantify the extent to which deployments of broadband and 5G would be expedited if the Commission were to require nondiscriminatory access to light poles? Do attachers have data on the additional consumers that would be served and service offerings that may be made newly available in certain areas of the country? Would there be national security and other public safety benefits? We ask that commenters address, as specifically as possible, the full range of costs and benefits of determining that light poles are "poles" for the purposes of section 224.

102. *Legal Authority*. We tentatively conclude that the Commission has authority to codify a definition of the term "pole" and to determine whether the term includes light poles. The Commission has previously codified definitions for statutory terms in section 224, including "conduit" and "duct,"[402] consistent with Congress's directive in section 224 that the Commission "prescribe by rule regulations to carry out the provisions of this section."[403] The Commission has also adopted rules to implement Congress's explicit delegation of authority to "regulate the rates, terms, and conditions for pole attachments," as well as to develop procedures necessary for resolving complaints arising under the Commission's substantive regulations, and to fashion appropriate remedies.[404] It has also adopted rules to implement the nondiscriminatory access provisions mandated by Congress in section 224(f).[405] We believe that codifying a definition of the term "pole" generally and to include light poles would be a proper exercise of the same jurisdiction underpinning the adoption of those rules and seek comment on that view.

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[400] Verizon Oct. 29, 2019 Comments at 5.

[401] *See id.* ("[A] midwestern utility requires an annual fee of $500 per light-pole attachment, while utilities in California have sought $1,500 or even as much as $6,000 per light-pole attachment.").

[402] 47 CFR § 1.1402(i), (k).

[403] 47 U.S.C. § 224(b)(2).

[404] *Id.* § 224(b)(1); *see also* 47 CFR §§ 1.1404-1.1414, 1.1416. The Commission has also established the Rapid Broadband Assessment Team to prioritize and expedite the resolution of pole attachment disputes that are alleged to impede or delay broadband deployments. *Id.* § 1.1415.

[405] *Id.* § 1.1403.

G. Miscellaneous Issues

103. We seek comment more generally on any other causes for delay or other issues that commenters believe will help facilitate deployments. And we also seek comment on the extent to which application fees and related costs that utilities impose upon prospective attachers before an application is even accepted for filing may impact deployments by smaller providers.[406] To what extent do the fees that utilities charge to file applications and the utilities' various pre-filing engineering requirements inhibit broadband deployment? Are there specific examples where these costs have prevented or delayed deployment? What, if any, actions might the Commission take to address utility-imposed fees or engineering requirements before the make-ready stage that inhibit broadband deployment?

V. ORDER ON RECONSIDERATION (EEI)

104. In this Order, we deny in part and grant in part EEI's Petition for Clarification and/or Reconsideration of the Commission's December 2023 *Wireline Infrastructure Declaratory Ruling*. EEI seeks clarification and/or reconsideration of certain actions taken by the Commission in that *Declaratory Ruling*, specifically (1) removal or clarification of the decision that a pole replacement is not "necessitated solely" by an attachment request if "a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole,"[407] and (2) clarification to "clearly define the narrow circumstances in which a utility pole owner is required to provide a copy of its easement to an attacher that seeks to access a pole within such easement."[408] The Commission invited oppositions and replies to EEI's Petition by February 23, 2024,[409] and it received five filings in support of the Petition[410] and seven oppositions.[411]

105. For the reasons set forth below, we deny in part and grant in part EEI's Petition, specifically (1) denying EEI's request that we remove or clarify the determination that a pole replacement is not "necessitated solely" by an attachment request if a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole (the internal construction standards determination) and the associated example of the internal construction standards determination; (2) granting clarification of the internal construction standards determination (and its associated example) to make clear that while utilities retain autonomy to refuse an attacher's request to replace an existing pole due to lack of capacity, a pole replacement is not "necessitated solely" by a new attachment request when it is necessitated (in part) by the utility's decision to adopt a new construction standard for the pole, even when the pole lacks capacity because of the new standard; and (3) denying reconsideration of the

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[406] *See* ACA Connects July 17, 2025 *Ex Parte* Letter at 2 (stating that "one frequently overlooked issue in the pole attachment process is the imposition of application fees and related costs—such as pole inspection charges—by utilities before an application is even formally accepted for filing"); Letter from Paul Beaudry, Vice Pres., Regulatory and Corporate Affairs, Cogeco Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84 (filed July 16, 2025).

[407] EEI Petition at 1; *Declaratory Ruling*, 38 FCC Rcd at 12406, para. 46 and n.172.

[408] EEI Petition at 1; *Declaratory Ruling*, 38 FCC Rcd at 12409, para. 49.

[409] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Public Notice, 89 FR 5439 (Jan. 29, 2024); *see also Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Public Notice, 89 FR 9105 (Feb. 9, 2024) (correcting the deadline for submitting replies to opposition from Feb. 8, 2024 to Feb. 23, 2024).

[410] *See* Letter from Matt Shellenberger, Engineer Staff, American Electric Power Serv. Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84 (filed Feb. 23, 2024) (AEP Feb. 23, 2024 *Ex Parte* Letter); CCU Feb. 13, 2024 Comments; UTC Feb. 14, 2024 Comments; Xcel Energy Feb. 13, 2024 Comments; Xcel Energy Feb. 23, 2024 Reply; EEI Feb. 23, 2024 Reply.

[411] ACA Connects Feb. 13, 2024 Opposition; Altice Feb. 13, 2024 Opposition; Crown Castle Feb. 13, 2024 Opposition; INCOMPAS Feb. 14, 2024 Opposition; NCTA Feb. 13, 2024 Opposition; Schools, Health & Libraries Broadband (SHLB) Coalition Feb. 14, 2024 Opposition; WIA Feb. 13, 2024 Opposition.

circumstances when a utility is required to provide a copy of its easement to an attacher, but granting clarification that the utility only has to provide a copy of the easement to the attacher when the utility relies on its interpretation of the easement to deny the attacher access to that easement.

A. The "Necessitated Solely" Clarification was Properly Included in the *Declaratory Ruling*

106. The Commission has, both in the *Declaratory Ruling* and elsewhere, provided examples of when a pole replacement is and is not "necessitated solely" by a new attachment request for purposes of section 1.1408(b) of our rules, which governs the allocation and causation of costs for a new attachment.[412] Under section 1.1408(b), a party with a preexisting attachment to a pole is not required to bear any of the costs of rearranging or replacing its attachment if such rearrangement or replacement "is necessitated solely as a result of an additional attachment or the modification of an existing attachment sought by another party."[413] EEI argues that the Commission should "remove its clarification that make-ready pole replacements that have been grandfathered under utility standards are not 'necessitated solely' by the new attachment," asserting that this clarification: (1) was "not the product of reasoned decision-making;" (2) does not promote broadband development; and (3) is confusing and inappropriate.[414] We deny EEI's reconsideration request because EEI's arguments were considered and rejected by the Commission in the underlying proceeding, and EEI's Petition does not raise any points warranting reconsideration.[415] We also deny EEI's alternative request for the Commission to clarify that a utility's replacement of a grandfathered pole to create capacity for a new attachment is "necessitated solely" by the attacher.[416] That said, we take this opportunity to clarify further the contours and basis of the Commission's internal construction standards determination, especially the role of capacity (or the lack thereof) on that determination.

107. Because of ongoing disputes regarding an attacher's responsibility for causing a pole replacement when a pole already requires replacement at the time a request is made for a new or modified attachment, the Commission found it appropriate to provide "additional examples of situations where, under section 1.1408(b) of the Commission's rules, a pole replacement is not 'necessitated solely' by a new attachment or modification request."[417] In each of the examples provided in the *Declaratory Ruling*, other precipitating factors contribute to the need for a pole replacement aside from the new attachment request.[418] By offering these examples, the Commission aimed to clarify instances where the cause of a pole replacement should not be solely attributed to the new attacher.

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[412] *Declaratory Ruling*, 38 FCC Rcd at 12406, para. 46*; 2021 Pole Replacement Declaratory Ruling*, 36 FCC Rcd at 780, para. 8; 47 CFR § 1.1408(b).

[413] 47 CFR § 1.1408(b).

[414] EEI Petition at 14-21.

[415] *See Declaratory Ruling*, 38 FCC Rcd at 12405-08, paras. 45-48.

[416] EEI Petition at 15. According to EEI, a "grandfathered" pole is one "that is deemed 'compliant' under applicable laws and codes, and by definition does not require replacement." *Id.*

[417] *See Declaratory Ruling*, 38 FCC Rcd at 12405-06, paras. 45-46 ("To help utilities and attachers better understand when, under our cost-causation principles, a pole replacement is not 'necessitated solely' by an attachment request, we provide the following additional examples: at the time an attachment request is made, (1) a pole replacement is required pursuant to applicable law; (2) the current pole fails applicable engineering standards, such as those contained in the NESC; (3) a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole; (4) the pole is required to be replaced due to road expansion or moves, property development, in connection with storm hardening, or similar government-imposed requirements; or (5) the current pole already is on the utility's internal replacement schedule, regardless of when the replacement is scheduled to take place." (footnotes omitted)).

[418] *See id.* at 12406-07, para. 46.

108. In its Petition, EEI takes issue with one of the Commission's examples. Specifically, the Commission noted Crown Castle's argument that "a pole replacement is not 'necessitated solely' by a new attacher . . . where a pole replacement is required due to a utility changing its construction standard after the pole is constructed."[419] This example was consistent with some commenter proposals and current practices of some commenters in the record.[420] In deciding that a pole replacement is not "necessitated solely" by an attachment request if "a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole," the Commission added the following "grandfathered pole" example: "if a utility has 'grandfathered' a pole from compliance with its updated construction standards, a pole replacement to bring that pole into compliance with those updated standards would not be 'necessitated solely' by an attacher's request to attach to that pole."[421]

109. EEI asks that we completely strike from the *Declaratory Ruling* both the internal construction standards determination and its associated example.[422] Alternatively, EEI requests that we revise the *Declaratory Ruling* to clarify that a pole replacement is not "necessitated solely" by an attachment request when, at the time the attachment request is made, "[a] pole replacement is required as the result of a utility's previous or contemporaneous change to its internal construction standards, such that the utility would be required to replace the pole even if no new attachment were made."[423] EEI also alternatively asks that we revise the grandfathered pole example in the *Declaratory Ruling* to state: "For clarity, if a utility has 'grandfathered' a pole from compliance with its updated construction standards in accordance with applicable laws or codes, such pole is not deemed to require replacement for purposes of this *Declaratory Ruling*, and a pole replacement performed to create capacity for a new attachment that incidentally brings such pole into compliance with those updated standards would not be 'necessitated solely' by an attacher's request to attach to that pole."[424]

110. We deny EEI's requests. Specifically, we find that the reconsideration and clarifications sought by EEI go beyond[425] our simple premise in including the internal constructions standard determination; namely, a pole replacement is not "necessitated solely" by a new attacher where a pole replacement is required due to a utility changing its construction standard after the pole is constructed.[426]

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[419] *Id.* at 12406 n.172; Letter from D. Van Fleet Bloys, Managing Counsel, Crown Castle, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Dec. 5, 2023) (Crown Castle Dec. 5, 2023 *Ex Parte* Letter).

[420] *See id.* at 12406-07, para. 46 & nn.170-74; INCOMPAS June 27, 2022 Comments at 9-11 (providing an example of the frustrations of an attacher being required to pay the full cost of pole replacement to bring a grandfathered pole into compliance).

[421] *Id.* at 12406, para. 46 & n.172.

[422] EEI Petition at 14.

[423] *Id.* at 15, Appx. A (emphasis deleted).

[424] *Id.*

[425] EEI and utilities such as CCU argue that "simply because a new construction standard must apply to a pole whenever in the future it might be replaced does not mean that the pole needs to be replaced at the time the attacher requests access to the pole." CCU Feb. 13, 2024 Opposition at 12-13; EEI Petition at 16. This argument, and the argument that a grandfathered pole remains compliant with "the electric utility's construction standards and does not require replacement until such time as there is a material modification to that pole," miss the point. EEI Petition at 16-17. It is the utility's change in its internal construction standards that has now made the pole unable to accommodate the new attachment and it is that condition that led us to clarify in the *Declaratory Ruling* that the new attachment request does not solely necessitate a pole replacement. This simple premise does not, as the Electric Utilities allege, "undermine an electric utility's long-standing right (and responsibility) to adopt and implement non-discriminatory standards that exceed the NESC, where appropriate and necessary." Electric Utilities July 16, 2025 *Ex Parte* Letter at 6.

[426] *See* ACA Connects Feb. 13, 2024 Opposition at 4 (noting that the internal construction standards determination "represents the Commission's interpretation of how the cost-causation language of Section 1.1408(b) applies in a

(continued….)

When a utility makes a unilateral decision to change its internal construction standards such that the existing pole must now be replaced the next time it is touched, it is not the case that replacing that pole is "necessitated solely" by a new attachment request that comes along.[427] We agree instead with NCTA's characterization that "[b]eing what EEI calls 'grandfathered' is not the same thing as compliant with current standards. As EEI's arguments make clear, the issue is one of the utility's choice of timing. The poles are not compliant with the latest construction standard, but the utility chooses when and why to replace the pole."[428] As a result, we found it necessary to clarify in the *Declaratory Ruling* that, when a utility's change in construction standards contributes to the need to replace a pole, the new attachment request does not solely necessitate the pole replacement.

111. However, we grant clarification insofar as we provide here an important caveat to the internal construction standards determination and associated example. We note that an important element of the internal construction standards determination is the capacity, or the lack thereof, on the existing pole. We clarify that, for purposes of the internal construction standards determination, when a utility is determining capacity on a pole to see whether a pole replacement is necessary, the relevant utility construction standards to consider are limited to the current standard and the standard immediately preceding that current standard.[429] That is, assuming a pole lacks capacity for a requested new attachment under the utility's new construction standard, but capacity would exist under its immediately preceding construction standard, the resulting pole replacement would not be "necessitated solely" by a new attachment request.[430] By contrast, if the pole lacks capacity under both the new and immediately

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particular context—namely when 'a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole.' The ruling affirms that, in this situation, the pole replacement is not 'necessitated solely' by an incoming attacher."); Crown Castle Feb. 13, 2024 Opposition at 1 (noting that "the Commission's clarification merely restates conclusions the Commission has previously expressed. When a utility requires an attacher to replace a pole to bring it into compliance with the utility's own new construction standards, that replacement is not necessitated solely by the attachment request."); NCTA Feb. 13, 2024 Opposition at 3.

[427] *See* ACA Connects Feb. 13, 2024 Opposition at 6 ("The question is whether the replacement of a grandfathered pole is 'necessitated solely' by the prospective attacher's request to access the pole. The answer is 'No.' By EEI's own admission, while grandfathered poles require replacement to accord with revisions to internal construction standards, pole owners choose to allow the majority of their poles to remain out of compliance with these revised standards indefinitely to conserve 'cost and labor' resources."); NCTA Feb. 13, 2024 Opposition at 3 ("Because the pole is already out of compliance with the current standard, pole replacement is necessary because of two factors: (1) the utility's choice to bring the pole into compliance with current construction standards at the time a new attachment is added; and (2) the new attachment."); Altice Feb. 13, 2024 Opposition at 9-10 (arguing that "applying a newer standard to justify a pole replacement at the time of an attachment is the pole owner's choice . . . [and] therefore makes sense for the pole owner to share in the cost of any pole replacement that is forced upon an attacher related to the new attachment—as is consistent with the Commission's interpretation of the 'necessitated solely by' standard"); Crown Castle Feb. 13, 2024 Opposition at 1-2.

[428] NCTA Feb. 13, 2024 Opposition at 4 (noting that "the correct explanation is the Commission's ruling requires pole owners to share in the cost of replacing poles when the reason for the pole replacement is the utility's choice to bring the pole into compliance with new construction standards when an attachment is made"); *see also* Crown Castle Feb. 13, 2024 Opposition at 1-2 ("The 'grandfathered' label has no impact on the Commission's correct analysis. The Commission has correctly recognized that in this circumstance, the pole replacement is one the utility has made a unilateral decision to delay."). Because of the importance attached to the utility's sole purview on the timing of replacing a pole that is noncompliant with its construction standards, we disagree with the characterization of the Electric Utilities that "the fact that 'the utility chooses when and why to replace the pole,' does not justify the grandfathered pole ruling." Electric Utilities July 16, 2025 *Ex Parte* Letter at 6.

[429] We thus reject EEI's argument that the internal construction standards determination requires the utility to figure out "which of the many previous iterations of an electric utility's construction standards would be applicable" when a pole is replaced following a new attachment request. EEI Petition at 19.

preceding construction standards, then application of section 1.1408(b) means that the new attachment request is the cause of the pole replacement, i.e., it is "necessitated solely" by the new attachment.[431] The clarification we offer today can be administered easily and also limits unreasonable actions to delay pole replacements in order to force new entrants to bear the entire cost of a pole replacement. To the extent this was not clear from the *Declaratory Ruling*, we hereby clarify accordingly.[432]

112. With this clarification, we find that EEI's requests are unfounded.[433] EEI bases its requests on the incomplete premise that "[i]f an attacher requests access to a pole, and the pole must be changed out to accommodate the new attachment under the electric utility's *current* construction standards, the new attachment is *the cause* of the make-ready pole replacement. In this instance, the pole would not be replaced 'but for' the attachment request, and the need to construct a new pole line in accordance with an updated construction standard would not exist had the pole not been replaced to create capacity for the new attachment."[434] According to EEI, the internal construction standards determination and associated grandfathered pole example "can be interpreted as requiring pole owners to share in the cost of every make-ready pole replacement involving a 'grandfathered' pole."[435] This is mistaken because, as stated above, when a utility is maintaining poles at an immediately preceding standard, that standard is determinative of capacity for purposes of a new attachment request and determining whether a resulting pole replacement is "necessitated solely" by the new request. If that request would render the pole over capacity at the immediately preceding standard, then the utility could deny access under section 224(f)(2) of the Act and any resulting pole replacement would be "necessitated solely" by the new request. But if the new attachment would only cause the pole to exceed the new standard but not the immediately preceding standard, then any pole replacement is not necessitated solely by a new attachment request, but rather is necessitated in part by the adoption of a new standard.[436]

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[430] *See* NCTA Feb. 13, 2024 Opposition at 4 (noting that "the Commission's ruling requires pole owners to share in the cost of replacing poles when the reason for the pole replacement is the utility's choice to bring the pole into compliance with new construction standards when an attachment is made"); INCOMPAS Feb. 14, 2024 Opposition at 10 (noting "that does not change the fact that it would not be necessary to replace a pole with available communications space *but for* the utility's previous or contemporaneous update to its internal construction standards—which is an entirely unilateral choice by the utility" (emphasis in original)); Crown Castle Feb. 13, 2024 Opposition at 2 ("A pole owner should not be permitted to change its standards and then demand that a new attacher pay the full cost to replace a pole to comply with the utility's updated standards when the pole replacement is due either in whole or in part to the new standard. To hold otherwise would allow utilities a loophole out of their access obligations under Section 224(f) by empowering them to unilaterally define the standards that require a pole replacement.").

[431] *See* Xcel Energy Feb. 23, 2024 Reply at 4.

[432] INCOMPAS Feb. 13, 2024 Opposition at 10 ("A utility may not immediately schedule grandfathered poles for replacement (particularly those that have additional communications capacity), but the Commission should not allow utilities to evade their responsibility for replacing these poles as necessary by granting EEI's petition.").

[433] *See id.* at 10-11 ("If communications space is available on a pole for a new attachment, and utilities dictate that a pole replacement is necessary, then with limited exceptions, the two entities will be required to apportion the costs as dictated by the Commission's ruling.").

[434] EEI Petition at 17.

[435] *Id.* at 5.

[436] *See* NCTA Feb. 13, 2024 Opposition at 4 (noting that "the Commission's ruling requires pole owners to share in the cost of replacing poles when the reason for the pole replacement is the utility's choice to bring the pole into compliance with new construction standards when an attachment is made"); INCOMPAS Feb. 14, 2024 Opposition at 10 (noting "that does not change the fact that it would not be necessary to replace a pole with available communications space *but for* the utility's previous or contemporaneous update to its internal construction standards—which is an entirely unilateral choice by the utility" (emphasis in original)); Crown Castle Feb. 13, 2024 Opposition at 2 ("A pole owner should not be permitted to change its standards and then demand that a new attacher

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113. We reject EEI's claim that the Commission's decisions "run afoul of longstanding 'cost causation' principles."[437] As attachers point out in the record, in the internal construction standards scenario, it is the utility's decision to leave the original pole in place until the new attacher comes along that necessitates the pole replacement, at least in part.[438] In fact, it is EEI's contention that may run contrary to our cost causation principles by positing that "[i]f a grandfathered pole lacks capacity to host an additional attachment under an electric utility's *current* construction standards, the new attachment is *the cause* of a make-ready pole replacement. At the very most, the electric utility in this scenario would be an *incidental beneficiary* of the make-ready pole replacement, and the Commission has long held that incidental beneficiaries are not required to share in the cost of pole replacements."[439] The utility is not merely an incidental beneficiary if the new attachment could have been accommodated on the pole under the utility's construction standards before they were changed, but now cannot because of the utility's unilateral decision to change its internal construction standards. Instead, the utility's decision to leave the existing pole in place until the new attacher comes along necessitates the pole replacement, at least in part.[440] And the utility is far from an incidental beneficiary if it would be able to get its pole replaced at the new attacher's sole expense when the existing pole could have accommodated the new attachment under the immediately preceding pole construction standard.[441]

114. Relatedly, we reject EEI's claim that in advancing the internal construction standards determination, the Commission failed to consider the "enormous" economic burden placed on utilities as a result of the *Declaratory Ruling* and failed "to balance the respective interests, costs, burdens, and liabilities of pole owners and attachers, or to assess whether reasonable limitations are needed to minimize any adverse impact on utility pole owners."[442] Instead, we recognize that this determination

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pay the full cost to replace a pole to comply with the utility's updated standards when the pole replacement is due either in whole or in part to the new standard. To hold otherwise would allow utilities a loophole out of their access obligations under Section 224(f) by empowering them to unilaterally define the standards that require a pole replacement.").

[437] EEI Petition at 14.

[438] Crown Castle Feb. 13, 2024 Opposition at 3 ("The Commission's determination that a pole replacement is not 'necessitated solely' by a new attachment request when 'a utility's previous or contemporaneous change to its internal construction standards necessitates replacement of an existing pole' is consistent with the existing list of circumstances when a pole replacement is not necessitated solely by a new attachment request."); INCOMPAS Feb. 13, 2024 Opposition at 9 ("A typical fact pattern for new attachers is to be alerted, at the time that a make-ready request is filed, that a pole requires replacement—regardless of the availability of communications space—and that they will be responsible for the full cost of the replacement in order to bring the pole into compliance with an updated construction standard. These situations are 'ambiguous' only in that potential attachers are not made aware in advance of utilities' changes to their internal construction standards and reorganization of their pole replacement schedule because there are no requirements to disclose this information."); NCTA Feb. 13, 2024 Opposition at 3; Altice Feb. 13, 2024 Opposition at 9 ("Fundamentally, applying a newer standard to justify a pole replacement at the time of an attachment is the pole owner's choice."); SHLB Feb. 13, 2024 Opposition at 2 (stating that EEI's argument "seems incompatible with the traditional meaning of 'grandfathered,' which is to exempt something from a new rule or policy by allowing it to remain operating under the previous rule or policy. A 'grandfathered' pole is by definition not in compliance with current rules. Thus, as the Commission correctly concluded, the pole replacement is not necessitated solely by the new attachment.").

[439] EEI Petition at 17-19 ("In this instance, the pole would not be replaced 'but for' the attachment request, and the need to construct a new pole line in accordance with an updated construction standard would not exist had the pole not been replaced to create capacity for the new attachment. In practice, a grandfathered pole is no different from any other pole that can/would remain in service indefinitely 'but for' the need to create capacity for a new attachment.").

[440] Altice Feb. 13, 2024 Opposition at 9 ("Fundamentally, applying a newer standard to justify a pole replacement at the time of an attachment is the pole owner's choice."); SHLB Feb. 13, 2024 Opposition at 2.

[441] *See* ACA Connects Feb. 13, 2024 Opposition at 9-10.

requires utilities to bear some of the burden, but we must also consider the burden on attachers. The internal construction standard determination spreads the burden across all of the parties who are causing the pole replacement.[443]

115. Further, contrary to EEI's contention in its Petition,[444] there was substantial record support for the clarification at issue.[445] For example, several commenters have consistently advocated for the Commission to adopt a "more transparent, just, and reasonable process that ensures a fair allocation of replacement costs between pole owners and new attachers seeking to use the poles."[446] With regard specifically to the application of the "necessitated solely" language in the Commission's rules, Charter sought to have the Commission extend the clarification in the *2021 Pole Replacement Declaratory Ruling* to find that "when a pole is scheduled for replacement or facing imminent replacement," the pole replacement is not "necessitated solely" by an attachment request.[447] As ACA Connects states, "almost 18 months before the Commission issued the [internal construction standards determination], Crown Castle filed comments . . . demonstrating that pole owners were using internal construction standards to avoid cost-causation principles and requiring prospective attachers to pay the entire cost of pole

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[442] EEI Petition at 1, 16.

[443] SHLB Feb. 13, 2024 Opposition at 3 (asserting that EEI's argument is unfounded "because, as EEI acknowledges, the Commission has not yet determined how much of the pole replacement cost should be allocated to the pole owner and attacher. All the Commission has decided is that the attacher should not bear the entire cost, but it has not (yet) determined whether the owner of the 'grandfathered' pole is responsible for 1%, 99% or something in between. When the Commission determines or recommends the proper amount of cost to be allocated to the parties, then perhaps EEI could have an argument that the burden is 'enormous', but until then EEI's point is inapt.").

[444] *See* EEI Petition at 1, 5 (claiming the Commission's decision on the internal construction standards determination is "premised on the unsupported ex parte claims and factually flawed assumptions of one lone commenter, to which no party had an opportunity to respond").

[445] *See, e.g.*, ACA Connects Feb. 13, 2024 Opposition at 2, 4 (asserting that "EEI's suggestion that the Grandfathered Poles Ruling was inadequately supported by 'relevant data' overlooks the record and misapplies the legal standard"); NCTA Feb. 13, 2024 Opposition at 6 (stating that "contrary to EEI's claims, there was support in the record sufficient for the Commission to address whether bringing a pole into compliance with a utility's latest construction standards is necessitated solely by the new attacher"); INCOMPAS Feb. 14, 2024 Opposition at 5 (stating that the Commission's example "was thoroughly contemplated in accordance with the record, including a filing by INCOMPAS, and a natural progression of the Commission's efforts to identify examples 'to help the parties apply [the agency's] 'necessitated solely' cost-causation principles'"); Altice Feb. 13, 2024 Opposition at 5-6; Crown Castle Feb. 13, 2024 Opposition at 1.

[446] INCOMPAS June 27, 2022 Comments at 6, 14; *see also* Charter June 28, 2022 Comments at 34; ACA Connects June 27, 2022 Comments at 4, 12-13; Altice June 27, 2022 Comments at 1-2; Crown Castle June 27, 2022 Comments at 2; ExteNet June 27, 2022 Comments at 4; NCTA June 27, 2022 Comments at 8-9; Tech Freedom June 27, 2022 Comments at 13; WIA June 27, 2022 Comments at 6-7; ICLE Aug. 26, 2022 Reply at 7; T-Mobile Aug. 26, 2022 Reply at 5-6.

[447] Charter June 28, 2022 Comments at 34; *see also* ACA Connects June 27, 2022 Comments at 4, 12-13; Altice June 27, 2022 Comments at 1-2; Crown Castle June 27, 2022 Comments at 2 (urging the Commission to "clarify that certain practices employed by pole owners are unreasonable and improper" and noting that "some pole owners continue to misuse the pole attachment process by delaying pole replacements until there is a new attachment request and then demanding that the new attacher pay the whole cost of replacement"); INCOMPAS June 27, 2022 Comments at 14; NCTA June 27, 2022 Comments at 8-9; Tech Freedom June 27, 2022 Comments at 13; ExteNet June 27, 2022 Comments at 4; WIA June 27, 2022 Comments at 6-7; ICLE Aug. 26, 2022 Reply at 7 (stating that "[t]he complexity surrounding how to allocate pole-replacement costs is compounded in the case of a pole that already requires replacement (*e.g.,* because the pole does not comply with current safety and utility construction standards, has been "red-tagged" as a candidate for replacement, or is at the end of its useful life)); T-Mobile Aug. 26, 2022 Reply at 5-6.

replacements."[448] After full consideration of the record, the Commission decided to include the internal construction standards determination in the non-exclusive list of examples of when a pole replacement is not "necessitated solely" by an attachment request—an example put forward in the record by Crown Castle as far back as August 2022.[449]

116. We also find unpersuasive EEI's argument in the Petition that the internal construction standards determination and the grandfathered pole example will result in less broadband deployment because they would cause "uncertainty and financial risk" for utilities.[450] We concur with INCOMPAS that in fact "the clarity provided in the *Declaratory Ruling"* will advance broadband deployment by competitive providers "as these companies will now be able to devote more resources to extending builds and reaching new customers rather than paying to replace aging utility poles."[451] As Crown Castle notes, the "Commission's decision regarding replacement of poles to bring them into compliance with a utility's updated construction standards (including so-called 'grandfathered' poles) will promote broadband deployment by reducing costs and eliminating the opportunity and incentive for pole owners to manipulate the process to the detriment of attachers."[452]

117. Finally, we reject EEI's argument in the Petition that the Commission's application of the "necessitated solely" language in section 1.1408(b) to allocate make-ready pole replacement costs is "confusing and inappropriate."[453] EEI claims that the "'cost causation language of the fourth sentence of 1.1408(b)' speaks only of the costs for rearranging or replacing *existing attachments*."[454] However, as the Commission explained in the *Declaratory Ruling*, it agreed with the Bureau's analysis in the *2021 Pole Replacement Declaratory Ruling* that when the cost-allocation and cost-causation provisions in section 1.1408(b) are read together, they "stand for the proposition that parties benefiting from a modification share proportionately in the costs of that modification, unless such modification is necessitated solely as a result of an additional or modified attachment of another party, in which case that party bears the cost of

[448] ACA Connects Feb. 13, 2024 Opposition at 5 (citing Crown Castle Aug. 26, 2022 Reply at 20); *see* Altice Feb. 13, 2024 Opposition at 2 (noting that "the Commission's determination that poles qualifying under the *Currently Failing Pole Example* are not 'necessitated solely by' an attacher was based on extensive evidence in the record and is extremely important to ensure that utilities do not continue to unfairly shift the cost of upgrading their aging pole plant onto attachers").

[449] Crown Castle Aug. 26, 2022 Reply at 20 ("But the Electric Utilities fail to recognize that the practice they describe—waiting for a request to attach or modify an attachment so that they can foist the cost of replacement onto an attacher—is precisely the problem the Commission is seeking to address. The reality is that the 'grandfathered' poles the Electric Utilities describe do not 'conform with the most recent version of the [NESC]' and, under the Electric Utilities' own standards, should be replaced. The fact that the NESC may not require attachments that complied with prior versions of the NESC to be cured does not dictate the Commission's cost-causation rules. Indeed, this is an example of the type of loophole that pole owners use too often based on narrow readings of the Commission's rules." (footnote omitted)); Crown Castle Dec. 5, 2023 *Ex Parte* Letter at 2.

[450] *See* EEI Petition at 1, 14, 20; Xcel Energy Feb. 13, 2024 Comments at 3; Electric Utilities July 11, 2025 *Ex Parte* Letter at 4.

[451] INCOMPAS Feb. 14, 2024 Opposition at 5, 10-11 (noting that the clarification "will reduce confusion in the market over the responsibility for pole replacement leading to greater broadband deployment. If communications space is available on a pole for a new attachment, and utilities dictate that a pole replacement is necessary, then with limited exceptions, the two entities will be required to apportion the costs as dictated by the Commission's ruling."); *see also* ACA Connects Feb. 13, 2024 Opposition at 2, 8-9 (noting that granting either of EEI's requests "would undermine the Commission's goal to 'eliminate or expedite the resolution of pole replacement disputes by establishing clear standards for when and how utilities and attachers must share in the costs of a pole replacement that is precipitated by a new attachment request'").

[452] Crown Castle Feb. 13, 2024 Opposition at 4.

[453] EEI Petition at 21.

[454] *Id.* at 23 (emphasis in original).

the modification."[455] The Commission further clarified that "it would be contrary to the Commission's rules and policies to require a new attacher to pay the entire cost of a pole replacement when a pole already requires replacement . . . at the time a request for a new or modified attachment is made."[456]

118. Because the clarification in the *Declaratory Ruling* was both based on an extensive record and consistent with prior Commission decisions regarding pole attachments, we reject EEI's request that we reconsider, or clarify in the manner requested by EEI, the portion of the *Declaratory Ruling* regarding the internal construction standards determination and the grandfathered pole example. We do, however, clarify that portion of the *Declaratory Ruling* as described above.

B. Easement Ruling

119. We reject EEI's request to reconsider our clarification in the *Declaratory Ruling* that, consistent with their obligations under section 224(f) of the Act, "utilities must provide potential attachers with a copy of a utility's easement before a utility can refuse to let the attacher share that easement or require the attacher to obtain its own easement."[457] EEI asks that the Commission "clearly define the narrow circumstances in which a utility pole owner is required to provide a copy of its easement to an attacher that seeks to access a pole within such easement."[458] We deny EEI's reconsideration request because the parameters of the easement sharing ruling are plainly set forth in the *Declaratory Ruling*.[459] We do, however, clarify that the utility only has to provide a copy of the easement to the attacher to the extent that the utility relies on an interpretation of the easement to deny the attacher access to that easement.

120. Section 224(f)(1) of the Act requires a utility to provide "a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it."[460] In the 1996 *Local Competition Order*, the Commission found that "the access obligations of section 224(f) apply when, as a matter of state law, the utility owns or controls the right-of-way to the extent necessary to permit such access."[461] Based on the language in section 224(f)(1)

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[455] *Declaratory Ruling*, 38 FCC Rcd at 12407, para. 47 (citing *2021 Pole Replacement Declaratory Ruling*, 36 FCC Rcd at 779-80, para. 7; *see also* Altice Feb. 13, 2024 Opposition at 2-4 (noting that "even if [EEI's] challenge had been timely filed, EEI offers no compelling reason for the Commission to deviate from its conclusion that an attacher's share of pole replacement costs should be limited to the costs 'necessitated solely by' its attachment"); Crown Castle Feb. 13, 2024 Opposition at 3 (arguing that "the Commission should once again reject EEI's request to upend the Commission's pole attachment rules by reading out the 'necessitated solely' language. The Commission has already determined that the necessitated solely language is integral to the pole replacement cost allocation scheme and merely reiterated that determination in the instant Declaratory Ruling. It would be inappropriate for the Commission to overturn years of precedent and reverse course, especially in the absence of any new argument or evidence, in this proceeding.").

[456] *Declaratory Ruling*, 38 FCC Rcd at 12407, para. 47; *see also* Altice Feb. 13, 2024 Opposition at 2-4 (noting that "as previously explained by commenters, nothing in the text of Section 1.1408 or Section 224 supports EEI's argument, nor does Section 224 limit the Commission's discretion to assign certain pole replacement costs to the utility in appropriate circumstances, including where the pole requires replacement under the utility's current standards" (footnote omitted)).

[457] *Declaratory Ruling*, 38 FCC Rcd at 12408-09, para. 49.

[458] EEI Petition at 1.

[459] *Declaratory Ruling*, 38 FCC Rcd at 12409, para. 49.

[460] 47 U.S.C. § 224(f)(1); 47 CFR § 1.1403(a).

[461] *Local Competition Order*, 11 FCC Rcd at 16082, para. 1179 ("The scope of a utility's ownership or control of an easement or right-of-way is a matter of state law. We cannot structure general access requirements where resolution of conflicting claims as to a utility's control or ownership depends upon variables that cannot now be ascertained."). We note that the *1996 Local Competition Order* reflects the Commission's contemporaneous interpretation of section 224(f)(1), which was part of the Telecommunications Act of 1996. *See Loper Bright Enterprises v.*

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and the Commission's interpretation of that language as set out in the *Local Competition Order*, the Commission concluded in the *Declaratory Ruling* that "in order to enable attachers to effectuate their right of access under section 224(f) of the Act, utilities must provide potential attachers with a copy of a utility's easement before a utility can refuse to let the attacher share that easement or require the attacher to obtain its own easement. In making this clarification, we find that the section 224(f) right of access requires the sharing of information regarding the easement in cases where the utility claims the easement cannot accommodate an attacher; it does not require the utility to alter the underlying easement or act in contravention of state law."[462] Such a requirement is consistent with the best reading of section 224(f)(1) because without information on the actual easement, neither attachers nor the Commission can verify whether the utility's denial of access is justified, and the best source for easement information is the utility that holds the easement.[463] After all, the utility's easement shows the extent of the utility's ownership or control of the right-of-way under the relevant state law. Providing this information—which necessarily shows whether the attacher has a statutory right of access—gives the attacher the ability to make use of the pole and thus fits within the ordinary meaning of "access."[464]

121. EEI asserts that as written, the *Declaratory Ruling* implies that the utility, not the attacher, is responsible in the first instance for any determination that must be made about the scope of the utility easement, and that this goes against decades of precedent and standard practice.[465] In support of its Petition, EEI argues that: (1) "easement information is not relevant to pole attachment requests or to broadband deployment"; (2) the clarification "is premised on the baseless assertions of a single commenter to which no party had an opportunity to respond"; (3) the clarification "fails to balance the costs, burdens, risks, and potential benefits that will flow from a new disclosure requirement"; and (4) the clarification "fails to consider reasonable limitations on a pole owner's obligation to share easement information."[466] We believe our clarification herein obviates the latter two concerns. For the reasons set forth below, however, we reject EEI's first two objections.

122. We do not agree with EEI's characterization that the *Declaratory Ruling* "implies that the utility, and not the attacher, is responsible in the first instance for any determination that must be made

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Raimondo, 603 U.S. 369, 394 (2024) ("[I]nterpretations issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute's meaning." (internal citation omitted)).

[462] *Declaratory Ruling*, 38 FCC Rcd at 12409, para. 49.

[463] *See* INCOMPAS Feb. 13, 2024 Opposition at 14 ("Utilities already have an obligation under the Commission's rules to allow access to easements and rights-of-way. The Commission's *Declaratory Ruling* simply insists that utilities produce evidence that under state law a potential attacher does not have a right to use an easement or right-of-way or must obtain their own. The Commission justifiably is unwilling to allow utilities to use 'because we said so' as justification for not keeping with their obligations to potential attachers under section 224(f)."); Crown Castle Feb. 13, 2024 Opposition at 13 (noting that in some cases "the utility is likely the only party that could have knowledge of the terms of the easement"); UTC Feb. 13, 2024 Comments at 2-3 (arguing that "disclosure of easements should only be required when the pole owner denies an active request (*i.e.,* an application) for access to a specific pole based on its interpretation of the scope of an applicable easement.").

[464] The dictionary definition of "access" is "freedom or ability to obtain or make use of something." *See* Merriam-Webster, *access*, https://www.merriam-webster.com/dictionary/access (last visited July 24, 2025).

[465] EEI Petition at 2-4. Despite EEI's claim that the Commission's easement-sharing requirement goes against "decades-old-precedent" (EEI Petition at 3), EEI cites to no such precedent. In rejecting this argument, we note that the Commission has not ruled on any easement-related parameters since 1996. *Local Competition Order*, 11 FCC Rcd at 16082, para. 1179.

[466] *See* EEI Petition at 7-10.

about the scope the utility easement."[467] Rather, we plainly clarified in the *Declaratory Ruling* that "the section 224(f) right of access requires the sharing of information regarding the easement *in cases where the utility claims the easement cannot accommodate an attacher*."[468] Where the utility claims the easement cannot accommodate an attacher, that claim is presumably based on some analysis of the easement by the utility. It is in this limited setting that the utility is required to share easement information.[469] In such a case, an attacher must be able to evaluate the easement to determine its scope, and the best source for the easement is the utility that holds it.[470]

123. With regard to EEI's other arguments against the easement ruling, they largely can be boiled down to an issue of balancing burdens against benefits, with EEI asserting that the Commission failed to consider and implement such a balance.[471] We disagree. The burden of the sharing requirement is limited to "cases where the utility claims the easement cannot accommodate an attacher."[472] As for the

[467] *Id.* at 4. We do not disagree with EEI's assertion that "where an attacher seeks to use a utility easement to access a pole that the utility approved for attachment under Section 224(f), the attacher (and not the utility) must determine whether the applicable easement for the pole location is sufficiently broad to allow or encompass a third-party communications facility." *Id.* at 3.

[468] *Declaratory Ruling*, 38 FCC Rcd at 12409, para. 49 (emphasis added).

[469] *Id.* at 12408-09, para. 49; *see also* EEI Feb. 23, 2024 Reply at 9 ("The oppositions support clarifying that a utility pole owner is required to provide easement documents *only if* it denies an active request (*i.e.*, an application) for access to a specific pole based on its interpretation of the scope of an applicable easement." (emphasis in original)); UTC Feb. 14, 2024 Comments at 2-3 (stating that "disclosure of easements should only be required when the pole owner denies an active request (*i.e.*, an application) for access to a specific pole based on its interpretation of the scope of an applicable easement"); Xcel Energy Feb. 13, 2024 Comments at 4; INCOMPAS Feb. 14, 2024 Opposition at 14.

[470] *Declaratory Ruling*, 38 FCC Rcd at 12408-09, para. 49; *see also* NCTA Feb. 13, 2024 Opposition at 11 (stating that "the Commission was abundantly clear that the purpose of utilities providing copies of its easements is to allow the 'attacher . . . to evaluate these easements and determine their scope' and 'to enable attachers to effectuate their right of access under section 224(f) of the Act.' The Commission further clarified that requiring utilities to provide copies of its easements to attachers 'does not require the utility to alter the underlying easement or act in contravention of state law.' Nothing in the Commission's ruling requires utilities to 'warrant that the easement is both valid and applicable' or to 'assume such a risk for itself and its customers to facilitate a third-party attachment,' as EEI posits." (footnotes omitted)); *see also* Crown Castle Feb. 13, 2024 Opposition at 12 ("Crown Castle has experienced utilities that demand attachers obtain their own easements while refusing to provide a copy of the utility's easement, thereby delaying its ability to deploy broadband."); Xcel Energy Feb. 23, 2024 Reply at 8-9 ("The primary concern raised by attachers is that pole owners should document the basis for denial of access to a specific pole where such denial is based on a specific easement."); NCTA Feb. 13, 2024 Opposition at 10 ("Forcing attachers to obtain copies of easements through either public resources or title searches when the utility already has such easements available unequivocally adds unnecessary expense and delay to the broadband deployment process."); INCOMPAS Feb. 14, 2024 Opposition at 14.

[471] *See* EEI Petition at 1, 7-10 (asserting with respect to the easement clarification that (1) "EEI members are not aware of any active dispute that involves a pole owner's denial of access to a utility easement"; (2) "utility pole owners do not maintain copies of easements or track easement information the ordinary course of business"; and (3) "a requirement that a utility pole owner provide copies of written easements imposes undue costs, burdens and risks on the utility and its ratepayer customers").

[472] *Declaratory Ruling*, 38 FCC Rcd at 12409, para. 49. In rejecting EEI's argument that the easement clarification "fails to consider reasonable limitations on a pole owner's obligation to share easement information" (EEI Petition at 12-13), we note that just the opposite is true—the "disclosure of easements should *only* be required when the pole owner denies an active request (*i.e.*, an application) for access to a specific pole based on its interpretation of the scope of an applicable easement." UTC Feb. 14, 2024 Comments at 2-3 (emphasis added); INCOMPAS Feb. 14, 2024 Opposition at 14 ("The Commission justifiably is unwilling to allow utilities to use 'because we said so' as justification for not keeping with their obligations to potential attachers under section 224(f)."); Crown Castle Feb. 13, 2024 Opposition at 13 ("The utilities themselves must rely on these easements for their own purposes, for example when making their own attachments or performing make-ready or repair work on their poles. The

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benefits and relevance of the easement sharing requirement, we agree with commenters who assert that the potential for disputes is amplified by the asymmetrical information between parties, thus slowing down the process of pole attachments and, consequently, delaying broadband deployment.[473] By requiring utilities to provide relevant easement information, we are helping to level the playing field between utilities and attachers while also reducing the potential delays in broadband deployment.[474] Thus, limiting the sharing of easement information to situations where the utility denies easement access is a reasonable limitation on a utility's obligation to share easement information without exacerbating the problem of asymmetrical information.

124. Specifically with regard to utility burdens, we disagree with EEI's argument that we should reverse or clarify our declaration because utilities do not maintain copies of easements in the ordinary course of business but instead rely on public records, and not all utility easements emanate from written easement instruments.[475] EEI's argument of an undue burden on utilities in producing records in this case misses the point.[476] Our requirement that utilities produce easement information is conditioned on their claiming that the easement cannot accommodate the attacher, and the best source of information verifying the utility's claim is the utility that holds the easement.[477] In accordance with section 224(f) of the Act,[478] we already determined that granting an attacher a "right of access requires the sharing of information regarding the easement in cases where the utility claims the easement cannot accommodate an attacher."[479] Thus, we are not requiring the utility to alter any business practices. Rather, we only are requiring it to provide easement information when it denies access to the easement, especially since it is the best source of information for the evidence of the denial.[480] We further clarify, however, that the

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Commission correctly determined that utilities should not be permitted to conceal what they know about their easements to the detriment of attachers.").

[473] ACA Connects Feb. 13, 2024 Opposition at 11; Crown Castle Feb. 13, 2024 Opposition at 2-3; NCTA Feb. 13, 2024 Opposition at 10; Letter from Michael N. Watson, VP and Deputy General Counsel, ExteNet, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 (filed Feb. 27, 2024) (ExteNet Feb. 27, 2024 *Ex Parte* Letter). *But see* Xcel Energy Reply at 6 ("Contrary to the claims of Crown Castle and ACA, there is no asymmetry between pole owners and attachers regarding access to easement information.").

[474] This is contrary to EEI's claim that easement information is not relevant to pole attachment requests or to broadband deployment. EEI Petition at 6; *see also* NCTA Feb. 13, 2024 Opposition at 10 ("Contrary to EEI's assertions, access to easement information is extremely relevant in the context of pole attachment requests, and the lack of easement information can adversely impact the speed and cost of broadband deployment." (footnote omitted)); INCOMPAS Feb. 14, 2024 Opposition at 13 ("With the Easement Ruling, the Commission has recognized another low-cost efficiency that will allow providers to extend their networks further into areas that desperately need competitive telecommunications services, including competitive high-speed broadband.").

[475] EEI Petition at 8-9; Xcel Energy Feb. 13, 2024 Comments at 3-4; CCU Feb. 13, 2024 Comments at 9-10.

[476] INCOMPAS Feb. 14, 2024 Opposition at 13 (noting that "the limitations the Commission has placed on the production of an easement—that it is only necessary in situations in which the utility intends to refuse to let the attacher share that easement or require the attacher to obtain its own easement—also invalidates EEI's arguments that the Commission's clarification in this instance will be overly burdensome and administratively onerous").

[477] *See, e.g.*, NCTA Feb. 13, 2024 Opposition at 11; Crown Castle Feb. 13, 2024 Opposition at 2-3; INCOMPAS Feb. 14, 2024 Opposition at 13.

[478] 47 U.S.C. § 224(f).

[479] *Declaratory Ruling*, 38 FCC Rcd at 12409, para. 49.

[480] INCOMPAS Feb. 14, 2024 Opposition at 13-14 (stating that "it stretches credulity to insist that utilities do not have access to easement information for poles that are located on private property and that might otherwise pose access concerns for potential attachers"); UTC Feb. 13, 2024 Comments at 2-3.

utility must provide this information if it denies access based on its interpretation of the easement.[481]

125. Because utilities' obligation to provide easement information is limited to instances in which the utility denies access to its easement based on its interpretation of the easement, we decline to adopt EEI's request to limit this obligation to instances where the attacher is unable to locate easement information after conducting a public search.[482] The Commission has already considered this limitation and determined that easement information should be in the utility's possession if it has affirmatively denied access to an attacher.[483] As NCTA notes in its opposition, "[f]orcing attachers to obtain copies of easements through either public resources or title searches when the utility already has such easements available unequivocally adds unnecessary expense and delay to the broadband deployment process."[484]

126. We also disagree with EEI that the easement sharing requirement is deficient because it was adopted based entirely on new, untested assertions made in an *ex parte* submitted by Crown Castle after the start of the Sunshine Period.[485] As INCOMPAS points out, the Commission's inclusion of the easement clarification cites to comments submitted by ExteNet.[486] In addition, as NCTA notes, "the Declaratory Ruling was based on an interpretation of section 224(f) of the Act. . . . [and] the Commission can issue a Declaratory Ruling on its own motion interpreting a statute."[487]

VI. ORDER ON RECONSIDERATION (CCU)

127. In this Order, we deny CCU's Petition for Reconsideration of our December 2023 *Fourth Wireline Infrastructure Order*. In that *Order*, the Commission adopted new regulations requiring utilities to provide copies of their cyclical pole inspection reports to prospective attachers upon request.[488] The key purpose of this requirement is to increase transparency and provide attachers with more information that might assist them in planning broadband deployment projects.[489] At the same time, the Commission

[481] *See* EEI Petition at 13 (noting that "the Commission should clarify that a utility pole owner is required to provide easement documents only if the pole owner denies an active request (i.e., an application) for access to a specific pole based on its interpretation of the scope of an applicable easement"); *cf.* INCOMPAS Feb. 14, 2024 Opposition at 14 ("The Commission justifiably is unwilling to allow utilities to use 'because we said so' as justification for not keeping with their obligations to potential attachers under section 224(f)."); Crown Castle Feb. 13, 2024 Opposition at 13 ("The utilities themselves must rely on these easements for their own purposes, for example when making their own attachments or performing make-ready or repair work on their poles. The Commission correctly determined that utilities should not be permitted to conceal what they know about their easements to the detriment of attachers."); Xcel Energy Feb. 13, 2024 Comments at 4.

[482] EEI Petition at 13.

[483] *2011 Report and Order*, 11 FCC Rcd at 16082, para. 1179 (stating that an attacher's right of access to utility poles is limited by the scope of the utility's easement under state law).

[484] NCTA Feb. 13, 2024 Opposition at 10; *see also* Crown Castle Feb. 13, 2024 Opposition at 12.

[485] EEI Petition at 7-8; UTC Feb. 14, 2024 Comments at 2; Xcel Energy Feb. 13, 2024 Comments at 2; CCU Feb. 13, 2024 Comments at 8.

[486] INCOMPAS Feb. 14, 2024 Opposition at 11-13 ("ExteNet specifically offers easements as an example of information that, if available for inspection, would assist in its broadband deployment efforts. The inability of ExteNet to consistently secure easement information despite the Commission's clear rules granting access to easements and rights-of-way, seemingly aligns with Crown Castle's stated concerns in its ex parte letter that utilities 'refuse to provide a copy of the utility's easement evincing the utility's right to have poles or other facilities on private property.' Taken together with Crown Castle's assertion that utilities also 'demand that attachers obtain their own easements to access existing utility poles,' it is clear from the record that a pattern has been established that would require the Commission to clarify section 224(f) of the Act.").

[487] NCTA Feb. 13, 2024 Opposition at 12.

[488] *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12390-93, paras. 23-26 and Appx. A, § 1.411(c)(4).

[489] *Id.* at 12391, 12393-94, paras. 23, 27-28.

sought to avoid imposing undue burdens on utilities by limiting the requirement to providing information they already possess and produce in the normal course of business.[490]

128. CCU seeks reconsideration of this new requirement. CCU contends that the Commission adopted the requirement without appropriate notice and that the requirement is unduly burdensome, will create disputes, and could impede broadband deployment, all while providing no new benefit to prospective attachers.[491] Four parties filed oppositions to the Petition.[492] Much of the Petition relies on "arguments that have been fully considered and rejected by the Commission within the same proceeding," and to that extent, we dismiss the Petition on procedural grounds and also deny on substantive grounds.[493] To the extent some of CCU's Petition raises new arguments, we fully consider and reject them herein. Thus, we deny CCU's Petition for the reasons discussed below.

A. Adequate Notice of the Rule

129. As a procedural matter, CCU argues that the Commission did not provide adequate notice that it might adopt a rule requiring utilities to provide attachers with copies of pole inspection reports.[494] Specifically, CCU contends that the paragraph of the *Second Further Notice* seeking comment on whether the Commission should require utilities to provide more information to attachers[495] "contains no indication that utilities might be required to provide pole inspection reports to communications attachers."[496] CCU also asserts that the first the public learned of the potential requirement to provide copies of pole inspection reports was in the Commission's November 22, 2023 Draft Order,[497] which was released two weeks before the start of the sunshine period, after which further comment was prohibited.[498] CCU argues that two weeks was not sufficient to alert utilities to the prospective ruling and allow them to provide meaningful responses.[499]

130. Groups representing attachers disagree. They state that the law does not require a notice of proposed rulemaking to have proposed the precise rule that the Commission ultimately adopts, but rather only that the final rule be a "logical outgrowth of its notice."[500] They contend that the final rule on pole inspection reports was a logical outgrowth of a proposal in the *Second Further Notice* because the Commission specifically asked about the types of information utilities should be required to provide

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[490] *Id.* at 12390-91, para. 23.

[491] CCU Petition at 8-22; *see also generally* Electric Utilities Mar. 25, 2024 Reply.

[492] Altice Mar. 15, 2024 Opposition; Crown Castle Mar. 15, 2024 Opposition; INCOMPAS Mar. 15, 2024 Opposition; NCTA Mar. 15, 2024 Opposition.

[493] *See* 47 CFR § 1. 429(i), (l)(3).

[494] CCU Petition at 8-10; *see also* Electric Utilities Mar. 25, 2024 Reply at 1-2.

[495] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Further Notice of Proposed Rulemaking, 37 FCC Rcd 4144 (2022) (*Second Further Notice*).

[496] CCU Petition at 9-10 (citing *Second Further Notice*, 37 FCC Rcd 4164-66, paras. 33, 35).

[497] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Draft Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking, FCC-CIRC2302-4 (rel. Nov. 22, 2023) (Draft Order).

[498] CCU Petition at 10.

[499] *Id.* at 10.

[500] Altice Mar. 15, 2024 Opposition at 7-8 (citing *Covad Commc'ns Co. v. FCC*, 450 F.3d 528 (D.C. Cir. 2006)); NCTA Mar. 15, 2024 Opposition at 5.

regarding the status of their poles,[501] and both attachers and utilities addressed pole inspection reports as one such source of information in their comments, replies, and *ex parte* filings.[502]

131. We reject CCU's argument that the Commission adopted the transparency requirement without proper notice. As noted above, the relevant legal question is whether the final adopted rule was a "logical outgrowth" of the issues on which the Commission sought comment in the *Second Further Notice*.[503] "A final rule qualifies as a logical outgrowth 'if interested parties "should have anticipated" that a change was possible . . . .'"[504] That test is met here.

132. The *Second Further Notice* sought comment on "additional measures that the Commission could adopt that would enable attachers and utilities to avoid pole replacement disputes and/or resolve them quickly when they occur."[505] As an example, the Commission noted one party's proposal to require utilities to provide attachers with "information on the condition of, and replacement plans for, their poles."[506] The Commission also asked for comment on "what mechanism" utilities could use "to provide such information to attachers[.]"[507] As noted above and described in more detail in the *Fourth Report and Order*, attachers made a variety of proposals for information-sharing requirements.[508] Utilities responded by largely opposing such requirements.[509] Most relevant here, in both comments and replies on this issue, commenters on both sides noted that many utilities create cyclical reports containing a range of information on their poles, including information about their condition and replacement plans.[510] Attachers argued the information in such reports would be useful in planning projects and reducing the number of pole replacements they would have to pay for,[511] while utilities generally argued the information would be outdated and was unnecessary in light of the same or similar information they already provide to prospective attachers.[512] This debate continued in *ex partes* from both sides after the Commission released the Draft Order, with several parties supporting, opposing, and/or seeking modifications to the proposed rule.[513]

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[501] *Second Further Notice*, 37 FCC Rcd 4165, para. 35.

[502] Altice Mar. 15, 2024 Opposition at 7-8; Crown Castle Mar. 15, 2024 Opposition at 2-4; INCOMPAS Mar. 15, 2024 Opposition at 3-4; NCTA Mar. 15, 2024 Opposition at 5.

[503] *CSX Transp., Inc. v. Surface Transp. Bd.*, 584 F.3d 1076, 1079-80 (D.C. Cir. 2009) (*CSX Transportation*).

[504] *Id.* at 1079-80 (citations omitted).

[505] *Second Further Notice*, 37 FCC Rcd 4165, para. 35.

[506] *Id.*; *see also id*. at 4145, para. 3 ("We also seek comment on whether the Commission should require utilities to share information with potential attachers concerning the condition and replacement status of their poles and other measures that may avoid or expedite the resolution of disputes between the parties.").

[507] *Id.* at 4165, para. 35.

[508] *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12396-402, paras. 30-38 (discussing attachers' information-sharing proposals and utilities' responses).

[509] *See id.* at 12396-402, paras. 30-38.

[510] Crown Castle June 27, 2022 Comments at 25 and Exh. B, Bingle Decl., paras. 16-32; Electric Utilities June 28, 2022 Comments at 56-58; Dominion/Xcel Aug. 26, 2022 Reply at 39-41; USTelecom Aug. 26, 2022 Reply at 19-20.

[511] ACA Connects Aug. 26, 2022 Reply at 33-34.

[512] Electric Utilities June 27, 2022 Comments at 56-58; CCU Aug. 26, 2022 Reply at 13; Dominion/Xcel Aug. 26, 2022 Reply at 39-41 and n.154; Electric Utilities Aug. 26, 2022 Reply at 25-28; USTelecom Aug. 26, 2022 Reply at 19-20.

[513] Letter from Jacqueline Clary, Altice USA, Inc., to Marlene, H, Dortch, Secretary, FCC, WC Docket No. 17-84, at 2 and Attach. A at 1-2 (filed Dec. 6, 2023) (Altice Dec. 6, 2023 *Ex Parte* Letter With Attachment); Letter from Thomas Magee, Keller & Heckman, Counsel for Coalition of Concerned Utilities, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-3 (filed Dec. 5, 2023) (CCU Dec. 5, 2023 *Ex Parte* Letter); Letter from D. Van

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133. This record demonstrates the final rule was a logical outgrowth of the *Second Further Notice*. The Commission sought comments and proposals on requiring utilities to provide more pole-related information to attachers and mechanisms for doing so. It received a range of proposals and extensive comments, which included discussion on both sides regarding pole inspection reports. Parties, including CCU, therefore should have anticipated that a requirement to provide pole inspection reports was possible.[514] Accordingly, there was no lack of adequate notice.

B. Substantive Challenges to the Rule

134. Turning to the substance, CCU raises several policy arguments that, it contends, demonstrate that the rule on pole inspection reports is unwise and unnecessary.[515] CCU contends that the information contained in utilities' cyclical pole inspection reports is either irrelevant to the attachment process or is already available through the attachment process,[516] and that requiring utilities to provide such reports could lead to disputes and confusion between utilities and attachers that do not understand utilities' asset management programs and prioritization and regulatory requirements.[517] CCU also argues that such disputes will ultimately delay broadband deployment by slowing down the processing of pole attachment requests and harming the collaborative relationship between utilities and attachers.[518] It further says the obligation created by the rule would impose significant burdens on utilities, which will have to create electronic notification systems to keep track of requests and pass along the cost to

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Fleet Bloys, Managing Counsel, Crown Castle, to Marlene, H Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-3 and Attach. A at 2-5 (filed Dec. 6, 2023) (Crown Castle Dec. 6, 2023 *Ex Parte* Letter); Letter from Brett Heather Freedson, Counsel to Dominion Energy and Xcel Energy, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-4 (filed Dec. 6, 2023) (Dominion/Xcel Dec. 6, 2023 *Ex Parte* Letter); Letter from Brett Heather Freedson, Counsel to Dominion Energy and Xcel Energy, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-3 (filed Dec. 7, 2023) (Dominion/Xcel Dec. 7, 2023 *Ex Parte* Letter); Letter from Aryeh Fishman, Associate General Counsel, Edison Electric Institute, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 2-3 (filed Dec. 1, 2023) (EEI Dec. 1, 2023 *Ex Parte* Letter); Letter from Robin F. Bromberg, Counsel for Electric Utilities, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 1-3 (filed Dec. 4, 2023) (Electric Utilities Dec. 4, 2023 *Ex Parte* Letter); Letter from Geoffrey G. Why, Counsel for ExteNet, and Michael Saperstein, Counsel for Wireless Infrastructure Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Dec. 7, 2023) (ExteNet/WIA Dec. 7, 2023 *Ex Parte* Letter); Letter from Christopher L. Shipley, Executive Director of Public Policy, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Dec. 7, 2023) (INCOMPAS Dec. 7, 2023 *Ex Parte* Letter); Letter from Pamela Arluk, Vice Pres. and Assoc. Gen'l Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 5 (filed Dec. 5, 2023) (NCTA Dec. 5, 2023 *Ex Parte* Letter); Letter from Pamela Arluk, Vice Pres. and Assoc. Gen'l Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, Attach. A at 1-4 (filed Dec. 7, 2023) (NCTA Dec. 7, 2023 *Ex Parte* Letter); Letter from John Windhausen, Jr., Exec. Dir., Schools, Health & Libraries Broadband (SHLB) Coalition, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 3 (filed Dec. 7, 2023) (SHLB Dec. 7, 2023 *Ex Parte* Letter); Letter from Nirali Patel, Senior Vice President, Policy & Advocacy, US Telecom—The Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84, at 6-7 (filed Dec. 6, 2023) (USTelecom Dec. 6, 2023 *Ex Parte* Letter).

[514] *CSX Transportation*, 584 F.3d at 1079-80 (citations omitted).

[515] CCU Petition at 11-22.

[516] *Id.* at 13-15; CCU Mar. 25, 2024 Reply at 2-4; *see also* Electric Utilities Mar. 25, 2024 Reply at 4 (asserting that "attachers are demonstrably wrong in asserting that [the transparency rule] will somehow enable better route design" because they cannot obtain copies of the pole inspection reports until after they have submitted their applications and "[t]heir routes should already be 'planned'" by that time).

[517] CCU Petition at 11-12; CCU Mar. 25, 2024 Reply at 6-9.

[518] CCU Petition at 12-13; CCU Mar. 25, 2024 Reply at 5-6.

attachers.[519] CCU also contends that the rule raises security concerns because it risks improper disclosure of sensitive network information.[520]

135. Attachers respond that the information in cyclical pole inspection reports will indeed be beneficial, such as in helping them ensure the utility is complying with Commission rules and helping them negotiate with utilities when the reports reveal an issue with an attachers' planned route.[521] They note, as others did in their prior comments and replies, that pole inspection reports can sometimes be outdated, but nevertheless can contain more information than attachers might otherwise receive from utilities, and that this additional transparency can help reduce or resolve disputes and allow for better planning of a project before the make-ready process begins.[522]

136. As a threshold matter, CCU and others already raised, and the Commission already considered, CCU's arguments regarding the value or need for the information in pole inspection reports, the potential for disputes or confusion, the possible impact on broadband deployment, and the burden of the new requirement on utilities.[523] For example, as Altice notes, CCU's Petition incorporates entire passages from its Reply submitted in response to the *Second Further Notice*, altering only a few words.[524] CCU's Petition also reiterates the same arguments already presented by it and other utilities in comments and replies submitted in response to the *Second Further Notice* and in *ex parte* submissions after the Draft Order was released.[525]

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[519] CCU Petition at 16; CCU Mar. 25, 2024 Reply at 5.

[520] CCU Petition at 12-13.

[521] Altice Mar. 15, 2024 Opposition at 9-12; Crown Castle Mar. 15, 2024 Opposition at 6-7; INCOMPAS Mar. 15, 2024 Opposition at 9; NCTA Mar. 15, 2024 Opposition at 7-8. *But see* Electric Utilities Mar. 25, 2024 Reply at 5 (asserting that "Crown Castle previously acknowledged that access to cyclical pole inspection reports will not benefit broadband deployment").

[522] Altice Mar. 15, 2024 Opposition at 11; Crown Castle Mar. 15, 2024 Opposition at 7; INCOMPAS Mar. 15, 2024 Opposition at 9; NCTA Mar. 15, 2024 Opposition at 8; Crown Castle June 27, 2022 Comments at 29-30; NCTA June 27, 2022 Comments at 24; ACA Connects Aug. 26, 2022 Reply at 33-34.

[523] *See Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12395, para. 28 n.86 (citing utility arguments that there are better ways for attachers to obtain the most up-to-date information on poles, that the information in pole inspection reports would not be useful to attachers, and that utilities already provide attachers with much of the information in such reports); *id*. at 12391-92, para. 24 n.71 (addressing utility arguments that requiring utilities to provide copies of pole inspection reports "will create confusion and invite disputes"); *id.* at 12393-94, 12396, para. 27 n.80 and para. 29 n.91 (citing attachers' arguments that access to information like that in pole inspection reports will promote and speed broadband deployment); CCU Aug. 26, 2022 Reply at 11-12 (arguing that attachers "do not have the expertise" to interpret utilities' pole inspection reports); *id*. at 12 (requiring utilities to provide pole inspection reports "would complicate the [broadband] deployment process"); *id*. at 12-13 (requiring utilities to provide pole inspection reports would "raise security concerns"); Dominion/Xcel Aug. 26, 2022 Reply at 34-35 (requiring utilities to provide pole inspection reports will create disputes and slow broadband deployment and impose a large burden on utilities); EEI Aug. 29, 2022 Reply at 36 (requiring utilities to provide pole inspection reports would impose a large burden on utilities); Electric Utilities Aug. 26, 2022 Reply at 26, 28, 57 (requiring utilities to provide pole inspection reports would not benefit attachers, would raise security concerns, and would impose a large burden on utilities).

[524] Altice Mar. 15, 2024 Opposition at 5. For example, the arguments at pages 13-15 of the CCU Petition are a nearly verbatim repeat of the arguments at pages 12-14 of CCU's Reply to the *Second Further Notice*. *See* CCU Aug. 26, 2022 Reply at 12-14.

[525] Altice Mar. 15, 2024 Opposition at 5-6; Crown Castle Mar. 15, 2024 Opposition at 3-4; INCOMPAS Mar. 15, 2024 Opposition at 4-7; *see also* CCU June 28, 2022 Comments at 42-43 (requiring utilities to share additional pole-related information with attachers would not help attachers); CCU Aug. 26, 2022 Reply at 11-14 (requiring utilities to share more pole-related information with attachers would not help because the information is irrelevant, would hinder broadband deployment, and would increase disputes between utilities and attachers).

137. Furthermore, the Commission in the *Fourth Wireline Infrastructure Order* already fully considered the arguments raised in the Petition. The Commission explained that while it is aware that cyclical pole inspection reports may sometimes have outdated information and that there will be some burden on utilities to provide attachers with such reports, attachers still view the reports as valuable.[526] The Commission therefore strove to strike a balance by limiting the new requirement to information that already exists and that utilities already collect in the normal course of business.[527] The Commission also considered the potential burden on utilities and the effect of new collection and disclosure obligations when it rejected several more extensive information-sharing proposals by attachers.[528] Moreover, as noted in the *Fourth Report and Order*, the Commission still strongly urges utilities and attachers to collaborate and cooperate in disclosing and reviewing pole-related information and finding the most efficient ways to address pole attachments and pole replacements.[529] CCU's argument on security concerns likewise was already raised and considered in the *Fourth Wireline Infrastructure Order*.[530] As the Commission noted, such risks can be addressed through redactions or non-disclosure agreements.[531]

138. CCU also argues that the deadlines associated with the requirement to provide cyclical inspection reports are problematic.[532] The rule requires utilities to provide attachers with cyclical pole inspection reports for the poles covered by an application within 10 business days of a written request.[533] CCU states that utilities' ability to meet that deadline will vary depending on the volume of such a request and the availability of team members who process such applications.[534]

139. CCU's argument does not warrant changing or removing the timing requirements. At this time, the argument is speculative, and the Commission's rule already seeks to limit the burden on utilities by limiting its reach only to pre-existing pole inspection reports.[535] We also decline to reconsider the requirements because the 10-business-day deadline was stated in the Draft Order, and CCU submitted an *ex parte* filing related to the pole inspection reports requirement after public release of the Draft Order.[536] Thus, CCU should have raised its concerns about the response deadline then.[537]

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[526] *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12390-96, paras. 23-29 (noting, among other things, that "[s]everal attaching entities indicated pole inspection information would be helpful in planning deployments" (citations omitted)).

[527] *Id.* at 12393-95, paras. 27-28 (noting that we are "requiring utilities to provide such information as they already collect in the normal course of inspections" and that we "decline at this time to impose broader duties on utilities to collect and provide more expansive pole-related information").

[528] *Id.* at 12396-402, paras. 30-38.

[529] *Id.* at 12395-96, para. 29.

[530] *See* Dominion/Xcel Aug. 26, 2022 Reply at 35; Electric Utilities Aug. 26, 2022 Reply at 28.

[531] *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12391, 12393, para. 23 n.70, para. 26 n.79.

[532] CCU Petition at 15-17.

[533] *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12392-93, para. 25.

[534] CCU Petition at 15.

[535] To the extent utilities find it impossible to comply with the deadline requirement, they may seek relief through appropriate channels.

[536] CCU Dec. 5, 2023 *Ex Parte* Letter at 2-3; EEI Dec. 1, 2023 *Ex Parte* Letter at 2-3.

[537] *See* 47 CFR § 1.429(1)(2) (providing that a "petition for reconsideration which relies on facts or arguments which have not previously been presented to the Commission will be granted only [if] . . . (2) The facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity").

140. CCU further asserts that the rule does not afford utilities sufficient time to inform a new attacher that it is restarting the clock for application review after an attacher's revision of its application.[538] If an attacher revises a request after reviewing pole inspection reports, the new rule requires the utility to inform the attacher that it is restarting the clock on the application, and to do so within the lesser of five business days or the number of days remaining in the 45-day application approval period (or 60 days for larger orders).[539] CCU contends that the addition of another time constraint on utility personnel will merely allow communications attachers to game the system to their advantage, such as by making vast changes in an application at a time that leaves the utility unable to timely notify the attacher that the application clock has restarted, and thus no time to review the changes.[540]

141. Once again, CCU's argument is not enough to warrant changing or removing the timing requirements. The rule appropriately balances competing interests by permitting attachers to amend their applications and permitting utilities to extend the application review period if attachers choose to do so. We expect that the utilities' discretion to extend the review period will provide a strong incentive for attachers not to seek to game the system, as last-minute amendments may be more likely to lead the utility to restart the 45-day clock due to lack of sufficient review time, and thus delay the processing of the attachment request. Moreover, as CCU concedes, it already requested that the 45-day timeline restart automatically when an attacher revises an application, but the Commission rejected that proposal, finding that the procedures it was adopting "are sufficiently tailored to account for the needs of utilities to review amended applications while not needlessly slowing deployment."[541] While CCU disagrees with that decision, it has failed to explain why a utility pole owner, when it chooses to restart the clock, is not able to inform the attacher within the required period. Moreover, the new advance notice and meet-and-confer requirements we adopt today for Large Orders, and the new advance notice requirement we adopt for Mid-Sized Orders associated with a single network deployment,[542] should help reduce these situations from occurring in the first instance.

142. Finally, CCU asserts that the rule on cyclical pole inspection reports would reduce utilities' incentive to replace poles to accommodate attachers and could lead to some utilities simply denying access, which would be counter to the Commission's goals in the proceeding.[543] In the *Fourth Report and Order*, however, the Commission took pains to adopt a rule that balanced the interests of utilities and attachers and limited the burden on utilities by requiring them to provide pole inspection reports that already exist and that the utilities already prepare in the normal course of business.[544] The Commission also rejected a number of transparency proposals that would have been materially more burdensome and costly for utilities,[545] and strongly encouraged utilities and attachers to collaborate and cooperate on ways to make the processing of pole attachment applications more efficient for all involved.[546] CCU's arguments do not cause us to challenge the Commission's conclusion that the new

[538] CCU Petition at 16-17.

[539] *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12392-93, para. 25.

[540] CCU Petition at 16. Electric Utilities go further and assert that "there is little interest in the 'amendment' component of the [transparency rule] and/or that there are no cognizable uses for it" because the record is silent on this component of the rule. Electric Utilities Mar. 25, 2024 Reply at 6.

[541] CCU Petition at 17; CCU Dec. 5, 2023 *Ex Parte* Letter; *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12393, para. 25 n.77.

[542] *See supra* Section III.A.

[543] CCU Petition at 18-22.

[544] *Fourth Wireline Infrastructure Order*, 38 FCC Rcd at 12390-96, paras. 23-29.

[545] *Id.* at 12396-402, paras. 30-38.

[546] *Id.* at 12395, para. 29.

transparency rule strikes the appropriate balance, and we therefore decline to reconsider the rule on that basis.[547]

VII. PROCEDURAL MATTERS

143. *Paperwork Reduction Act*. This document may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Specifically, the rules adopted in 47 CFR §§ 1.1403(b), 1.1411(c)-(k), and 1.1412(a)-(b), (e) may require new or modified information collections. All such new or modified information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In this document, we describe several steps we have taken to minimize the formation collection burdens on small entities.[548]

144. This document may also 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.

145. *Ex Parte Presentations*. The proceeding 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). 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.

146. *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

[547] CCU previously argued that imposing more duties and deadlines on utilities would undermine their incentive to perform voluntary pole replacements. CCU Second FNRPM Reply at 15-23. The Commission took account of such arguments when limiting the obligation here to pole inspection reports that already exist and that utilities already create in the normal course of business and in rejecting more extensive information-sharing proposals. *See Id.* at 12390-402, paras. 23-38. CCU's Petition adds nothing new.

[548] *See infra* Appx. C at paras. 66-67.

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).

147. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),[549] 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."[550] Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Fourth Report and Order on small entities. The FRFA is set forth in Appendix B.

148. The Commission also has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy change proposals on small entities in the Further Notice of Proposed Rulemaking. The IRFA is set forth in Appendix C. 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 Further Notice of Proposed Rulemaking indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

149. *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 Fifth Report and Order and Orders on Reconsideration to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

150. *Providing Accountability Through Transparency Act*. Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of the Further Notice of

[549] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, 110 Stat. 857 (1996).

[550] 5 U.S.C. § 605(b).

Proposed Rulemaking will be available on https://www.fcc.gov/proposed-rulemakings.

151. *Contact Person.* For further information about this proceeding, please contact Michele Berlove, FCC Wireline Competition Bureau, Competition Policy Division, at (202) 418-1477, or michele.berlove@fcc.gov, or Michael Ray, FCC Wireline Competition Bureau, Competition Policy Division, at (202) 418-0357 or michael.ray@fcc.gov.

VIII. ORDERING CLAUSES

152. Accordingly, IT IS ORDERED that pursuant to sections 1-4, 201, 202, 224, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-54, 201, 202, 224, and 303(r), the Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking, and Orders on Reconsideration hereby IS ADOPTED and Part 1 of the Commission's Rules, 47 CFR Part 1, IS AMENDED as set forth in Appendix A.[551]

153. IT IS FURTHER ORDERED that the Fifth Report and Order shall become effective 30 days after publication in the Federal Register, except that the amendments to sections 1.1403(b), 1.1411(c)-(k), and 1.1412(a)-(b), (e) which may contain new or modified information collection requirements, will not become effective until the Office of Management and Budget completes review of any information collection requirements that the Wireline Competition Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Wireline Competition Bureau to announce the effective date for sections 1.1403(b), 1.1411(c)-(k), and 1.1412(a)-(b), (e) by subsequent Public Notice.

154. IT IS FURTHER ORDERED THAT, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of the Commission's rules, 47 CFR § 1.429, the Petition for Clarification and/or Reconsideration filed by the Edison Electric Institute IS DENIED IN PART AND GRANTED IN PART.

155. IT IS FURTHER ORDERED THAT, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of the Commission's rules, 47 CFR § 1.429, the Petition for Reconsideration of the Coalition of Concerned Utilities IS DENIED.

156. IT IS FURTHER ORDERED that the Orders on Reconsideration ARE EFFECTIVE upon publication in the Federal Register.

157. IT IS FURTHER ORDERED that, pursuant to 47 CFR § 1.4(b)(1), the period for filing petitions for reconsideration or petitions for judicial review of this Fifth Report and Order and Orders on Reconsideration will commence on the date that a summary of this Fifth Report and Order and Orders on Reconsideration is published in the Federal Register.

158. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL SEND a copy of this Fifth Report and Order, including the Final Regulatory Flexibility Analysis, Fourth Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, and Orders on Reconsideration to the Chief Counsel for Advocacy of the Small Business Administration.

159. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this Fifth Report and Order and Orders on Reconsideration 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).

[551] Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Final Rules

The Federal Communications Commission amends part 1 of Title 47 of the Code of Federal Regulations as follows:

PART 1 – PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

2. Amend § 1.1403 paragraphs (b) by revising and (c)(3) to read as follows:

§ 1.1403 Duty to provide access; modifications; notice of removal, increase or modification; petition for temporary stay; and cable operator notice.

* * * * *

(b) * * * If access is not granted within the time periods specified in §§ 1.1411(d)(1) through (2) and (h), the utility must confirm the denial in writing by the applicable deadline. * * *

(c) * * * * *

(3) Any modification of facilities by the utility other than make-ready noticed pursuant to §1.1411(f), routine maintenance, or modification in response to emergencies.

* * * * *

3. Revise § 1.1411 to read as follows:

§ 1.1411 Timeline for access to utility poles.

(a) *Definitions.*

* * * * *

(4) The term "Mid-Sized Order" means pole attachment orders greater than the lesser of 300 poles or 0.5 percent of the utility's poles in a state and up to the lesser of 3,000 poles or 5 percent of the utility's poles in a state.

(5) The term "Large Order" means pole attachment orders greater than the lesser of 3,000 poles or 5 percent of the utility's poles in a state up to the lesser of 6,000 poles or 10 percent of the utility's poles in a state.

* * * * *

(c) *Advance notice for Mid-Sized and Large Orders; meet and confer for Large Orders.*

(1) New attachers shall give written advance notice to utilities as soon as practicable, but in no event less than 15 days before submitting a Mid-Sized Order and 60 days before submitting a Large Order. For Mid-Sized Orders only, the advance notice requirement is limited to instances where the order threshold would be exceeded by pole attachment application(s) that are part of a single network deployment project being undertaken by the new attacher. The notice shall set forth detailed information that will allow the utility to properly assess the potential resource needs for the order, including but not limited to: (1) the new attacher's contact information: (2) a description of the proposed deployment area(s) and anticipated route(s); (3) an anticipated build-out schedule; and (4) for a Large Order a request to meet and confer with the utility within 30 days of the date of the notice.

(2) If an application is filed without the required written advance notice, including the required minimum information, then the utility may, upon prompt notice to the new attacher, treat such application as the 15-day advance notice for Mid-Sized Orders associated with a single network deployment or the 60-day advance notice for Large Orders. Such notice from the utility to the attacher shall state that the

application will commence the advance notice period and that the applicable timelines do not begin to run until after expiration of the relevant advance notice period. If it is a Large Order, the notice shall also state that the attacher must request the meet-and confer required by our rules. At the end of the advance notice period, the new attacher can submit a new application or notify the utility that it is continuing with its original submission as its application, and the utility may not impose any additional or increased fees. Failure by the utility to give prompt notice that it is treating the attacher's application as the advance notice will result in the application proceeding to be processed under the applicable timelines without an advance notice period or meet-and-confer requirement. If the attacher fails to request the meet-and-confer described in paragraph (c)(3) of this section, then the advance notice period will not begin to run until such request is made.

(3) New attachers and utilities shall meet and confer within 30 days after an advance notice is given to negotiate in good faith the mechanics and the timing of processing Large Orders. The parties shall find a mutually agreeable day and time for a meeting (which can be in person, virtual, or by phone) within the 30-day period after the advance notice is given.

(d) *Application review and survey.* * * *

(2) *Application review on the merits.* A utility shall respond to the new attacher either by granting access or, consistent with §1.1403(b), denying access within 45 days of receipt of a complete application to attach facilities to its utility poles (or within 60 days in the case of Mid-Sized Orders or within 90 days in the case of Large Orders as described in paragraph (h) of this section). * * *

(3) *Survey.*

(i) A utility shall complete a survey of poles for which access has been requested within 45 days of receipt of a complete application to attach facilities to its utility poles (or within 60 days in the case of Mid-Size Orders or within 90 days in the case of Large Orders as described in paragraph (h) of this section). A utility shall notify a new attacher within 15 days of receipt of a complete application if the utility knows or reasonably should know that it cannot meet the survey deadline. A new attacher can elect self-help for the survey work pursuant to § 1.1411(j)(1) any time after it receives the utility's notice.

* * * * *

(iii) Where a new attacher has conducted a survey pursuant to paragraph (k)(3) of this section, a utility can elect to satisfy its survey obligations in this paragraph by notifying affected attachers of its intent to use the survey conducted by the new attacher pursuant to paragraph (k)(3) of this section and by providing a copy of the survey to the affected attachers within the time period set forth in paragraph (d)(3)(i) of this section. A utility relying on a survey conducted pursuant to paragraph (k)(3) of this section to satisfy all of its obligations under paragraph (d)(3)(i) of this section shall have 15 days to make such a notification to affected attachers rather than the applicable survey period.

(4) *Information from cyclical pole inspection reports.* * * *

* * * * *

(iv) * * *

(A) A utility that receives such an amended attachment application may, at its option, restart the 45-day period (or 60-day period for Mid-Sized Orders or 90-day period for Large Orders) for responding to the application and conducting the survey.

(B) A utility electing to restart the 45-day period (or 60-day period for Mid-Sized Orders or 90-day period for Large Orders) shall notify the attacher of its intent to do so within five (5) business days of receipt of the amended application or by the 45th day (or 60th or 90th day, if applicable) after the original application is considered complete, whichever is earlier.

(e) *Estimate.* Where a new attacher's request for access is not denied, a utility shall present to a new attacher a detailed, itemized estimate, on a pole-by-pole basis where requested, of charges to perform all

necessary make-ready within 14 days of completing the survey required by paragraph (d)(3) of this section (or within 29 days in the case of Large Orders as described in paragraph (h)(3) of this section), or in the case where a new attacher has performed a survey, within 14 days of receipt by the utility of such survey (or within 29 days in the case of Large Orders as described in paragraph (h)(3) of this section). * * *

* * * * *

(f) *Make-ready*. Upon receipt of payment specified in paragraph (e)(2) of this section, a utility shall notify immediately and in writing all known entities with existing attachments that may be affected by the make-ready.

(1) * * *

(ii) Set a date for completion of make-ready in the communications space that is no later than 30 days after notification is sent (or up to 75 days in the case of Mid-Sized Orders or up to 120 days in the case of Large Orders as described in paragraph (h) of this section).

* * * * *

(iv) State that if make-ready is not completed by the completion date set by the utility in paragraph (f)(1)(ii) in this section, the new attacher may complete the make-ready specified pursuant to paragraph (f)(1)(i) in this section.

* * * * *

(2) * * *

(ii) Set a date for completion of make-ready that is no later than 90 days after notification is sent (or 135 days in the case of Mid-Sized Orders or 180 days in the case of Large Orders, as described in paragraph (h) of this section).

* * * * *

(v) State that if make-ready is not completed by the completion date set by the utility in paragraph (f)(2)(ii) in this section (or, if the utility has asserted its 15-day right of control, 15 days later), the new attacher may complete the make-ready specified pursuant to paragraph (f)(2)(i) of this section.

* * * * *

(3) Once a utility provides the notices described in this section, it then must provide the new attacher with a copy of the notices and the existing attachers' contact information and address where the utility sent the notices. The new attacher shall be responsible for coordinating with existing attachers to encourage their completion of make-ready by the dates set forth by the utility in paragraph (f)(1)(ii) of this section for communications space attachments or paragraph (f)(2)(ii) of this section for attachments above the communications space.

(4) Utilities shall notify a new attacher as soon as practicable but no later than 15 days after receipt of payment specified in paragraph (e)(2) of this section if the utility knows or reasonably should know that it cannot meet the make-ready deadline. Existing attachers shall notify the utility and a new attacher as soon as practicable but no later than 15 days after receiving notice from the utility pursuant to the requirements of paragraph (e) of this section that the existing attacher knows or reasonably should know that it cannot meet the make-ready deadline. Pursuant to paragraph (j)(3) of this section, a new attacher can elect self-help for the make-ready work that the notifying party cannot do any time after it receives the notice.

(g) A utility shall complete its make-ready in the communications space by the same dates set for existing attachers in paragraph (f)(1)(ii) of this section or its make-ready above the communications space

by the same dates for existing attachers in paragraph (f)(2)(ii) of this section (or if the utility has asserted its 15-day right of control, 15 days later).

(h) * * *

(1) A utility shall apply the timeline described in paragraphs (d) through (g) of this section to all requests for attachment up to the lesser of 300 poles or 0.5 percent of the utility's poles in a state.

(2) A utility may add 15 days to the survey period described in paragraph (d) of this section and 45 days to the make-ready periods described in paragraph (f) of this section, for orders greater than the lesser of 300 poles or 0.5 percent of the utility's poles in a state and up to the lesser of 3,000 poles or 5 percent of the utility's poles in a state (Mid-Sized Orders).

(3) A utility may add 45 days to the survey period described in paragraph (d) of this section, 15 days to the estimate period described in paragraph (e) of this section, and 90 days to the make-ready periods described in paragraph (f) of this section to orders greater than the lesser of 3,000 poles or 5 percent of the utility's poles in a state up to the lesser of 6,000 poles or 10 percent of the utility's poles in a state (Large Orders).

(4) A utility shall negotiate in good faith the timing of all requests for attachment larger than the lesser of 6,000 poles or 10 percent of the utility's poles in a state.

(5) * * * However, a utility shall not impose application size limits in combination with application frequency limits that have the effect of restricting the number of pole attachments new attachers may seek in a given timeframe.

(i) *Deviation from the time limits specified in this section.* * * *

(3) * * * An existing attacher that so deviates shall immediately notify, in writing, the new attacher and other affected existing attachers and shall identify the affected poles and include a detailed explanation of the basis for the deviation and a new completion date, which in no event shall extend beyond 60 days from the date the notice described in paragraph (f)(1) of this section is sent by the utility (or up to 105 days in the case of Mid-Sized Orders or up to 150 days in the case of Large Orders). * * *

(j) *Self-help remedy.*

(1) *Surveys*. If a utility fails to complete a survey as specified in paragraph (d)(3)(i) of this section, then a new attacher may conduct the survey in place of the utility and, as specified in §1.1412, hire a contractor to complete a survey.

* * * * *

(2) *Estimates.* If the utility fails to present an estimate to the new attacher by the date specified in paragraph (e) of this section, then a new attacher may prepare the estimate in accordance with the requirements applicable to utility-prepared estimates set forth in paragraph (e) of this section. If a new attacher exercises its self-help option to prepare an estimate for utility review, the new attacher shall (1) wait until the utility's 14-day deadline (or 29 days in the case of Large Orders) has expired before exercising the self-help remedy; (2) provide notice to the utility that it is exercising its self-help remedy for an estimate; (3) use an approved contractor to prepare the estimate in accordance with § 1.1412(a)-(b); and (4) allow utilities the ability to review and approve the self-help estimate at the attacher's expense, but expenses must be reasonable and based only on the actual costs incurred by the utility in reviewing the estimate. The new attacher cannot use self-help for estimates of pole replacements. The utility must provide the new attacher with a written decision on the self-help estimate within 14 days of receiving the estimate from the new attacher or before it is withdrawn by the attacher, whichever is later. If the estimate is accepted by the utility, then it is subject to the reconciliation process set forth in § 1.1411(e)(3). If the estimate is not accepted by the utility, then the utility must detail in writing the reasons for non-acceptance. The attacher then has the ability to submit a revised estimate to the utility without starting the pole attachment timeline from the beginning.

(3) *Make-ready.* If make-ready is not complete by the date specified in paragraph (f) of this section, then a new attacher may conduct the make-ready in place of the utility and existing attachers, and, as specified in §1.1412, hire a contractor to complete the make-ready.

* * * * *

(4) *Pole replacements.* * * *

(k) *One-touch make-ready option.* For attachments involving simple make-ready, new attachers may elect to proceed with the process described in this paragraph in lieu of the attachment process described in paragraphs (d) through (g) and (j) of this section.

* * * * *

(2) *Application review on the merits.* The utility shall review on the merits a complete application requesting one-touch make-ready and respond to the new attacher either granting or denying an application within 15 days of the utility's receipt of a complete application (or within 30 days in the case of Mid-Sized Orders or within 45 days in the case of Large Orders as described in paragraph (h) of this section).

* * * * *

(ii) Within the 15-day application review period (or within 30 days in the case of Mid-Sized Orders or within 45 days in the case of Large Orders as described in paragraph (h) of this section), a utility may object to the designation by the new attacher's contractor that certain make-ready is simple. * * *

* * * * *

(4) *Make-ready.* * * *

* * * * *

(iii) * * * The affected make-ready shall then be governed by paragraphs (e) through (j) of this section and the utility shall provide the notice required by paragraph (f) of this section as soon as reasonably practicable.

* * * * *

4. Amend § 1.1412 by revising the introductory text of paragraphs (b)(1) and (b)(2) and add paragraph (e) to read as follows:

§ 1.1412 Contractors for survey, estimates, and make-ready.

* * * * *

(b) *Contractors for simple work.* A utility may, but is not required to, keep up-to-date a reasonably sufficient list of contractors it authorizes to perform surveys, estimates, and simple make-ready. * * *

(1) If the utility does not provide a list of approved contractors for surveys, estimates, or simple make-ready or no utility-approved contractor is available within a reasonable time period, then the new attacher may choose its own qualified contractor that meets the requirements in paragraph (c) of this section. When choosing a contractor that is not on a utility-provided list, the new attacher must certify to the utility that its contractor meets the minimum qualifications described in paragraph (c) of this section when providing notices required by §1.1411(j)(1)(ii), (j)(2)(i), (k)(3)(i), and (k)(4).

(2) The utility may disqualify any contractor chosen by the new attacher that is not on a utility-provided list, but such disqualification must be based on reasonable safety or reliability concerns related to the contractor's failure to meet any of the minimum qualifications described in paragraph (c) of this section or to meet the utility's publicly available and commercially reasonable safety or reliability standards. The utility must provide notice of its contractor objection within the notice periods provided by the new attacher in §1.1411(j)(1)(ii), (j)(2)(i), (k)(3)(i), and (k)(4) and in its objection must identify at least one available qualified contractor.

* * * * *

(e) Utilities must respond to an attacher's request to add contractors to their lists of contractors authorized to perform self-help surveys, estimates, and make-ready, as provided by paragraphs (a) and (b) of this section, within 30 days of receipt.

(1) The response must state whether the contractor meets the requirements of paragraph (c) of this section and will be added to the utility's list of approved contractors for survey, estimate, and make-ready work pursuant to paragraph (a) or (b) of this section following the successful completion of any reasonable steps to begin work established by the utility. For contractors proposed to perform work above the communications space, such reasonable steps may include any evaluation, approval, orientation, or other requirements that the utility would ordinarily apply to contractors that perform work on its electric power system. If the contractor has been denied, the response must describe the bases for rejection, be nondiscriminatory, and based on a fair application of commercially reasonable requirements for contractors related to issues of safety or reliability.

(2) If a utility fails to provide the response required by paragraph (e)(1) of this section within 30 days of receipt of an attacher's request, the contractor proposed by the attacher will be deemed approved to perform self-help surveys, estimates, and make-ready work on the utility's poles consistent with paragraphs (a) or (b) of this section, and must be added to the utility's approved list of contractors following the successful completion of any reasonable steps to begin work established by the utility.

(3) A utility may disqualify a contractor that has been approved pursuant to paragraph (e)(1) or deemed approved pursuant to paragraph (e)(2) based on reasonable safety or reliability concerns related to the contractor's failure to meet any of the minimum qualifications described in paragraph (c) of this section or to meet the utility's uniformly applied and reasonable safety or reliability standards. Written notice must be provided to the attacher stating the specific safety and reliability bases for the disqualification.

APPENDIX B

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Third Further Notice of Proposed Rulemaking* (*Third Further Notice*) released in December of 2023.[2] The Commission sought written public comment on the proposals in the *Third Further Notice*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Fifth Report and Order

2. In the *Fifth Report and Order*, the Commission adopts rules and policy changes that will make the pole attachment process faster and cheaper, particularly when poles have to be replaced during broadband buildouts. In the last five years, the Commission took significant steps in setting standards for the discussions between utilities and telecommunications companies about the timing and cost of attaching broadband equipment to utility poles,[4] with the backstop of a robust complaint process when parties cannot agree on the rates, terms, and conditions for pole attachments.[5] In the *Fifth Report and Order*, we adopt rules (1) requiring attachers to provide written notice to utilities of forthcoming pole attachment orders of a certain size; (2) providing that if an attacher submits an application for a Mid-Sized Order associated with a single network deployment or Large Order without the requisite advance notice, the utility can treat the application as the advance notice, and the timelines are tolled for the relevant advance notice period; (3) imposing a meet-and-confer requirement following the requisite advance notice for Large Orders; (4) establishing a new set of timelines for utilities to complete each pole access phase for large orders; (5) requiring utilities to notify attachers within 15 days of receiving a complete application whether they can meet the survey and notify attachers within 15 days of payment of a make-ready estimate that they will not be able to meet the and make-ready deadline; (6) adding a self-help remedy for make-ready estimates, provided certain safeguards are met; (7) declaring that application size and frequency limits that extend pole attachment timelines beyond the limits set forth in section

[1] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[2] *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Third Further Notice of Proposed Rulemaking, 38 FCC Rcd 12379, 12448-72, Appx. D (2023) (*Third Further Notice*).

[3] 5 U.S.C. § 604.

[4] *See Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Fourth Report and Order, 38 FCC Rcd 12379 (2023) (*Fourth Wireline Infrastructure Order*); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, WT Docket No. 17-79, Third Report and Order and Declaratory Ruling, 33 FCC Rcd 7705 (2018) (*Third Wireline Infrastructure Order*); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Declaratory Ruling, 35 FCC Rcd 7936 (WCB 2020) (*2020 Declaratory Ruling*); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Declaratory Ruling, 36 FCC Rcd 776 (WCB 2021) (*2021 Pole Replacement Declaratory Ruling*).

[5] Note that section 224(c) of the Communications Act of 1934, as amended (the Act), exempts from Commission jurisdiction those pole attachments in states that have elected to regulate pole attachments themselves. 47 U.S.C. § 224(c). To date, 23 states and the District of Columbia have opted out of Commission regulation of pole attachments in their jurisdictions. *Reverse-Preemption Certification Public Notice*, 37 FCC Rcd 6724.

1.411 violate our rules; and (8) requiring utilities to respond to a request to add contractors to a utility-approved list within 30 days of receiving the request or the contractor will be "deemed approved."[6]

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

3. There were no comments raised that specifically addressed the proposed rules and policies presented in the *Third Further Notice* IRFA. Nonetheless, the Commission considered the potential impact of the rules proposed in the IRFA on small entities and took steps where appropriate and feasible to reduce the compliance burden for small entities in order to reduce the economic impact of the rules enacted herein on such entities.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

4. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA,[7] 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 in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the 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 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 "mall 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. *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.[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

[6] *See Fifth Report and Order*, Section III.

[7] Small Business Jobs Act of 2010, Pub. L. No. 111-240, 124 Stat. 2504 (2010).

[8] 5 U.S.C. § 604(a)(3).

[9] *See id.* § 604(a)(4).

[10] *See id.* § 601(6).

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

[12] *See* 15 U.S.C. § 632.

[13] 5 U.S.C. § 601(3)-(6).

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 34.75 million businesses.[15]

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."[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]

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."[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 36,845 general purpose governments (county,[22] municipal, and town or township[23]) with populations of

[14] *See* SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* 1 (July 23, 2024), https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

[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.

[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.

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]

1. Internet Access Service Providers

9. *Wired Broadband Internet Access Service Providers (Wired ISPs)*.[27] Providers of wired broadband Internet access service include various types of providers except dial-up Internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules.[28] Wired broadband Internet services fall in the Wired Telecommunications Carriers industry.[29] The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small.[30] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[31] Of this number, 2,964 firms operated with fewer than 250 employees.[32]

10. Additionally, according to Commission data on Internet access services as of June 30, 2019, nationwide there were approximately 2,747 providers of connections over 200 kbps in at least one direction using various wireline technologies.[33] The Commission does not collect data on the number of

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[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] Formerly included in the scope of the Internet Service Providers (Broadband), Wired Telecommunications Carriers and All Other Telecommunications small entity industry descriptions.

[28] *See* 47 CFR § 1.7001(a)(1).

[29] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[30] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[31] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[32] *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.

[33] *See* Federal Communications Commission, Internet Access Services: Status as of June 30, 2019 at 27, Fig. 30 *(IAS Status 2019)*, Industry Analysis Division, Office of Economics & Analytics (March 2022). The report can be

(continued….)

employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2022 Communications Marketplace Report*,[34] we believe that the majority of wireline Internet access service providers can be considered small entities.

11. *Internet Service Providers (Non-Broadband)*. Internet access service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications.[35] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[36] For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[37] Of those firms, 1,039 had revenue of less than $25 million.[38] Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

2. Wireline Providers

12. *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.[39] 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.[40] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[41] Wired Telecommunications Carriers

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accessed at https://www.fcc.gov/economics-analytics/industry-analysis-division/iad-data-statistical-reports. The technologies used by providers include aDSL, sDSL, Other Wireline, Cable Modem and FTTP). Other wireline includes: all copper-wire based technologies other than xDSL (such as Ethernet over copper, T-1/DS-1 and T3/DS-1) as well as power line technologies which are included in this category to maintain the confidentiality of the providers.

[34] *See Communications Marketplace Report*, GN Docket No. 22-203, 2022 WL 18110553 at 10, paras. 26-27, Figs. II.A.5-7. (2022) (*2022 Communications Marketplace Report*).

[35] *See* U.S. Census Bureau, *2017 NAICS Definition, "517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[36] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[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 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[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] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[40] *Id.*

[41] *Id.*

are also referred to as wireline carriers or fixed local service providers.[42]

13. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[43] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[44] Of this number, 2,964 firms operated with fewer than 250 employees.[45] 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.[46] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[47] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

14. *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[48] is the closest industry with an SBA small business size standard.[49] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[50] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[51] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[52] Of this number, 2,964 firms operated with fewer than

[42] 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.

[43] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[44] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[45] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[46] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf

[47] *Id.*

[48] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[49] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[50] 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.

[51] *Id.*

[52] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

250 employees.[53] 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.[54] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[55] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

15. *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[56] is the closest industry with an SBA small business size standard.[57] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[58] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[59] Of this number, 2,964 firms operated with fewer than 250 employees.[60] 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.[61] Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees.[62] 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.

16. *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.[63] Wired Telecommunications Carriers[64] is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having

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[53] *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.

[54] 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.

[55] *Id.*

[56] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[57] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[58] *Id.*

[59] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[60] *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.

[61] 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.

[62] *Id.*

[63] 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.

[64] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

1,500 or fewer employees as small.[65] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[66] Of this number, 2,964 firms operated with fewer than 250 employees.[67] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers.[68] Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees.[69] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

17. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers[70] is the closest industry with a SBA small business size standard.[71] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[72] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[73] Of this number, 2,964 firms operated with fewer than 250 employees.[74] 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.[75] 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

18. *Operator Service Providers* (*OSPs*). Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The closest applicable industry with an SBA small business size standard is Wired Telecommunications Carriers.[76] The SBA small

[65] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[66] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[67] *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.

[68] 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.

[69] *Id.*

[70] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[71] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[72] *Id.*

[73] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[74] *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.

[75] 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.

[76] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

business size standard classifies a business as small if it has 1,500 or fewer employees.[77] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[78] Of this number, 2,964 firms operated with fewer than 250 employees.[79] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 20 providers that reported they were engaged in the provision of operator services.[80] Of these providers, the Commission estimates that all 20 providers have 1,500 or fewer employees.[81] Consequently, using the SBA's small business size standard, all of these providers can be considered small entities.

19. *Other Toll Carriers*. Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The closest applicable industry with a SBA small business size standard is Wired Telecommunications Carriers.[82] The SBA small business size standard classifies a business as small if it has 1,500 or fewer employees.[83] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[84] Of this number, 2,964 firms operated with fewer than 250 employees.[85] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 20 providers that reported they were engaged in the provision of operator services.[86] Of these providers, the Commission estimates that all 20 providers have 1,500 or fewer employees.[87] Consequently, using the SBA's small business size standard, all of these providers can be considered small entities.

3. Wireless Providers—Fixed and Mobile

20. The broadband Internet access service provider category covered by these new rules may cover multiple wireless firms and categories of regulated wireless services.[88] Thus, to the extent the

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[77] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[78] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[79] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[80] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[81] *Id.*

[82] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[83] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[84] *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.

[85] *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.

[86] 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. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf

[87] *Id.*

[88] This includes, among others, the approximately 800 members of WISPA, including those entities who provide fixed wireless broadband service using unlicensed spectrum. *See* WISPA, *About WISPA,* https://www.wispa.org/About-Us/Mission-and-Goals (last visited June 27, 2019). We also consider the impact to

(continued….)

wireless services listed below are used by wireless firms for broadband Internet access service, the actions may have an impact on those small businesses as set forth above and further below. In addition, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that claim to qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments and transfers or reportable eligibility events, unjust enrichment issues are implicated.

21. *Wireless Telecommunications Carriers (except Satellite*). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[89] 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.[90] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[91] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[92] Of that number, 2,837 firms employed fewer than 250 employees.[93] 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.[94] Of these providers, the Commission estimates that 511 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.

22. *Wireless Communications Services*. Wireless Communications Services (WCS) can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. Wireless spectrum is made available and licensed for the provision of wireless communications services in several frequency bands subject to Part 27 of the Commission's rules.[96] Wireless Telecommunications Carriers (*except* Satellite)[97] is the closest industry with an SBA small business size standard applicable to these services. The SBA small business 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 that

(Continued from previous page)
these entities today for the purposes of this FRFA, by including them under the "Wireless Providers – Fixed and Mobile" category.

[89] *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.

[90] *Id.*

[91] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[92] *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. At this time, the 2022 Economic Census data is not available.

[93] *Id*. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[94] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[95] *Id.*

[96] *See* 47 CFR §§ 27.1 – 27.1607.

[97] *See* U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers* (*except Satellite*)," https://www.census.gov/naics/?input=517312&year=2017&details=517312.

[98] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

operated in this industry for the entire year.[99] Of this number, 2,837 firms employed fewer than 250 employees.[100] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

23. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in Part 27 of the Commission's rules for the specific WCS frequency bands.[101]

24. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

25. *1670–1675 MHz Services*. These wireless communications services can be used for fixed and mobile uses, except aeronautical mobile.[102] Wireless Telecommunications Carriers (except Satellite)[103] is the closest industry with an SBA small business size standard applicable to these services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[104] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[105] Of this number, 2,837 firms employed fewer than 250 employees.[106] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

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[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. At this time, the 2022 Economic Census data is not available.

[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] *See* 47 CFR §§ 27.201 – 27.1601. The Designated entities sections in Subparts D – Q each contain the small business size standards adopted for the auction of the frequency band covered by that subpart.

[102] *See* 47 CFR § 27.902.

[103] *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.

[104] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[105] *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. At this time, the 2022 Economic Census data is not available.

[106] *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.

26. According to Commission data as of November 2021, there were three active licenses in this service.[107] The Commission's small business size standards with respect to 1670–1675 MHz Services involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For licenses in the 1670-1675 MHz service band, a "small business" is defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" is defined as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years.[108] The 1670-1675 MHz service band auction's winning bidder did not claim small business status.[109]

27. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

28. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite).[110] The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees.[111] For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.[112] Of this number, 2,837 firms employed fewer than 250 employees.[113] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 331 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services.[114] Of these providers, the Commission estimates that 255 providers have 1,500 or fewer employees.[115] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

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[107] Based on a FCC Universal Licensing System search on November 8, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = BC; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[108] *See* 47 CFR § 27.906(a).

[109] *See 1670–1675 MHz Band Auction Closes; Winning Bidder Announced*; *FCC Form 600s Due May 12,2003,* Public Notice, DA-03-1472, Report No. AUC-03-46-H (Auction No.46) (May 2, 2003).

[110] *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.

[111] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[112] *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. At this time, the 2022 Economic Census data is not available.

[113] *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.

[114] 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.

[115] *Id.*

29. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum encompasses services in the 1850-1910 and 1930-1990 MHz bands.[116] The closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (except Satellite).[117] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[118] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[119] Of this number, 2,837 firms employed fewer than 250 employees.[120] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

30. Based on Commission data as of November 2021, there were approximately 5,060 active licenses in the Broadband PCS service.[121] The Commission's small business size standards with respect to Broadband PCS involve eligibility for bidding credits and installment payments in the auction of licenses for these services. In auctions for these licenses, the Commission defined "small business" as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years.[122] Winning bidders claiming small business credits won Broadband PCS licenses in C, D, E, and F Blocks.[123]

31. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

32. *Specialized Mobile Radio Licenses.* Special Mobile Radio (SMR) licenses allow licensees to provide land mobile communications services (other than radiolocation services) in the 800 MHz and 900 MHz spectrum bands on a commercial basis including but not limited to services used for voice and data communications, paging, and facsimile services, to individuals, Federal Government entities, and other entities licensed under Part 90 of the Commission's rules. Wireless

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[116] *See* 47 CFR § 24.200.

[117] *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.

[118] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[119] *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. At this time, the 2022 Economic Census data is not available.

[120] *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.

[121] Based on a FCC Universal Licensing System search on November 16, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = CW; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[122] *See* 47 CFR § 24.720(b).

[123] *See* Federal Communications Commission, Office of Economics and Analytics, Auctions, Auctions 4, 5, 10, 11, 22, 35, 58, 71 and 78, https://www.fcc.gov/auctions.

Telecommunications Carriers (except Satellite)[124] is the closest industry with a SBA small business size standard applicable to these services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[125] For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[126] Of this number, 2,837 firms employed fewer than 250 employees.[127] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 95 providers that reported they were of SMR (dispatch) providers.[128] Of this number, the Commission estimates that all 95 providers have 1,500 or fewer employees.[129] Consequently, using the SBA's small business size standard, these 119 SMR licensees can be considered small entities.[130]

33. Based on Commission data as of December 2021, there were 3,924 active SMR licenses.[131] However, since the Commission does not collect data on the number of employees for licensees providing SMR services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard. Nevertheless, for purposes of this analysis the Commission estimates that the majority of SMR licensees can be considered small entities using the SBA's small business size standard.

34. *Lower 700 MHz Band Licenses*. The lower 700 MHz band encompasses spectrum in the 698-746 MHz frequency bands. Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation; fixed and mobile wireless commercial services (including FDD- and TDD-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services.[132] Wireless Telecommunications Carriers (*except* Satellite)[133] is the closest industry with a SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[134]

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[124] *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.

[125] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[126] *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. At this time, the 2022 Economic Census data is not available.

[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] 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.

[129] *Id.*

[130] We note that there were also SMR providers reporting in the "Cellular/PCS/SMR" classification, therefore there are maybe additional SMR providers that have not been accounted for in the SMR (dispatch) classification.

[131] Based on a FCC Universal Licensing System search on December 15, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match radio services within this group", Radio Service = SMR; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[132] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auctions 44, 49, 60: Lower 700 MHz Band, Fact Sheet, Permissible Operations, https://www.fcc.gov/auction/44, https://www.fcc.gov/auction/49, and https://www.fcc.gov/auction/60.

[133] *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.

[134] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[135] Of this number, 2,837 firms employed fewer than 250 employees.[136] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

35. According to Commission data as of December 2021, there were approximately 2,824 active Lower 700 MHz Band licenses.[137] The Commission's small business size standards with respect to Lower 700 MHz Band licensees involve eligibility for bidding credits and installment payments in the auction of licenses. For auctions of Lower 700 MHz Band licenses the Commission adopted criteria for three groups of small businesses. A very small business was defined as an entity that, together with its affiliates and controlling interests, has average annual gross revenues not exceeding $15 million for the preceding three years, a small business was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and an entrepreneur was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $3 million for the preceding three years.[138] In auctions for Lower 700 MHz Band licenses seventy-two winning bidders claiming a small business classification won 329 licenses,[139] twenty-six winning bidders claiming a small business classification won 214 licenses,[140] and three winning bidders claiming a small business classification won all five auctioned licenses.[141]

36. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

37. *Upper 700 MHz Band Licenses*. The upper 700 MHz band encompasses spectrum in the 746-806 MHz bands. Upper 700 MHz D Block licenses are nationwide licenses associated with the 758-

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[135] *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. At this time, the 2022 Economic Census data is not available.

[136] *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.

[137] Based on a FCC Universal Licensing System search on December 14, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WY, WZ; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[138] *See* 47 CFR § 27.702(a)(1)-(3).

[139] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 44: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/44/charts/44cls2.pdf.

[140] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 49: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/49/charts/49cls2.pdf.

[141] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 60: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/60/charts/60cls2.pdf.

763 MHz and 788-793 MHz bands.[142] Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation; fixed and mobile wireless commercial services (including FDD- and TDD-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services.[143] Wireless Telecommunications Carriers (*except* Satellite)[144] is the closest industry with a SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[145] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[146] Of that number, 2,837 firms employed fewer than 250 employees.[147] Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

38. According to Commission data as of December 2021, there were approximately 152 active Upper 700 MHz Band licenses.[148] The Commission's small business size standards with respect to Upper 700 MHz Band licensees involve eligibility for bidding credits and installment payments in the auction of licenses. For the auction of these licenses, the Commission defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years.[149] Pursuant to these definitions, three winning bidders claiming very small business status won five of the twelve available licenses.[150]

39. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect

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[142] *See* 47 CFR § 27.4.

[143] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 73: 700 MHz Band, Fact Sheet, Permissible Operations, https://www.fcc.gov/auction/73. We note that in Auction 73, Upper 700 MHz Band C and D Blocks as well as Lower 700 MHz Band A, B, and E Blocks were auctioned.

[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] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[146] *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. At this time, the 2022 Economic Census data is not available.

[147] *Id*. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[148] Based on a FCC Universal Licensing System search on December 14, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WP, WU; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[149] *See* 47 CFR § 27.502(a).

[150] *See Auction of 700 MHz Band Licenses Closes; Winning Bidders Announced for Auction 73*, Public Notice, DA-08-595, Attachment A, Report No. AUC-08-73-I (Auction 73) (March 20, 2008). The results for Upper 700 MHz Band C Block can be found on pp. 62-63.

data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

40. *Air-Ground Radiotelephone Service*. Air-Ground Radiotelephone Service is a wireless service in which licensees are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.[151] A licensee may provide any type of air-ground service (i.e., voice telephony, broadband Internet, data, etc.) to aircraft of any type, and serve any or all aviation markets (commercial, government, and general). A licensee must provide service to aircraft and may not provide ancillary land mobile or fixed services in the 800 MHz air-ground spectrum.[152]

41. The closest industry with an SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite).[153] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[154] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[155] Of this number, 2,837 firms employed fewer than 250 employees.[156] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

42. Based on Commission data as of December 2021, there were approximately four licensees with 110 active licenses in the Air-Ground Radiotelephone Service.[157] The Commission's small business size standards with respect to Air-Ground Radiotelephone Service involve eligibility for bidding credits and installment payments in the auction of licenses. For purposes of auctions, the Commission defined "small business" as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years.[158] In the auction of Air-Ground Radiotelephone Service licenses in the 800 MHz band, neither of the two winning bidders claimed small business status.[159]

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[151] 47 CFR § 22.99.

[152] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 65: 800 MHz Air-Ground Radiotelephone Service, Fact Sheet, Permissible Operations, https://www.fcc.gov/auction/65/factsheet.

[153] *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.

[154] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[155] *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. At this time, the 2022 Economic Census data is not available.

[156] *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.

[157] Based on a FCC Universal Licensing System search on December 20, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = CG, CJ; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[158] *See* 47 CFR § 22.223(b).

[159] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 65: 800 MHz Air-Ground Radiotelephone Service, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/65/charts/65cls2.pdf.

43. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, the Commission does not collect data on the number of employees for licensees providing these services therefore, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

44. *3650–3700 MHz band*. Wireless broadband service licensing in the 3650-3700 MHz band provides for nationwide, non-exclusive licensing of terrestrial operations, utilizing contention-based technologies, in the 3650 MHz band (i.e., 3650–3700 MHz).[160] Licensees are permitted to provide services on a non-common carrier and/or on a common carrier basis.[161] Wireless broadband services in the 3650-3700 MHz band fall in the Wireless Telecommunications Carriers (*except* Satellite)[162] industry with an SBA small business size standard that classifies a business as small if it has 1,500 or fewer employees.[163] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[164] Of this number, 2,837 firms employed fewer than 250 employees.[165] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

45. The Commission has not developed a small business size standard applicable to 3650–3700 MHz band licensees. Based on the licenses that have been granted, however, we estimate that the majority of licensees in this service are small Internet Access Service Providers (ISPs). As of November 2021, Commission data shows that there were 902 active licenses in the 3650–3700 MHz band.[166] However, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

46. *Fixed Microwave Services.* Fixed microwave services include common carrier,[167] private-operational fixed,[168] and broadcast auxiliary radio services.[169] They also include the Upper

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[160] *See* 47 CFR §§ 90.1305, 90.1307.

[161] *See id.* § 90.1309.

[162] *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.

[163] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[164] *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. At this time, the 2022 Economic Census data is not available.

[165] *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.

[166] Based on a FCC Universal Licensing System search on November 19, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = NN; Authorization Type =All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[167] *See* 47 CFR Part 101, Subparts C and I.

[168] *See id*. Subparts C and H.

[169] Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. *See* 47 CFR Part 74. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between

(continued….)

Microwave Flexible Use Service (UMFUS),[170] Millimeter Wave Service (70/80/90 GHz),[171] Local Multipoint Distribution Service (LMDS),[172] the Digital Electronic Message Service (DEMS),[173] 24 GHz Service,[174] Multiple Address Systems (MAS),[175] and Multichannel Video Distribution and Data Service (MVDDS),[176] where in some bands licensees can choose between common carrier and non-common carrier status.[177] Wireless Telecommunications Carriers (*except* Satellite)[178] is the closest industry with a SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[179] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[180] Of this number, 2,837 firms employed fewer than 250 employees.[181] Thus under the SBA size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

47. The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in Part 101 of the Commission's rules for the specific fixed microwave services frequency bands.[182]

48. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small

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two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[170] *See* 47 CFR Part 30.

[171] *See* 47 CFR Part 101, Subpart Q.

[172] *See id*. Subpart L.

[173] *See id*. Subpart G.

[174] See id.

[175] *See id.* Subpart O.

[176] *See id*. Subpart P.

[177] *See* 47 CFR §§ 101.533, 101.1017.

[178] *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.

[179] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[180] *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. At this time, the 2022 Economic Census data is not available.

[181] *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.

[182] *See* 47 CFR §§ 101.538(a)(1)-(3), 101.1112(b)-(d), 101.1319(a)(1)-(2), and 101.1429(a)(1)-(3).

business size standard.

49. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and "wireless cable,"[183] transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).[184] Wireless cable operators that use spectrum in the BRS often supplemented with leased channels from the EBS, provide a competitive alternative to wired cable and other multichannel video programming distributors. Wireless cable programming to subscribers resembles cable television, but instead of coaxial cable, wireless cable uses microwave channels.[185]

50. In light of the use of wireless frequencies by BRS and EBS services, the closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite).[186] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[187] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[188] Of this number, 2,837 firms employed fewer than 250 employees.[189] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

51. According to Commission data as of December 2021, there were approximately 5,869 active BRS and EBS licenses.[190] The Commission's small business size standards with respect to BRS involves eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of BRS licenses, the Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues exceed $3 million and did not exceed $15 million for the preceding

[183] The use of the term "wireless cable" does not imply that it constitutes cable television for statutory or regulatory purposes.

[184] See 47 CFR § 27.4; see also Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Report and Order, 10 FCC Rcd 9589, 9593, para. 7 (1995).

[185] Generally, a wireless cable system may be described as a microwave station transmitting on a combination of BRS and EBS channels to numerous receivers with antennas, such as single-family residences, apartment complexes, hotels, educational institutions, business entities and governmental offices. The range of the transmission depends upon the transmitter power, the type of receiving antenna and the existence of a line-of-sight path between the transmitter or signal booster and the receiving antenna.

[186] *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.

[187] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[188] *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. At this time, the 2022 Economic Census data is not available.

[189] *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.

[190] Based on a FCC Universal Licensing System search on December 10, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service =BR, ED; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues exceed $15 million and did not exceed $40 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $3 million for the preceding three years.[191] Of the ten winning bidders for BRS licenses, two bidders claiming the small business status won 4 licenses, one bidder claiming the very small business status won three licenses and two bidders claiming entrepreneur status won six licenses.[192] One of the winning bidders claiming a small business status classification in the BRS license auction has an active licenses as of December 2021.[193]

52. The Commission's small business size standards for EBS define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $55 million for the preceding five (5) years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $20 million for the preceding five (5) years.[194] In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

4. Satellite Service Providers

53. *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."[195] Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $44 million or less in annual receipts as small.[196] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[197] Of this number, 242 firms had revenue of less than

[191] *See* 47 CFR § 27.1218(a).

[192] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 86: Broadband Radio Service, Summary, Reports, All Bidders, https://www.fcc.gov/sites/default/files/wireless/auctions/86/charts/86bidder.xls.

[193] Based on a FCC Universal Licensing System search on December 10, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service =BR; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[194] *See* 47 CFR § 27.1219(a).

[195] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[196] *See* 13 CFR § 121.201, NAICS Code 517410.

[197] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

$25 million.[198] Consequently, using the SBA's small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

54. *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.[199] 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.[200] 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.[201] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[202] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[203] Of those firms, 1,039 had revenue of less than $25 million.[204] Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

5. Cable Service Providers

55. Because section 706 of the Act requires us to monitor the deployment of broadband using any technology, we anticipate that some broadband service providers may not provide telephone service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

56. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis.[205] The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce

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[198] *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.

[199] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[200] *Id.*

[201] *Id*.

[202] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[203] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[204] *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.

[205] *See* U.S. Census Bureau, *2017 NAICS Definition, "515210 Cable and Other Subscription Programming,"* https://www.census.gov/naics/?input=515210&year=2017&details=515210.

programming in their own facilities or acquire programming from external sources.[206] The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[207] The SBA small business size standard for this industry classifies firms with annual receipts less than $47 million as small.[208] Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year.[209] Of that number, 149 firms operated with revenue of less than $25 million a year and 44 firms operated with revenue of $25 million or more.[210] Based on this data, the Commission estimates that a majority of firms in this industry are small.

57. 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.[211] Based on industry data, there are about 420 cable companies in the U.S.[212] Of these, only seven have more than 400,000 subscribers.[213] In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.[214] Based on industry data, there are about 4,139 cable systems (headends) in the U.S.[215] Of these, about 639 have more than 15,000 subscribers.[216] Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

58. *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."[217] For purposes of the Telecom Act Standard, the Commission determined that a cable

[206] *Id.*

[207] *Id.*

[208] *See* 13 CFR § 121.201, NAICS Code 515210 (as of 10/1/22, NAICS Code 516210).

[209] *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 515210, https://data.census.gov/cedsci/table?y=2017&n=515210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available. The US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies (see Cell Notes for this category).

[210] *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 all categories of revenue less than $500,000 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

[211] 47 CFR § 76.901(d).

[212] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[213] 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).

[214] 47 CFR § 76.901(c).

[215] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[216] S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q (*last visited May 26, 2022).

[217] 47 U.S.C. § 543(m)(2).

system operator that serves fewer than 498,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator.[218] Based on industry data, only six cable system operators have more than 498,000 subscribers.[219] Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[220] 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.

6. All Other Telecommunications

59. *Electric Power Generators*, *Transmitters*, *and Distributors.* The U.S. Census Bureau defines the utilities sector industry as comprised of "establishments, primarily engaged in generating, transmitting, and/or distributing electric power.[221] Establishments in this industry group may perform one or more of the following activities: (1) operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer."[222] This industry group is categorized based on fuel source and includes Hydroelectric Power Generation, Fossil Fuel Electric Power Generation, Nuclear Electric Power Generation, Solar Electric Power Generation, Wind Electric Power Generation, Geothermal Electric Power Generation, Biomass Electric Power Generation, Other Electric Power Generation, Electric Bulk Power Transmission and Control and Electric Power Distribution.[223]

60. The SBA has established a small business size standard for each of these groups based on the number of employees which ranges from having fewer than 250 employees to having fewer than 1,000 employees.[224] U.S. Census Bureau data for 2017 indicate that for the Electric Power Generation, Transmission and Distribution industry there were 1,693 firms that operated in this industry for the entire year.[225] Of this number, 1,552 firms had less than 250 employees.[226] Based on this data and the

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[218] *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).

[219] 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).

[220] 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).

[221] *See* U.S. Census Bureau, *2017 NAICS Definition, "Sector 22- Utilities, 2211 Electric Power Generation, Transmission and Distribution,"* https://www.census.gov/naics/?input=2211&year=2017&details=2211.

[222] *See id.*

[223] *Id*https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=2211&search=2017+NAICS+Search&search=2017.

[224] *See* 13 CFR § 121.201, NAICS Codes 221111, 221112, 221113, 221114, 221115, 221116, 221117, 221118, 221121, 221122.

[225] *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 2211, https://data.census.gov/cedsci/table?y=2017&n=2211&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[226] *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.

associated SBA size standards, the majority of firms in this industry can be considered small entities.

E. Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

61. The RFA directs agencies to provide a description of the projected reporting, recordkeeping and other compliance requirements for the rules adopted herein, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.[227]

62. In the *Fifth Report and Order*, we adopt new, advance notice and pre-planning requirements in the pole attachment process for Orders of a certain size to facilitate greater coordination between attachers and utilities.[228] Parties seeking to use the pole attachment timelines for a Mid-Sized Order associated with a single network deployment or Large Order must send written advance notice of the forthcoming Order to utilities as soon as practicable, but not less than 15 days in advance of submitting a Mid-Sized Order associated with a single network deployment and not less than 60 days in advance of submitting a Large Order. The notice should contain, at a minimum, (1) the attacher's contact information; (2) a detailed description of the proposed deployment area(s) and anticipated route(s); (3) an anticipated build-out schedule; and (4) a request to meet with the utility within 30 days of the date of the notice for Large Orders. If an attachers submits an application with providing the required written advance notice (including the required minimum information), the utility can treat the application as the advance notice, and the applicable timelines will tolled during the relevant advance notice period. Attachers and utilities must also meet and confer within 30 days after written advance notice of Large Orders is given.

63. We also create new, fixed pole attachment phase timelines for Large Orders, specifying the time for completion of each pole access phase.[229] These new timelines add incremental days to all stages of the pole attachment process to recognize the concern that, as pole attachment orders become larger, they become more complex and thus require more time to complete. Additionally, we improve our existing pole attachment timelines by (1) requiring utilities to notify attachers within 15 days of receiving a complete application when they know or should have reason to know that they can meet the survey and notify attachers within 15 days of payment of a make-ready an estimate when they know or have reason to know that they will be unable to meet the make-ready deadline, (2) adding a self-help remedy for make-ready estimates, provided certain safeguards are met; and (3) declaring that application size and frequency limits that extend pole attachment timelines beyond the limits set forth in section 1.411 violate our rules.[230] Finally, we require utilities to respond to a request to add contractors to a utility-approved list within 30 days of receiving the request or the contractor will be deemed approved.[231] These new requirements are expected to be minimally burdensome, as they merely require parties to (1) provide advanced information and collaboration that both utilities and attachers claim is lacking and will be useful, (2) continue collaborative efforts begun under the new advanced notice and pre-planning requirements, and (3) will ensure that parties can readily access and work on poles without concomitant burden on utilities and attachers.

64. The Commission does not have sufficient information on the record to determine whether small entities will be required to hire professionals to comply with its decisions, or to quantify the cost of compliance for small entities with the *Fifth Report and Order*. While some small entities may have some

[227] 5 U.S.C. § 604(a)(5).

[228] *See Fifth Report and Order*, Section III.A.

[229] *See Fifth Report and Order*, Section III.B.

[230] *See Fifth Report and Order*, Section III.C.

[231] *See Fifth Report and Order*, Section III.D.

unique burdens, the Commission anticipates the requirements for pole attachment disputes and data collection by utility companies will result in greater cost savings because the more collaborative approach adopted in these rules will increase efficiency and result in faster broadband deployment.

F. Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

65. 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."[232]

66. The Commission took steps to minimize significant economic impact on small entities and considered alternatives to new rules and processes adopted in the *Fifth Report and Order* that may impact small entities. By imposing a written advance notice requirement for Mid-Size and Large Orders and a meet-and-confer requirement for Large Orders, we address utilities' concern that attachers are often not providing sufficient notice and attachers' concern utilities are often nonresponsive, practices that harm utilities and attachers and ultimately delay buildout. However, we do not impose the same new written advance notice requirement for smaller orders because they do not have the same impact as larger orders, nor for Very Large Orders because the parties are still required to engage in good faith negotiation of the attachment timelines. And while we adopt a new timeline for Large Orders, it is longer than the timelines for Regular and Mid-Sized Orders to incentivize attachers to submit smaller orders, which will allow utilities to better manage their workflows and contractors and thus timely complete applications. The Commission also considered and adopted a proposal regarding the pole caps for the expanded timeline for Large Orders based on commenters' experience deploying broadband projects. Moreover, at utilities' request, we adopt certain safeguards for an attacher-produced estimate to ensure that utilities can manage their poles. We also clarified that a utility must approve or deny a contractor based on the sufficiency of the information provided under our newly adopted 30 day timeframe, the utility can take additional time to on-board and train the contractors and remain in compliance with the Commission's rules.

67. In considering alternatives to the rules, we declined to adopt certain proposals that are burdensome, unnecessary, or would impose significant costs on utilities or attachers with little or no benefit to broadband deployment. For example, we decline proposed new timelines for Large Orders that are too lengthy to help attachers efficiently meet broadband buildout deadlines. We also declined to establish timelines for Very Large Orders nor require a utility itself to establish "reasonable" timelines for Very Large Orders, as there may be reasons beyond the utility's control that will prevent it from establishing such timelines.

G. Report to Congress

68. The Commission will send a copy of the *Fifth Report and Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.[233] In addition, the Commission will send a copy of the *Fifth Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Fifth Report and Order*, and this FRFA (or summaries thereof) in the Federal Register.[234]

[232] 5 U.S.C. § 604(a)(6).

[233] *Id*. § 801(a)(1)(A).

[234] *Id*. § 604(b).

APPENDIX C

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 policies and rules proposed in the *Fourth Further Notice of Proposed Rulemaking* (*Further Notice*) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the first page of 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).[2] In addition, the *Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Proposed Rules

2. The *Further Notice* seeks comment on proposals from utilities and attachers that might further facilitate the pole attachment process and, thus, broadband deployment. The *Further Notice* specifically seeks comment on: (1) requiring attachers to deploy equipment on poles within 120 days of completion of make-ready work; (2) whether the Commission should require attachers to make payment on an estimate to a utility within a specific period of time after acceptance; (3) limiting the amount that final make-ready costs can exceed the utility's estimate without receiving prior approval from the attacher; (4) whether to expand the availability of the one-touch, make-ready (OTMR) process to include complex survey and make-ready work; (5) establishing a deadline to on-board approved contractors; and (6) whether the Commission should define the term "pole" for purposes of section 224 of the Communications Act of 1934, as amended, and whether the term should be construed to include light poles.[4] The *Further Notice* also seeks comment on other policy considerations, including additional costs and benefits that may impact small and other business.[5]

B. Legal Basis

3. The proposed action is authorized pursuant to sections 1-4, 201, 202, 224, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-54, 201, 202, 224, and 303(r).

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

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[6] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[7] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[8] A "small business

[1] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[2] *Id*. § 603(a).

[3] *Id.*

[4] *See Fourth Further Notice*, Section IV.

[5] *Id*.

[6] 5 U.S.C. § 603(b)(3).

[7] *Id.* § 601(6).

[8] *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 (continued….)

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.[9]

5. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.[10] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.[11] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.[12]

6. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[13] The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.[14] Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.[15]

7. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[16] U.S. Census Bureau data from the 2017 Census of Governments[17] indicate there were 90,075 local governmental jurisdictions consisting of general

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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."

[9] 15 U.S.C. § 632.

[10] *See* 5 U.S.C. § 601(3)-(6).

[11] *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).

[12] *Id*.

[13] *See* 5 U.S.C. § 601(4).

[14] The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. S*ee* Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), "Who must file," https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

[15] *See* Exempt Organizations Business Master File Extract (EO BMF), "CSV Files by Region," https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf. 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 2020 with revenue less than or equal to $50,000 for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) that includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

[16] *See* 5 U.S.C. § 601(5).

[17] *See* 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with "2" and "7"; *see also* Census of Governments, https://www.census.gov/programs-

(continued….)

purpose governments and special purpose governments in the United States.[18] Of this number, there were 36,931 general purpose governments (county,[19] municipal, and town or township[20]) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts[21] with enrollment populations of less than 50,000.[22] Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of "small governmental jurisdictions."[23]

1. Internet Access Service Providers

8. *Wired Broadband Internet Access Service Providers (Wired ISPs)*.[24] Providers of wired broadband Internet access service include various types of providers except dial-up Internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules.[25] Wired broadband Internet services fall in the Wired Telecommunications Carriers industry.[26] The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small.[27] U.S. Census Bureau data for 2017 show that

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surveys/cog/about.html.

[18] *See* U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). *See also* tbl.2. CG1700ORG02 Table Notes_Local Governments by Type and State_2017.

[19] *See id.* at tbl.5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

[20] *See id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

[21] *See id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. There were 12,040 independent school districts with enrollment populations less than 50,000. *See also* tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes_Special Purpose Local Governments by State_Census Years 1942 to 2017.

[22] While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

[23] This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls. 5, 6 & 10.

[24] Formerly included in the scope of the Internet Service Providers (Broadband), Wired Telecommunications Carriers and All Other Telecommunications small entity industry descriptions.

[25] *See* 47 CFR § 1.7001(a)(1).

[26] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[27] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

there were 3,054 firms that operated in this industry for the entire year.[28] Of this number, 2,964 firms operated with fewer than 250 employees.[29]

9. Additionally, according to Commission data on Internet access services as of June 30, 2019, nationwide there were approximately 2,747 providers of connections over 200 kbps in at least one direction using various wireline technologies.[30] The Commission does not collect data on the number of employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2022 Communications Marketplace Report*,[31] we believe that the majority of wireline Internet access service providers can be considered small entities.

10. *Internet Service Providers (Non-Broadband).* Internet access service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications.[32] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[33] For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[34] Of those firms, 1,039 had revenue of less than $25 million.[35] Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

2. Wireline Providers

11. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as

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[28] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[29] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[30] *See* Federal Communications Commission, Internet Access Services: Status as of June 30, 2019 at 27, Fig. 30 *(IAS Status 2019)*, Industry Analysis Division, Office of Economics & Analytics (March 2022). The report can be accessed at https://www.fcc.gov/economics-analytics/industry-analysis-division/iad-data-statistical-reports. The technologies used by providers include aDSL, sDSL, Other Wireline, Cable Modem and FTTP). Other wireline includes: all copper-wire based technologies other than xDSL (such as Ethernet over copper, T-1/DS-1 and T3/DS-1) as well as power line technologies which are included in this category to maintain the confidentiality of the providers.

[31] *See Communications Marketplace Report*, GN Docket No. 22-203, 2022 WL 18110553 at 10, paras. 26-27, Figs. II.A.5-7. (2022) (*2022 Communications Marketplace Report*).

[32] *See* U.S. Census Bureau, *2017 NAICS Definition, "517919 All Other Telecommunications,"* https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[33] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[34] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[35] *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.

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.[36] 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.[37] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[38] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[39]

12. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[40] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[41] Of this number, 2,964 firms operated with fewer than 250 employees.[42] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services.[43] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[44] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

13. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers[45] is the closest industry with an SBA small business size standard.[46] Wired

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[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] *Id.*

[38] *Id.*

[39] 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.

[40] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[41] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[42] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[43] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf

[44] *Id.*

[45] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[46] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[47] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[48] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[49] Of this number, 2,964 firms operated with fewer than 250 employees.[50] 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.[51] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[52] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

14. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers[53] is the closest industry with an SBA small business size standard.[54] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[55] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[56] Of this number, 2,964 firms operated with fewer than 250 employees.[57] 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.[58] Of these providers, the Commission estimates that 916 providers have

[47] 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.

[48] *Id.*

[49] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[50] *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.

[51] 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.

[52] *Id.*

[53] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[54] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[55] *Id.*

[56] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[57] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[58] 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.[59] Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

15. *Competitive Local Exchange Carriers (CLECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.[60] Wired Telecommunications Carriers[61] 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.[62] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[63] Of this number, 2,964 firms operated with fewer than 250 employees.[64] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers.[65] Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees.[66] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers[67] is the closest industry with a SBA small business size standard.[68] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[69] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[70] Of this number, 2,964 firms operated with fewer than 250 employees.[71]

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[59] *Id.*

[60] 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.

[61] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[62] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[63] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[64] *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.

[65] 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.

[66] *Id.*

[67] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[68] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[69] *Id.*

[70] *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,

(continued….)

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.[72] Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

17. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The closest applicable industry with a SBA small business size standard is Wired Telecommunications Carriers.[73] The SBA small business size standard classifies a business as small if it has 1,500 or fewer employees.[74] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[75] Of this number, 2,964 firms operated with fewer than 250 employees.[76] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 20 providers that reported they were engaged in the provision of operator services.[77] Of these providers, the Commission estimates that all 20 providers have 1,500 or fewer employees.[78] Consequently, using the SBA's small business size standard, all 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[79] is the closest industry with a SBA small business size standard.[80] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[81] U.S. Census

(Continued from previous page)
https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[71] *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.

[72] 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.

[73] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[74] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[75] *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.

[76] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[77] 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. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf

[78] *Id.*

[79] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[80] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[81] *Id.*

Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[82] Of this number, 2,964 firms operated with fewer than 250 employees.[83] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 90 providers that reported they were engaged in the provision of other toll services.[84] Of these providers, the Commission estimates that 87 providers have 1,500 or fewer employees.[85] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

3. Wireless Providers—Fixed and Mobile

19. The broadband Internet access service provider category covered by these new rules may cover multiple wireless firms and categories of regulated wireless services.[86] Thus, to the extent the wireless services listed below are used by wireless firms for broadband Internet access service, the actions may have an impact on those small businesses as set forth above and further below. In addition, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that claim to qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments and transfers or reportable eligibility events, unjust enrichment issues are implicated.

20. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[87] 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.[88] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[89] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[90] Of that number, 2,837 firms employed fewer than 250

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[82] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[83] *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.

[84] 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. https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf

[85] *Id.*

[86] This includes, among others, the approximately 800 members of WISPA, including those entities who provide fixed wireless broadband service using unlicensed spectrum. *See* WISPA, *About WISPA,* https://www.wispa.org/About-Us/Mission-and-Goals (last visited June 27, 2019). We also consider the impact to these entities today for the purposes of this FRFA, by including them under the "Wireless Providers – Fixed and Mobile" category.

[87] *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.

[88] *Id.*

[89] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[90] *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. At this time, the 2022 Economic Census data is not available.

employees.[91] 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.[92] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.[93] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

21. *Wireless Communications Services*. Wireless Communications Services (WCS) can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. Wireless spectrum is made available and licensed for the provision of wireless communications services in several frequency bands subject to Part 27 of the Commission's rules.[94] Wireless Telecommunications Carriers (*except* Satellite)[95] is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[96] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[97] Of this number, 2,837 firms employed fewer than 250 employees.[98] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

22. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in Part 27 of the Commission's rules for the specific WCS frequency bands.[99]

23. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect

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[91] *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.

[92] 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.

[93] *Id.*

[94] *See* 47 CFR §§ 27.1 – 27.1607.

[95] *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.

[96] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[97] *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. At this time, the 2022 Economic Census data is not available.

[98] *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.

[99] *See* 47 CFR §§ 27.201 – 27.1601. The Designated entities sections in Subparts D – Q each contain the small business size standards adopted for the auction of the frequency band covered by that subpart.

data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

24. *1670–1675 MHz Services*. These wireless communications services can be used for fixed and mobile uses, except aeronautical mobile.[100] Wireless Telecommunications Carriers (except Satellite)[101] is the closest industry with an SBA small business size standard applicable to these services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[102] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[103] Of this number, 2,837 firms employed fewer than 250 employees.[104] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

25. According to Commission data as of November 2021, there were three active licenses in this service.[105] The Commission's small business size standards with respect to 1670–1675 MHz Services involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For licenses in the 1670-1675 MHz service band, a "small business" is defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" is defined as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years.[106] The 1670-1675 MHz service band auction's winning bidder did not claim small business status.[107]

26. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

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[100] *See* 47 CFR § 27.902.

[101] *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.

[102] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[103] *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. At this time, the 2022 Economic Census data is not available.

[104] *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.

[105] Based on a FCC Universal Licensing System search on November 8, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = BC; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[106] *See* 47 CFR § 27.906(a).

[107] *See 1670–1675 MHz Band Auction Closes; Winning Bidder Announced*; *FCC Form 600s Due May 12,2003,* Public Notice, DA-03-1472, Report No. AUC-03-46-H (Auction No.46) (May 2, 2003).

27. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite).[108] The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees.[109] For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.[110] Of this number, 2,837 firms employed fewer than 250 employees.[111] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 331 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services.[112] Of these providers, the Commission estimates that 255 providers have 1,500 or fewer employees.[113] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

28. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum encompasses services in the 1850-1910 and 1930-1990 MHz bands.[114] The closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (except Satellite).[115] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[116] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[117] Of this number, 2,837 firms employed fewer than 250 employees.[118] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

29. Based on Commission data as of November 2021, there were approximately 5,060 active licenses in the Broadband PCS service.[119] The Commission's small business size standards with respect

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[108] *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.

[109] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[110] *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. At this time, the 2022 Economic Census data is not available.

[111] *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.

[112] 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.

[113] *Id.*

[114] *See* 47 CFR § 24.200.

[115] *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.

[116] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[117] *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. At this time, the 2022 Economic Census data is not available.

[118] *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.

[119] Based on a FCC Universal Licensing System search on November 16, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match

(continued….)

to Broadband PCS involve eligibility for bidding credits and installment payments in the auction of licenses for these services. In auctions for these licenses, the Commission defined "small business" as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years.[120] Winning bidders claiming small business credits won Broadband PCS licenses in C, D, E, and F Blocks.[121]

30. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

31. *Specialized Mobile Radio Licenses.* Special Mobile Radio (SMR) licenses allow licensees to provide land mobile communications services (other than radiolocation services) in the 800 MHz and 900 MHz spectrum bands on a commercial basis including but not limited to services used for voice and data communications, paging, and facsimile services, to individuals, Federal Government entities, and other entities licensed under Part 90 of the Commission's rules. Wireless Telecommunications Carriers (except Satellite)[122] is the closest industry with a SBA small business size standard applicable to these services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[123] For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[124] Of this number, 2,837 firms employed fewer than 250 employees.[125] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 95 providers that reported they were of SMR (dispatch) providers.[126] Of this number, the Commission estimates that all 95

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only the following radio service(s)", Radio Service = CW; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[120] *See* 47 CFR § 24.720(b).

[121] *See* Federal Communications Commission, Office of Economics and Analytics, Auctions, Auctions 4, 5, 10, 11, 22, 35, 58, 71 and 78, https://www.fcc.gov/auctions.

[122] *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.

[123] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[124] *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. At this time, the 2022 Economic Census data is not available.

[125] *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.

[126] 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.

providers have 1,500 or fewer employees.[127] Consequently, using the SBA's small business size standard, these 119 SMR licensees can be considered small entities.[128]

32. Based on Commission data as of December 2021, there were 3,924 active SMR licenses.[129] However, since the Commission does not collect data on the number of employees for licensees providing SMR services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard. Nevertheless, for purposes of this analysis the Commission estimates that the majority of SMR licensees can be considered small entities using the SBA's small business size standard.

33. *Lower 700 MHz Band Licenses*. The lower 700 MHz band encompasses spectrum in the 698-746 MHz frequency bands. Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation; fixed and mobile wireless commercial services (including FDD- and TDD-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services.[130] Wireless Telecommunications Carriers (*except* Satellite)[131] is the closest industry with a SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[132] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[133] Of this number, 2,837 firms employed fewer than 250 employees.[134] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

34. According to Commission data as of December 2021, there were approximately 2,824 active Lower 700 MHz Band licenses.[135] The Commission's small business size standards with respect to

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[127] *Id.*

[128] We note that there were also SMR providers reporting in the "Cellular/PCS/SMR" classification, therefore there are maybe additional SMR providers that have not been accounted for in the SMR (dispatch) classification.

[129] Based on a FCC Universal Licensing System search on December 15, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match radio services within this group", Radio Service = SMR; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[130] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auctions 44, 49, 60: Lower 700 MHz Band, Fact Sheet, Permissible Operations, https://www.fcc.gov/auction/44, https://www.fcc.gov/auction/49, and https://www.fcc.gov/auction/60.

[131] *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.

[132] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[133] *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. At this time, the 2022 Economic Census data is not available.

[134] *Id*. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[135] Based on a FCC Universal Licensing System search on December 14, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WY, WZ; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

Lower 700 MHz Band licensees involve eligibility for bidding credits and installment payments in the auction of licenses. For auctions of Lower 700 MHz Band licenses the Commission adopted criteria for three groups of small businesses. A very small business was defined as an entity that, together with its affiliates and controlling interests, has average annual gross revenues not exceeding $15 million for the preceding three years, a small business was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and an entrepreneur was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $3 million for the preceding three years.[136] In auctions for Lower 700 MHz Band licenses seventy-two winning bidders claiming a small business classification won 329 licenses,[137] twenty-six winning bidders claiming a small business classification won 214 licenses,[138] and three winning bidders claiming a small business classification won all five auctioned licenses.[139]

35. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

36. *Upper 700 MHz Band Licenses*. The upper 700 MHz band encompasses spectrum in the 746-806 MHz bands. Upper 700 MHz D Block licenses are nationwide licenses associated with the 758-763 MHz and 788-793 MHz bands.[140] Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation; fixed and mobile wireless commercial services (including FDD- and TDD-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services.[141] Wireless Telecommunications Carriers (*except* Satellite)[142] is the closest industry with a SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[143] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this

[136] *See* 47 CFR § 27.702(a)(1)-(3).

[137] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 44: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/44/charts/44cls2.pdf.

[138] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 49: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/49/charts/49cls2.pdf.

[139] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 60: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/60/charts/60cls2.pdf.

[140] *See* 47 CFR § 27.4.

[141] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 73: 700 MHz Band, Fact Sheet, Permissible Operations, https://www.fcc.gov/auction/73. We note that in Auction 73, Upper 700 MHz Band C and D Blocks as well as Lower 700 MHz Band A, B, and E Blocks were auctioned.

[142] *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.

[143] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

industry for the entire year.[144] Of that number, 2,837 firms employed fewer than 250 employees.[145] Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

37. According to Commission data as of December 2021, there were approximately 152 active Upper 700 MHz Band licenses.[146] The Commission's small business size standards with respect to Upper 700 MHz Band licensees involve eligibility for bidding credits and installment payments in the auction of licenses. For the auction of these licenses, the Commission defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years.[147] Pursuant to these definitions, three winning bidders claiming very small business status won five of the twelve available licenses.[148]

38. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

39. *Air-Ground Radiotelephone Service*. Air-Ground Radiotelephone Service is a wireless service in which licensees are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.[149] A licensee may provide any type of air-ground service (i.e., voice telephony, broadband Internet, data, etc.) to aircraft of any type, and serve any or all aviation markets (commercial, government, and general). A licensee must provide service to aircraft and may not provide ancillary land mobile or fixed services in the 800 MHz air-ground spectrum.[150]

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[144] *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. At this time, the 2022 Economic Census data is not available.

[145] *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.

[146] Based on a FCC Universal Licensing System search on December 14, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WP, WU; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[147] *See* 47 CFR § 27.502(a).

[148] *See Auction of 700 MHz Band Licenses Closes; Winning Bidders Announced for Auction 73*, Public Notice, DA-08-595, Attachment A, Report No. AUC-08-73-I (Auction 73) (March 20, 2008). The results for Upper 700 MHz Band C Block can be found on pp. 62-63.

[149] 47 CFR § 22.99.

[150] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 65: 800 MHz Air-Ground Radiotelephone Service, Fact Sheet, Permissible Operations, https://www.fcc.gov/auction/65/factsheet.

40. The closest industry with an SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite).[151] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[152] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[153] Of this number, 2,837 firms employed fewer than 250 employees.[154] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

41. Based on Commission data as of December 2021, there were approximately four licensees with 110 active licenses in the Air-Ground Radiotelephone Service.[155] The Commission's small business size standards with respect to Air-Ground Radiotelephone Service involve eligibility for bidding credits and installment payments in the auction of licenses. For purposes of auctions, the Commission defined "small business" as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a "very small business" as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years.[156] In the auction of Air-Ground Radiotelephone Service licenses in the 800 MHz band, neither of the two winning bidders claimed small business status.[157]

42. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, the Commission does not collect data on the number of employees for licensees providing these services therefore, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

43. *3650–3700 MHz band*. Wireless broadband service licensing in the 3650-3700 MHz band provides for nationwide, non-exclusive licensing of terrestrial operations, utilizing contention-based technologies, in the 3650 MHz band (i.e., 3650–3700 MHz).[158] Licensees are permitted to provide

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[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*, *Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[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] Based on a FCC Universal Licensing System search on December 20, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = CG, CJ; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[156] *See* 47 CFR § 22.223(b).

[157] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 65: 800 MHz Air-Ground Radiotelephone Service, Summary, Closing Charts, Licenses by Bidder, https://www.fcc.gov/sites/default/files/wireless/auctions/65/charts/65cls2.pdf.

[158] *See* 47 CFR §§ 90.1305, 90.1307.

services on a non-common carrier and/or on a common carrier basis.[159] Wireless broadband services in the 3650-3700 MHz band fall in the Wireless Telecommunications Carriers (*except* Satellite)[160] industry with an SBA small business size standard that classifies a business as small if it has 1,500 or fewer employees.[161] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[162] Of this number, 2,837 firms employed fewer than 250 employees.[163] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

44. The Commission has not developed a small business size standard applicable to 3650–3700 MHz band licensees. Based on the licenses that have been granted, however, we estimate that the majority of licensees in this service are small Internet Access Service Providers (ISPs). As of November 2021, Commission data shows that there were 902 active licenses in the 3650–3700 MHz band.[164] However, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

45. *Fixed Microwave Services.* Fixed microwave services include common carrier,[165] private-operational fixed,[166] and broadcast auxiliary radio services.[167] They also include the Upper Microwave Flexible Use Service (UMFUS),[168] Millimeter Wave Service (70/80/90 GHz),[169] Local Multipoint Distribution Service (LMDS),[170] the Digital Electronic Message Service (DEMS),[171] 24 GHz Service,[172] Multiple Address Systems (MAS),[173] and Multichannel Video Distribution and Data Service

[159] *See id.* § 90.1309.

[160] *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.

[161] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[162] *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. At this time, the 2022 Economic Census data is not available.

[163] *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.

[164] Based on a FCC Universal Licensing System search on November 19, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = NN; Authorization Type =All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[165] *See* 47 CFR Part 101, Subparts C and I.

[166] *See id*. Subparts C and H.

[167] Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. *See* 47 CFR Part 74. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[168] *See* 47 CFR Part 30.

[169] *See* 47 CFR Part 101, Subpart Q.

[170] *See id*. Subpart L.

[171] *See id*. Subpart G.

(MVDDS),[174] where in some bands licensees can choose between common carrier and non-common carrier status.[175] Wireless Telecommunications Carriers (*except* Satellite)[176] is the closest industry with a SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[177] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[178] Of this number, 2,837 firms employed fewer than 250 employees.[179] Thus under the SBA size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

46. The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in Part 101 of the Commission's rules for the specific fixed microwave services frequency bands.[180]

47. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

48. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and "wireless cable,"[181] transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the

(Continued from previous page)

[172] See id.

[173] *See id.* Subpart O.

[174] *See id*. Subpart P.

[175] *See* 47 CFR §§ 101.533, 101.1017.

[176] *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.

[177] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[178] *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. At this time, the 2022 Economic Census data is not available.

[179] *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.

[180] *See* 47 CFR §§ 101.538(a)(1)-(3), 101.1112(b)-(d), 101.1319(a)(1)-(2), and 101.1429(a)(1)-(3).

[181] The use of the term "wireless cable" does not imply that it constitutes cable television for statutory or regulatory purposes.

Instructional Television Fixed Service (ITFS)).[182] Wireless cable operators that use spectrum in the BRS often supplemented with leased channels from the EBS, provide a competitive alternative to wired cable and other multichannel video programming distributors. Wireless cable programming to subscribers resembles cable television, but instead of coaxial cable, wireless cable uses microwave channels.[183]

49. In light of the use of wireless frequencies by BRS and EBS services, the closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite).[184] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[185] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[186] Of this number, 2,837 firms employed fewer than 250 employees.[187] Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

50. According to Commission data as of December 2021, there were approximately 5,869 active BRS and EBS licenses.[188] The Commission's small business size standards with respect to BRS involves eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of BRS licenses, the Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues exceed $3 million and did not exceed $15 million for the preceding three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues exceed $15 million and did not exceed $40 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $3 million for the preceding three years.[189] Of the ten winning bidders for BRS licenses, two bidders claiming the small business status won 4 licenses, one bidder claiming the very small business status won three licenses and two bidders claiming entrepreneur status won six licenses.[190]

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[182] See 47 CFR § 27.4; see also Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Report and Order, 10 FCC Rcd 9589, 9593, para. 7 (1995).

[183] Generally, a wireless cable system may be described as a microwave station transmitting on a combination of BRS and EBS channels to numerous receivers with antennas, such as single-family residences, apartment complexes, hotels, educational institutions, business entities and governmental offices. The range of the transmission depends upon the transmitter power, the type of receiving antenna and the existence of a line-of-sight path between the transmitter or signal booster and the receiving antenna.

[184] *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.

[185] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[186] *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. At this time, the 2022 Economic Census data is not available.

[187] *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.

[188] Based on a FCC Universal Licensing System search on December 10, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service =BR, ED; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[189] *See* 47 CFR § 27.1218(a).

One of the winning bidders claiming a small business status classification in the BRS license auction has an active licenses as of December 2021.[191]

51. The Commission's small business size standards for EBS define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $55 million for the preceding five (5) years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $20 million for the preceding five (5) years.[192] In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

4. Satellite Service Providers

52. *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."[193] Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $44 million or less in annual receipts as small.[194] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[195] Of this number, 242 firms had revenue of less than $25 million.[196] Consequently, using the SBA's small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue

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[190] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 86: Broadband Radio Service, Summary, Reports, All Bidders, https://www.fcc.gov/sites/default/files/wireless/auctions/86/charts/86bidder.xls.

[191] Based on a FCC Universal Licensing System search on December 10, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service =BR; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[192] *See* 47 CFR § 27.1219(a).

[193] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[194] *See* 13 CFR § 121.201, NAICS Code 517410.

[195] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[196] *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.

information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

53. *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.[197] 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.[198] 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.[199] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[200] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[201] Of those firms, 1,039 had revenue of less than $25 million.[202] Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

5. Cable Service Providers

54. Because section 706 of the Act requires us to monitor the deployment of broadband using any technology, we anticipate that some broadband service providers may not provide telephone service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

55. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis.[203] The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources.[204] The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[205] The SBA small business size standard for this industry classifies firms with annual receipts less than $47 million as small.[206] Based on U.S. Census Bureau data for 2017, 378 firms

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[197] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[198] *Id.*

[199] *Id*.

[200] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[201] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[202] *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.

[203] *See* U.S. Census Bureau, *2017 NAICS Definition, "515210 Cable and Other Subscription Programming,"* https://www.census.gov/naics/?input=515210&year=2017&details=515210.

[204] *Id.*

[205] *Id.*

operated in this industry during that year.[207] Of that number, 149 firms operated with revenue of less than $25 million a year and 44 firms operated with revenue of $25 million or more.[208] Based on this data, the Commission estimates that a majority of firms in this industry are small.

56. *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.[209] Based on industry data, there are about 420 cable companies in the U.S.[210] Of these, only seven have more than 400,000 subscribers.[211] In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.[212] Based on industry data, there are about 4,139 cable systems (headends) in the U.S.[213] Of these, about 639 have more than 15,000 subscribers.[214] Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

57. *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."[215] 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.[216] Based on industry data, only six cable system operators have

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[206] *See* 13 CFR § 121.201, NAICS Code 515210 (as of 10/1/22, NAICS Code 516210).

[207] *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 515210, https://data.census.gov/cedsci/table?y=2017&n=515210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available. The US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies (see Cell Notes for this category).

[208] *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 all categories of revenue less than $500,000 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

[209] 47 CFR § 76.901(d).

[210] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[211] 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).

[212] 47 CFR § 76.901(c).

[213] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[214] S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q (*last visited May 26, 2022).

[215] 47 U.S.C. § 543(m)(2).

[216] *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 (continued….)

more than 498,000 subscribers.[217] Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[218] 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.

6. All Other Telecommunications

58. *Electric Power Generators*, *Transmitters*, *and Distributors.* The U.S. Census Bureau defines the utilities sector industry as comprised of "establishments, primarily engaged in generating, transmitting, and/or distributing electric power.[219] Establishments in this industry group may perform one or more of the following activities: (1) operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer."[220] This industry group is categorized based on fuel source and includes Hydroelectric Power Generation, Fossil Fuel Electric Power Generation, Nuclear Electric Power Generation, Solar Electric Power Generation, Wind Electric Power Generation, Geothermal Electric Power Generation, Biomass Electric Power Generation, Other Electric Power Generation, Electric Bulk Power Transmission and Control and Electric Power Distribution.[221]

59. The SBA has established a small business size standard for each of these groups based on the number of employees which ranges from having fewer than 250 employees to having fewer than 1,000 employees.[222] U.S. Census Bureau data for 2017 indicate that for the Electric Power Generation, Transmission and Distribution industry there were 1,693 firms that operated in this industry for the entire year.[223] Of this number, 1,552 firms had less than 250 employees.[224] Based on this data and the associated SBA size standards, the majority of firms in this industry can be considered small entities.

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publicly available. *Id*. This threshold will remain in effect until the Commission issues a superseding Public Notice. *See* 47 CFR § 76.901(e)(1).

[217] 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).

[218] 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).

[219] *See* U.S. Census Bureau, *2017 NAICS Definition, "Sector 22- Utilities, 2211 Electric Power Generation, Transmission and Distribution,"* https://www.census.gov/naics/?input=2211&year=2017&details=2211.

[220] *See id.*

[221] *Id*.

[222] *See* 13 CFR § 121.201, NAICS Codes 221111, 221112, 221113, 221114, 221115, 221116, 221117, 221118, 221121, 221122.

[223] *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 2211, https://data.census.gov/cedsci/table?y=2017&n=2211&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[224] *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.

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

60. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record. [225]

61. In the *Further Notice*, we seek comment on ways to further facilitate the approval process for pole attachment applications and make-ready to enable quicker broadband deployment. Some of the matters on which we seek comment may impose new or additional reporting or recordkeeping and/or other compliance obligations on small entities. Specifically, we seek comment on requiring attachers to deploy equipment on poles within 120 days of completion of make-ready work and the potential repercussions against attachers that fail to do so.[226] We also seek comment on whether we should require attachers to make payment on an estimate to a utility within a specific period of time after acceptance and, in particular, utilities' suggestion that attachers should be required to pay all estimated make-ready costs, in full, within 30 days of the date on which the estimate is accepted by the attacher.[227] If an attacher fails to make any payment within the time frame specified in the rule, the applicable make-ready timeline should be deemed waived. We also ask, more generally, how imposing a timeframe in which an attacher must make payment after acceptance of an estimate can incentivize faster broadband deployment. We also seek comment on limiting the amount that final make-ready costs can exceed the utility's estimate without receiving prior approval from the attacher, providing some reverse pre-emption states as examples.[228] Additionally, we ask whether to expand the availability of the OTMR process to include complex survey and make-ready work, rather than continue to limit the process to simple survey and make-ready work.[229] We also ask whether setting a deadline for utilities to complete the on-boarding process for a contractor would improve the viability of the self-help remedy in the Commission's rules.[230] Finally, as neither section 224 nor the Commission's implementing rules define the term "pole" and in response to CTIA's petition for a declaratory ruling on the matter, we seek comment on whether the Commission should define the term "pole" for purposes of section 224 of the Act and whether the term should be construed to include light poles.[231] This information will help to inform whether potential rule changes are necessary.

62. At this time, the Commission cannot quantify the cost of compliance for small entities with the approaches discussed in the *Further Notice*, or whether any compliance requirements will require small entities to hire professionals beyond those necessary to comply with the current rules. The Commission requests information on the costs, benefits, and any cost savings related to the proposed rule changes that may be associated with operational needs such as the availability of qualified contractors and other workforce constraints that may impact the speed and cost of deployment for utilities and attachers.

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[225] 5 U.S.C. § 603(b)(4).

[226] *See Fourth Further Notice*, Section IV.A.

[227] *See Fourth Further Notice*, Section IV.B.

[228] *See Fourth Further Notice*, Section IV.C.

[229] *See Fourth Further Notice*, Section IV.D.

[230] *See Fourth Further Notice*, Section IV.E.

[231] *See Fourth Further Notice*, Section IV.F.

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

63. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities.[232] The discussion is required to include alternatives such as: "(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."[233]

64. The *Further Notice* seeks comment on whether the Commission should revise its rules to further facilitate the approval process for pole attachment applications and make-ready to enable quicker broadband deployment, including requiring attachers to deploy equipment on poles within 120 days of completion of make-ready work and the potential repercussions against an attacher that fail to do so. While we ask whether we should impose a fee on those attachers, we alternatively seek comment on whether deployment timeframes and noncompliance fees would be better dealt with in the parties' pole attachment agreements instead of our rules. We also seek comment on whether we should require attachers to make payment on an estimate to a utility within a specific period of time after acceptance and, in particular, utilities' suggestion that we should require attachers make payment within 30 days after acceptance. We alternatively ask whether we should adopt attachers' suggestion that we prohibit utilities from requiring payment upon an attacher's acceptance and instead implement a payment schedule based on make-ready work progress. Additionally, while we seek comment on limiting the amount that final make-ready costs can exceed the utility's estimate without receiving prior approval from the attacher, we ask in the alternative whether such cost-ceilings are better left to private agreement. We further seek comment on whether to expand the availability of the OTMR process to include complex survey and make-ready work, and the obstacles to attachers using OTMR if it were available for complex work. Also, while we seek comment on whether to impose a deadline for utilities to on-board approved contractors, we emphasize that our goals are to understand the overall amount of time actually needed to complete the on-boarding process based on utility procedure and the associated implications for the self-help remedy. Finally, while seeking comment on whether a light pole is a "pole" for purposes of section 224 of the Act, we consider several alternatives, such as various interpretations of the term "pole" based on its meaning in federal legislation and associated legislative history. The Commission also seeks comment on, and will consider, the relative costs and benefits of any such revisions to its rules. Information submitted in response to these requests for comment will enable the Commission to evaluate the impact that revising its pole attachment rules would have on smaller entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

65. None.

[232] 5 U.S.C. § 603(c).

[233] 5 U.S.C. § 603(c)(1)-(4).

STATEMENT OF
CHAIRMAN BRENDAN CARR

Re: *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment,* Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking, and Orders on Reconsideration, WC Docket No. 17-84 (July 24, 2025).

A couple of weeks ago in Sioux Falls, I had the chance to spend time with Jordan and his construction crew. As he put on his harness and climbing spikes, I put on a hard hat and a reflective vest that was not exactly tailored to a bureaucrat's physique. Jordan took the hard way to the top of an old, wooden utility pole, climbing his way the 50 or so feet up off the ground. The crew trusted me to operate the bucket truck, and I met Jordan up in the communications space of the pole. From that point, Jordan showed me how he and his crew were replacing 30 year-old plant and attaching new, high-speed lines to the poles. It's this kind of hard work, done every day by folks like Jordan, that makes the buildout of modern high-speed Internet possible.

Unfortunately, for too long, this work has been made even harder by a regulatory regime that does not make it easy to build new high-speed infrastructure. In particular, a lack of standard rules and timelines for processing requests to attach to a large number of poles have slowed the rollout of new connections and led to costly disputes between broadband builders and utility pole owners. This is unacceptable.

We want to unleash massive new builds across the country, and making it easier to get large deployments cleared is key to doing so. Today's action is designed to do just that by encouraging greater collaboration between communications companies and pole-owning utilities on those larger broadband deployments. It also establishes more concrete timelines for large batch requests. Additionally, we're seeking comment on whether the FCC can help accelerate mobile wireless builds by finding that light poles are covered by Section 224 of the Communications Act. In other words, we're removing barriers to deployment, encouraging investment, and helping achieve high-speed broadband availability, so that it's easier for crews like Jordan's to connect their communities.

For their work on this item, I'd like to thank Malena Barzilai, Michele Berlove, AJ Burton, Joseph Calascione, Ty Covey, Liz Drogula, Rick Mallen, Emily Caditz, and Mike Ray.

STATEMENT OF
COMMISSIONER OLIVIA TRUSTY

Re: *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment,* Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking, and Orders on Reconsideration, WC Docket No. 17-84 (July 24, 2025).

Universal connectivity and broadband affordability depend on timely and efficient network deployment. The Communications Act provides a number of tools to help meet that challenge, including by giving providers the ability to leverage existing physical infrastructure like utility poles in support of broadband build-out.

The Commission has done good work to date to enable providers to rely on pole access when deploying wired and wireless networks, but this item shows that there still is more that can be one. For one, this item builds upon past rules by adopting new measures to enable providers to benefit from improved, predictable timelines when seeking access to larger volumes of poles and implementing other policies to further expedite pole access.

Importantly, today's item also rightly prioritizes cooperation between utilities and attachers for the efficient processing of pole attachment requests. It clarifies and confirms existing information sharing obligations tailored to require utilities to provide information already in their possession in circumstances where it can be particularly helpful in avoiding or resolving disputes. And this item goes further to promote coordination through information sharing and meetings between attachers and utilities regarding batches of pole attachment requests. Against the backdrop of Commission rules and guidance, information sharing and pre-planning meetings will help minimize disputes and delays.

The item also seeks comment on additional steps proposed by attachers or utilities designed to make the pole attachment process more efficient. Making the best use of those tools to encourage broadband deployment is essential not only given the transformational impact of high-speed internet access, but also to ensure the effective use of federal resources directed toward broadband networks.

I thank the Wireline Competition Bureau staff for their important work on this item, and I look forward to working with the Chairman, the Commission, and industry stakeholders on these and others ways to expand access to affordable broadband services for all Americans.

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

In the Matter of	)	
	)	
Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses	)	GN Docket No. 25-70
	)	
	)	
Applying New Average Annual Gross Revenue Benchmarks for Small Business Bidding Credits	)	GN Docket No. 25-71
	)	
	)	
Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands	)	GN Docket No. 13-185
	)	
	)	
	)	

REPORT AND ORDER AND SECOND REPORT AND ORDER

Adopted: July 24, 2025 **Released: July 25, 2025**

By the Commission: Chairman Carr and Commissioner Trusty issuing separate statements; Commissioner Gomez concurring in part and issuing separate statement.

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I. INTRODUCTION

1. Advancing U.S. leadership in wireless is good for our economy, for our national security, and for ensuring that every American has access to affordable, high-speed service. That is why we are focused on freeing up more spectrum for consumer use.

2. Today, we move to satisfy a bipartisan congressional mandate to auction licenses for AWS-3 spectrum in the Commission's inventory.[1] The proceeds from this auction will fund the Commission's ongoing efforts to protect American networks from untrustworthy and insecure foreign equipment.

3. The Commission has held spectrum auctions for roughly 30 years.[2] Auctions assign spectrum licenses to their highest and best use by allowing bidders to reveal their preferences and discover a market-clearing price. Our auctions have proven a resounding success largely because we have updated our rules to account for the lessons of the past. One example is especially relevant today. In 2015, we reformed our rules to protect the integrity of our auctions from fraud, collusion, and manipulation while promoting participation by *bona fide* small businesses and rural providers.

4. The Order we adopt today advances those time-tested objectives. First, we adopt designated entity eligibility requirements for future AWS-3 spectrum license auctions that are in harmony with the requirements used in every 5G auction we have held since 2015. Updating our AWS-3 rules to match settled practice will give small businesses and rural service providers the predictability they need to participate meaningfully at auction. Next, we update our general part 1 competitive bidding rules for categorizing an entity as a "small business concern," pursuant to the Small Business Runway Extension Act of 2018 (SBREA).[3] In adopting these rules, we reject arguments from the affiliates of Auction 97 defaulters—whose unwillingness to pay the full amount of their gross winning bids led to significant AWS-3 spectrum sitting fallow in the Commission's inventory for nearly a decade—that we conduct the next auction of AWS-3 licenses under the same rules that enabled the very bidding behavior that led to their defaults in the first place. Finally, we decline to adopt a Tribal priority licensing window in advance of the auction.

5. Shortly after the Commission adopted the Notice of Proposed Rulemaking in this proceeding (*NPRM*),[4] the Office of Economics and Analytics (OEA), jointly with the Wireless Telecommunications Bureau (WTB), sought comment on proposed procedures for an auction of AWS-3

[1] *See* Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub. L. No. 118-159, Div. E, Title LIV, § 5401–5405 (Spectrum and Secure Technology and Innovation Act), § 5403 (mandating that the Commission initiate a system of competitive bidding for licenses for unassigned AWS-3 spectrum within 18 months of Dec. 23, 2024) (2024), https://www.congress.gov/118/plaws/publ159/PLAW-118publ159.pdf.

[2] Section 309(j) of the Communications Act of 1934, as amended (Communications Act or Act) authorizes the Commission's use of competitive bidding when granting spectrum licenses. 47 U.S.C. § 309(j).

[3] *See* 15 U.S.C. § 632(a)(2)(C)(ii)(II), *as amended by* Small Business Runway Extension Act of 2018, Pub. L. 115-324 (Dec. 17, 2018) (SBREA); 13 CFR § 121.903(a)(1)(ii).

[4] *Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses, et al.*, GN Docket Nos. 25-70, 25-71, and 13-185, Notice of Proposed Rulemaking, FCC 25-12 (rel. Feb. 28, 2025) (*NPRM*).

licenses (Auction 113).[5] Our Order today will allow OEA and WTB to establish final procedures for Auction 113 in accordance with the adopted rules and to move forward with that auction.

II. BACKGROUND

6. In 2014, the Commission adopted service and bidding rules for the auction of AWS-3 spectrum licenses (Auction 97) in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz frequencies.[6] Bidding in Auction 97 began in November 2014 and ended in January 2015.[7] Auction 97 raised a total of $41,329,673,325 in net bids, with 31 bidders placing winning bids for a total of 1,611 licenses.[8] Following that auction, certain winning bidders selectively defaulted on winning bids for 197 licenses.[9] In March 2025, the Commission announced that it would conduct a new auction—Auction 113—for the AWS-3 spectrum that remained in the agency's inventory, most of which was available primarily due to Auction 97 defaults.[10] Because the Auction 97 defaults bear on Auction 113 and the decisions we make today, we briefly recount the relevant history below.

7. *The Commission Provides Notice in 2014 that All AWS-3 Auctions Would Be Subject to Generally Applicable Rule Changes.* Prior to Auction 97, the Commission provided clear notice that any and all future auctions of AWS-3 spectrum licenses would be subject to generally applicable changes to the part 1 competitive bidding rules.[11] In particular, the Commission determined that any AWS-3 auction

[5] *Auction of Advanced Wireless Services (AWS-3) Licenses; Comment Sought on Competitive Bidding Procedures for Auction 113*, AU Docket No. 25-117, Public Notice, DA 25-193 (OEA-WTB, rel. Mar. 11, 2025) (*Auction 113 Bidding Procedures Comment Public Notice*).

[6] *Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz Bands*, GN Docket No. 13-185, Report and Order, 29 FCC Rcd 4610 (2014) (*AWS-3 2014 Report and Order*); *Auction of Advanced Wireless Services (AWS-3) Licenses Scheduled for November 13, 2014; Notice and Filing Requirements, Reserve Prices, Minimum Opening Bids, Upfront Payments and other Procedures for Auction 97*, AU Docket No. 14-78, Public Notice, 29 FCC Rcd 8386 (WTB 2014) (*Auction 97 Procedures Public Notice*). Except to the extent modified by this Report and Order, all of the service rules established by the Commission in 2014 for AWS-3 licenses remain in effect.

[7] *See generally Auction of Advanced Wireless Services (AWS-3) Licenses Closes, Winning Bidders Announced for Auction 97*, Public Notice, 30 FCC Rcd 630 (WTB 2015) (*Auction 97 Closing Public Notice*).

[8] *Id.* at 630, para. 1. At the close of Auction 97, spectrum associated with three licenses offered in that auction remained in the Commission's inventory. Auction 97: Advanced Wireless Services (AWS-3), https://www.fcc.gov/auction/97 (last visited July 24, 2025) (noting that 3 licenses were held by the FCC at the close of bidding).

[9] Letter from Mark F. Dever, Counsel to Northstar, to Jean Kiddoo, Deputy Bureau Chief, Wireless Telecommunications Bureau, ULS File Nos. 0006670613 (Oct. 1, 2015) (Northstar Selective Default Letter); Letter from Ari Q. Fitzgerald, Counsel to SNR, to Jean Kiddoo, Deputy Bureau Chief, Wireless Telecommunications Bureau, ULS File Nos. 0006670667 (Oct. 1, 2015) (SNR Selective Default Letter); *see SNR Wireless LicenseCo, LLC, Notice of Interim Default Payment Obligation for Auction 97 Licenses*, Letter Order, 30 FCC Rcd 10704 (WTB 2015) (accepting SNR's selective defaults) (*SNR Interim Default Payment Letter*); *Northstar Wireless, LLC, Notice of Interim Default Payment Obligation for Auction 97 Licenses*, Letter Order, 30 FCC Rcd 10700 (WTB 2015) (accepting the Northstar's selective defaults) (*Northstar Interim Default Payment Letter*). Northstar requested to selectively default on winning bids for 84 licenses. *See* Northstar Selective Default Letter at Attachment 2. SNR requested to selectively default on winning bids for 113 licenses. *See* SNR Selective Default Letter at Attachment 2.

[10] Auction 113 will make available 200 licenses, *see Auction 113 Bidding Procedures Comment Public Notice* at 3, para. 5, of which 197 are analogous to licenses covered by winning bids that were selectively defaulted by Northstar and SNR.

[11] *AWS-3 2014 Report and Order*, 29 FCC Rcd at 4675, para. 177 (stating that any AWS-3 auction would be conducted "subject to any modifications that the Commission may adopt for its part 1 general competitive bidding rules in the future").

would be conducted in accordance with the general competitive bidding rules set forth in part 1, subpart Q of the Commission's rules except as "otherwise provided in" part 27.[12]

8. The part 1 competitive bidding rules advance the agency's statutory directive by ensuring that designated entities (DEs)—small businesses and rural telephone companies—have a meaningful opportunity to access wireless spectrum in FCC auctions.[13] DEs are eligible for auction bidding credits, represented as percentage discounts from their winning bids. Eligibility requirements for DEs are set on a service-by-service basis, the capital requirements and other characteristics of each particular service establishing the appropriate threshold.[14]

9. The Commission adopted service-specific bidding credits and DE eligibility requirements for the AWS-3 bands prior to Auction 97.[15] The Commission provided a 15% small business bidding credit to entities with average annual gross revenues not exceeding $40 million and a 25% very small business bidding credit to entities with average annual gross revenues not exceeding $15 million.[16] The average gross revenues would be calculated from the preceding three years.[17] These thresholds were consistent with the standardized schedule of DE bidding credits in the Commission's rules at the time.[18] The relevant definitions and thresholds for particular bidding credits were codified in the part 27 AWS-3 service rules.[19] The DE eligibility requirements were modeled after the small business size standards and associated bidding credits that the Commission adopted for the AWS-1 band, based on the belief that the AWS-3 bands would be employed for purposes similar to those for the AWS-1 band.[20]

10. *DISH's DEs Improperly Claim $3.3 Billion in FCC Bidding Credits Intended For "Very Small Businesses."* Two participants in Auction 97—Northstar Wireless, LLC (Northstar) and SNR Wireless License Co (SNR)—made extensive use of bidding credits intended for "very small businesses." In total, SNR and Northstar improperly claimed $3.3 billion in credits under the Commission's DE

[12] 47 CFR § 27.1105 (1695–1710 MHz, 1755–1780 MHz and 2155–2180 MHz bands subject to competitive bidding); *AWS-3 2014 Report and Order*, 29 FCC Rcd at 4674–76, paras. 176–79.

[13] *See* 47 U.S.C. § 309(j)(3) & (4); 47 CFR § 1.2110. Section 309(j)(3) requires the Commission to design its competitive bidding systems to promote objectives and purposes and grants the Commission the discretion to achieve what it considers to be the optimal balance among these objectives and purposes. Section 309(j)(4) specifies the content of regulations governing such systems.

[14] *Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, PP Docket No. 93-253, Second Memorandum Opinion and Order, 9 FCC Rcd 7245, 7269, para. 145 (1994); *see Updating Part 1 Competitive Bidding Rules et al.*, WT Docket Nos. 14-170 and 05-211, GN Docket No. 12-268, RM-11395, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, Third Report and Order, 30 FCC Rcd 7493, 7529, para. 85 (2015) (continuing practice of evaluating the definition of a small business on a service-by-service basis) (*Updating Part 1 Report and Order*) (modified by Erratum, 30 FCC Rcd 8518 (WTB 2015)); 47 CFR § 1.2110(f)(1). *See, e.g.*, 47 CFR § 27.1106 (DE eligibility expressly for AWS-3).

[15] *AWS-3 2014 Report and Order*, 29 FCC Rcd at 4680–81, para. 189.

[16] *Id.*

[17] *Id.*

[18] *Id.*; *see* 47 CFR § 1.2110(f)(2)(ii-iii) (2014).

[19] 47 CFR § 27.1106 (2014).

[20] *AWS-3 2014 Report and Order*, 29 FCC Rcd at 4678–81, paras. 185–89. Accordingly, the AWS-3 competitive bidding rules provide for two of the possible three small business definitions and associated bidding credit levels set out in part 1's standardized schedule for small business bidding credits. *Compare* 47 CFR § 1.2110(f)(2) (2014) *with id.* § 27.1106 (2014).

rules.[21] They ultimately placed over $13.3 billion in gross winning bids on 702 of the 1611 licenses in Auction 97, or 43.5% of the available licenses.[22]

11. SNR and Northstar were formed immediately before Auction 97 and funded almost exclusively by DISH Network Corporation (DISH).[23] During the course of reviewing long-form applications following Auction 97, the Commission denied bidding credit eligibility for both Northstar and SNR.[24] The Commission determined that the companies were under the *de facto* control of DISH and therefore were ineligible for the $3.3 billion of DE bidding credits for "very small businesses."[25]

12. Because SNR and Northstar were ineligible for the DE bidding credits they claimed, they were required to pay the full amount of their $13.3 billion bid price for those licenses.[26] DISH and its DEs appealed the Commission's determination. The litigation finally came to a close in 2023 when a federal court of appeals upheld the Commission's determination and the Supreme Court declined to grant certiorari.[27] Separately, Vermont National Telephone Company has alleged that DISH and its DEs violated the False Claims Act during Auction 97; that lawsuit remains pending in the U.S. District Court for the District of Columbia.[28]

13. *DISH's DEs Selectively Default on the AWS-3 Licenses They Won.* Northstar and SNR selectively defaulted on winning bids for 197 AWS-3 licenses.[29] Pursuant to the Commission's well-established part 1 rules governing defaults on winning bids, Northstar and SNR became liable for the difference between their winning bids in Auction 97 and the amount of winning bids for licenses accessing the same spectrum in subsequent auctions.[30] Also pursuant to those rules, SNR and Northstar became liable for an additional payment equal to 15% of their own bids or the applicable subsequent

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[21] *Northstar Wireless, LLC, SNR Wireless LicenseCo, LLC, Applications for New Licenses in the 1695–1710 MHz, and 1755–1780 MHz and 2155–2180 MHz Bands*, Memorandum Opinion and Order on Remand, 35 FCC Rcd 13317, 13318, para. 2 (2020) (*Auction 97 Bidding Credit Order on Remand*).

[22] *See Auction 97 Closing Public Notice*, 30 FCC Rcd at 640–735, Attach. A.

[23] *See Auction 97 Bidding Credit Order on Remand*, 35 FCC Rcd at 13321–22, paras. 14, 16. DISH is a subsidiary of EchoStar. EchoStar Comments at 2. During Auction 97, the principals of Council Tree collectively owned an indirect minority equity interest in the controlling interest owner in Northstar. Council Tree Comments at 7, n.11.

[24] *Northstar Wireless, LLC, SNR Wireless LicenseCo, LLC, Applications for New Licenses in the 1695–1710 MHz, 1755–1780 MHz and 2155–2180 MHz Bands*, Memorandum Opinion and Order, 30 FCC Rcd 8887, 8950–51, paras., 152, 154 (2015) (*Auction 97 Bidding Credit Order*) (finding Northstar and SNR not eligible for claimed bidding credits), *remanded in part by SNR Wireless LicenseCo, LLC v. FCC*, 868 F.3d 1021 (D.C. Cir. 2017) *denial of bidding credits aff'd by Auction 97 Bidding Credit Order on Remand*, 35 FCC Rcd at 13365, paras. 158–59, *aff'd Northstar Wireless, LLC v. FCC*, 38 F.4th 190 (D.C. Cir. 2022), *cert. denied* 143 S.Ct. 2693 (2023) (*Northstar Wireless, LLC v. FCC*). In 2023, EchoStar acquired DISH and assumed its obligations. *See* EchoStar Comments at 2 (noting that DISH currently is a subsidiary of EchoStar).

[25] *Auction 97 Bidding Credit Order*, 30 FCC Rcd at 8940, 8951–52, paras. 128, 158, 160; *see also Auction 97 Bidding Credit Order on Remand*, 35 FCC Rcd 13338, para. 64.

[26] *Auction 97 Bidding Credit Order*, 30 FCC Rcd at 8950–52, paras. 153, 155, 158, 160.

[27] *Northstar Wireless, LLC v. FCC*.

[28] *See United States ex. rel. Vermont National Telephone Co.v. Northstar Wireless, LLC* , No. 15-cv-728-CKK-MAU, 2025 WL 113407 (D.D.C. Apr. 15, 2025) (Magistrate's Report and Recommendation regarding pending action).

[29] *See supra* note 9.

[30] *SNR Interim Default Payment Letter*, 30 FCC Rcd at 10706; *Northstar Interim Default Payment Letter*, 30 FCC Rcd at 10701–02; *see* 47 CFR § 1.2104(g)(2)(i).

winning bids, whichever was less.[31] The upcoming auction of AWS-3 licenses may provide subsequent winning bids that ultimately determine the size of any deficiency payment owed by Northstar and SNR.

14. *The Commission Overhauls its Competitive Bidding Rules and DE Eligibility in Response to Auction 97 Irregularities.* After the close of Auction 97, the Commission became aware of allegations of significant bidding irregularities on the part of SNR and Northstar.[32] The Commission also received numerous complaints about abuses of the DE program beyond the DISH-controlled entities. Commenters alleged that supposedly "small businesses" that claimed bidding credits were operating at the direction and control of large, well-financed corporations.[33]

15. In response to these concerns, the Commission in 2015 significantly reformed its competitive bidding rules for future spectrum auctions.[34] The 2015 reforms were expressly informed by "lessons learned" in Auction 97.[35] Many of the Commission's reforms were intended to expand the range of businesses eligible for DE benefits while simultaneously ending practices that had incentivized larger players to manipulate the DE regime.[36] As the Commission explained, the changes to the part 1 rules were designed to promote auction participation by small businesses while ensuring "that valuable bidding credits are available only to those Congress intended," namely, small businesses and rural providers.[37]

16. Although the 2015 reforms expanded DE eligibility by raising the gross revenue thresholds for small business bidding credits and establishing a new bidding credit for eligible rural service providers, it also took several steps to protect the integrity of the DE program by: (i) prohibiting joint bidding arrangements between applicants; (ii) prohibiting the common control of separate auction applicants; (iii) requiring the establishment, on an auction-by-auction basis, of a maximum total discount of no less than $25 million that a winning eligible DE may receive; and (iv) modifying attribution rules to prevent the unjust enrichment of ineligible entities.[38] These and other reforms resulted in changes to the Commission's part 1 rules, which apply generally to spectrum auctions. While existing service-specific competitive bidding rules, including those for the AWS-3 bands, specified that the part 1 competitive

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[31] *SNR Interim Default Payment Letter*, 30 FCC Rcd at 10706; *Northstar Interim Default Payment Letter*, 30 FCC Rcd at 10701-02; *see* 47 CFR § 1.2104(g)(2)(ii-iii); *Auction 97 Procedures Public Notice*, 29 FCC Rcd at 8451, para. 240.

[32] *See, e.g., Auction 97 Bidding Credit Eligibility Decision*, 30 FCC Rcd at 8944, para. 140 (discussing VTel Petition to Deny allegation that Northstar and SNR "at times placed double and triple bids on the same licenses in the same round" to create a false appearance of competition for the subject licenses).

[33] *See Updating Part 1 Report and Order* at 7512, para. 43 ("A number of commenters suggested that we restrict larger nationwide and regional carriers, entities with a certain number of end-user customers, and/or other large companies from providing a material portion of the total capitalization of DE applicants or otherwise exercising control over such applicants as part of the definition of 'material relationship.['])") (citations omitted).

[34] *Id.* at 7496–98, paras. 6–8 & n.10.

[35] *Request for Further Comment on Issues Related to Competitive Bidding Proceeding Updating Part 1 Competitive Bidding Rules*, Public Notice, 30 FCC Rcd 4153, 4154, para. 3 (WTB 2015). While the Commission issued the Notice of Proposed Rulemaking to revise its part 1 rules in advance of the Broadcast Incentive Auction and prior to bidding in Auction 97, "to allow interested parties an opportunity to take into account any 'lessons learned' from Auction 97, the Wireless Telecommunications Bureau ('WTB') extended the comment deadline for the initial [Notice of Proposed Rulemaking] three times." *Id*.

[36] *See Updating Part 1 Report and Order*, 30 FCC Rcd at 7495–97, paras. 4–6; *see also id.* at 7544, para. 121 (noting that the bidding credit cap is both significant enough to assist eligible entities to have the opportunity to compete at auction, but reasonable enough to ensure that ineligible entities are not encouraged to undercut the Commission's rules).

[37] *Id.* at 7528, para. 82.

[38] *Id.* at 7497–98, para. 8.

bidding rules would apply to mutually exclusive applications for licenses,[39] the specific provisions related to designated entity eligibility in those services were never updated to reflect the increased gross revenue thresholds and the availability of the rural service provider bidding credit.[40]

17. *Congress Tightens the Definition of "Small Business Concern" for Federal Programs.* In the 2018 SBREA, Congress amended provisions of the Small Business Act for defining a "small business concern."[41] In relevant part, the 2018 amendments required federal agencies to treat an entity as a "small business concern" only if the agency considered average gross receipts over the preceding five years.[42]

18. In requiring a five-year lookback, Congress sought to more accurately reflect a business's long-term size. Congress also sought to combat fraud and abuse by making it harder for companies to manipulate short-term revenue fluctuations to improperly qualify as "small."

19. The 2018 statutory amendments also responded to longstanding criticisms—raised over the years by Congress and agencies like the Small Business Administration (SBA) Office of Inspector General[43] and the GAO[44]—that large firms had exploited loopholes to win preferential contracts and discounts intended for small businesses. Although service-specific small business definitions that the Commission has adopted for bidding credit eligibility since 2019 contain the congressionally mandated five-year lookback period,[45] the Commission has not yet amended any of its prior-existing rules—including prior service-specific rules and the general part 1 rules—to conform with the amended Small Business Act's standards.[46]

20. *To Fund Critical National Security Objectives, Congress Authorizes the FCC to Auction AWS-3 Licenses that DISH's DEs Selectively Defaulted After Auction 97.* In the Spectrum and Secure Technology and Innovation Act of 2024, Congress directed the Commission to initiate systems of competitive bidding to grant licenses for spectrum in its inventory in the AWS-3 spectrum bands.[47]

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[39] 47 CFR § 27.1105.

[40] 47 CFR § 27.1106 (DE rules expressly for the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands, *i.e.*, AWS-3); *see also,* 47 CFR §§ 22.229 (Paging); 22.962 (800 MHz Cellular, incorporating rules for Paging); 24.720(b) (Broadband PCS); 27.210(b) (WCS); 27.502(a) (700 MHz); 27.1218(a) (BRS).

[41] *See* SBREA, Pub. L. 115-324 (Dec. 17, 2018).

[42] 15 U.S.C. § 632(a)(2)(C)(ii)(II), *as amended by* SBREA; *see* 13 CFR § 121.903(a)(1)(ii) (Small Business Administration regulations on use of size standards by Federal agencies requiring five-year look-back period).

[43] *Strengthening Participation of Small Businesses in Federal Contracting and Innovation Research Programs: Hearing before the S. Comm. on Small Business and Entrepreneurship*, 109th Cong. 32-39 (2006) (statement of Eric M. Thorson, Inspector General, U.S. Small Business Administration)

[44] *Are Big Businesses Being Awarded Contracts Intended for Small Businesses?: Hearing Before the H. Comm. on Small Businesses*, 108th Cong. 104–117 (2003) (statement of David E. Cooper, Director, Acquisition and Sourcing Management, United States General Accounting Office, GAO 03-704T)

[45] *See* 47 CFR § 27.1402 (3.7 GHz Service); *id.* § 27.1601 (3.45 GHz Service); *id.* § 27.1219 (Educational Broadband Service).

[46] The Small Business Administrator is authorized to specify procedures for determining a party's eligibility as a small business concern. 15 U.S.C. § 632(a)(2)(A). The SBA final rule implementing the SBREA noted in part "[t]his new calculation [using five years rather than three] does not affect existing non-SBA size standards that specify a 3-year average unless the responsible agency proposes and finalizes changes to the existing specification of a 3-year average." Small Business Administration, Small Business Size Standards; Calculation of Annual Average Receipts, 84 Fed. Reg. 66,561, 66,569 (Dec. 5, 2019).

[47] *Spectrum and Secure Technology and Innovation Act* § 5403 (mandating that the Commission initiate systems of competitive bidding for licenses for unassigned AWS-3 spectrum within 18 months of Dec. 23, 2024).

Auction proceeds will support the Commission's Supply Chain Reimbursement Program,[48] which reimburses eligible advanced communications service providers for their costs to remove, replace, and dispose of untrustworthy Huawei Technologies Company or ZTE Corporation equipment and services.[49]

21. In February 2025, the Commission issued the *NPRM* as the first step to conduct Auction 113.[50] As the 2015 reforms to the part 1 rules that were adopted in the immediate aftermath of Auction 97 to protect the integrity of Commission spectrum auctions already apply to this auction, the *NPRM* sought to update the part 27 requirements for DE eligibility in AWS-3 spectrum auctions based on the intervening developments described above, proposing to set the average annual gross revenue eligibility requirements for very small and small business bidding credits at $20 million and $55 million, respectively and to incorporate the amended Small Business Act's five-year lookback period for calculating gross revenues.[51] The *NPRM* also proposed to make the rural service provider bidding credit adopted in 2015 available for future auctions of AWS-3 spectrum licenses.[52] These proposals would align DE eligibility requirements for Auction 113 with the requirements used in auctions for 5G-ready spectrum licenses conducted since Auction 97.[53]

III. COMPETITIVE BIDDING RULES TO BE USED FOR FUTURE AUCTIONS OF AWS-3 SPECTRUM LICENSES

22. We affirm that, consistent with the Commission's AWS-3 service-specific rules,[54] any future auctions will be conducted using the part 1 competitive bidding rules that are in effect at the time of the auction. For Auction 113, that includes the reforms to the DE rules adopted as part of the 2015 *Updating Part 1 Report and Order* and any other changes that may be effectuated prior to the auction.[55] The Commission has repeatedly found that application of its part 1 competitive bidding rules, as modified by the 2015 *Updating Part 1 Report and Order*, to individual services serves the public interest.[56]

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[48] *Id.* § 5404(b)-(c). The Act also directs proceeds from the auction of AWS-3 licenses to reimburse funds borrowed by the Department of Commerce for its Regional Technology and Innovation Hubs program. *Id*. § 5404(d).

[49] *See 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).

[50] *NPRM* at 2, para. 2.

[51] *Id.* at 10–11, Appx. A (proposed amendments to part 1 and part 27 DE rules).

[52] *Id.* at 5–6, paras. 15–16.

[53] *See* 47 CFR § 27.1301(a)(1–2) (service rules for the 600 MHz band auction); *id*. § 27.1601(a)(1)(i–ii) (3.45 GHz Service); *id.* § 27.1402 (3.7 GHz Service); *id.* § 27.1219 (Educational Broadband Service); *see also id.* § 96.30 (Citizens Broadband Radio Service) (using a 3-year lookback period because these rules were adopted prior to the SBREA).

[54] 47 CFR § 27.1105.

[55] Of particular note, currently the Commission is considering a proposal to a require auction applicants to make certain certifications as to whether they are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. *See Protecting our Communications Networks by Promoting Transparency Regarding Foreign Adversary Control*, GN Docket No. 25-166, Notice of Proposed Rulemaking, FCC 25-28 at 20, para. 40 (2025) (*Foreign Adversary NPRM*). If such a rule were to be adopted and made effective prior to the deadline for submitting an application to participate in Auction 113, the new requirement could apply to Auction 113 applicants.

[56] *See*, *e.g.*, *C and F Block Broadband PCS Spectrum Auction Scheduled for December 12, 2000*, DA 00-2259, Public Notice, 15 FCC Rcd 19485, 19489 (WTB 2000) (over the course of three auctions involving C Block and 2 involving F Block prior to Auction 35, the Commission "*revis[ed] the service and auction rules for auction of C and F block PCS licenses* . . . [including] that some licenses would be available to all bidders in "open" bidding, while other licenses would be available only to entrepreneurs in "closed" bidding. The Commission established open bidding for all C and F block licenses available but unsold in Auction No. 22 or any subsequent auction. The Commission also established open bidding for the following licenses: two of the three reconfigured 10 MHz C block licenses in Tier 1, one of the three reconfigured 10 MHz C block licenses in Tier 2, the 15 MHz C block

(continued….)

Consistent with that precedent, we find today that conducting Auction 113 using these updated rules would similarly serve the public interest.

A. The 2015 Reforms to the Competitive Bidding Rules Will Apply to Future Auctions of AWS-3 Spectrum Licenses

23. In 2015, the Commission modified its part 1 competitive bidding rules to facilitate competitive entry into the wireless industry by small businesses with capital and operational experience.[57] The Commission sought to "provid[e] meaningful opportunities to *bona fide* small businesses and rural service providers . . . to participate in auctions and in the provision of spectrum-based services, and in providing such opportunities, to prevent unjust enrichment."[58] While the record in that proceeding supported these changes, some commenters, including Council Tree, strongly opposed several proposals.[59] Council Tree's arguments initially failed to persuade the Commission, which proceeded to modify its rules.[60] Council Tree later failed to persuade the U.S. Court of Appeals for the Third Circuit, which upheld certain rules that were challenged by Council Tree.[61] The Third Circuit found that the Commission, in the *Updating Part 1 Order*, "not only set forth a policy that is likely to allow continued participation by DEs, but also rationally explained why it expected no significant loss of DE participation."[62] Now, in this proceeding, Council Tree seeks to revive those failed arguments.[63] But they are no more persuasive now than they were when the Commission first rejected them a decade ago.

24. New data and the Commission's experience administering auctions over the last ten years prove the success of the modernized DE rules. Publicly available auction results demonstrate that the

(Continued from previous page)
licenses in Tier 1, and all F block licenses (Tier 1 and Tier 2). *The Commission established small and very small business bidding credits of 15 percent and 25 percent, respectively, for licenses won in open bidding and eliminated bidding credits for licenses won in closed bidding*. Additionally, the Commission removed from its rules the Section 24.710 license cap, which had prohibited an applicant from winning more than 98 of the licenses available in the C and F blocks. Finally, the Commission decided that the Commercial Mobile Radio Services spectrum cap would continue to apply to C and F block licenses, including those won in Auction No. 35.") (emphasis added).

[57] *Updating Part 1 Report and Order*, 30 FCC Rcd at 7495, para. 4 (seeking "to provide greater flexibility for small businesses to gain an on-ramp into the wireless industry by leveraging leasing and other spectrum use agreements to gain access to capital and operational experience").

[58] *Id.* at 7494, para. 1. The Commission noted that "this rulemaking does not resolve any of the specific allegations made against any particular applicant or applicants in Auction 97 under the Commission's prior rules" though it did "address concerns raised generally by commenters about how designated entities partner with larger entities," the issue that ultimately lead to a determination that Northstar and SNR Wireless were not designated entities and resulted in defaults on many of their winning bids. *Updating Part 1 Report and Order*, 30 FCC Rcd at 7496. *See also Council Tree Investors, Inc., v. Federal Communications Commission*, 863 F.3d 237, 244 (2017) ("Council Tree admits that two DEs [Northstar and SNR], allegedly 'financed in large part by investments from DISH,' prompted the concern that led to this rulemaking[.]").

[59] *See* Council Tree Comments, WT Docket Nos. 14-170, 05-211, GN Docket No. 12-268, RM-11395, at 28 (rec. May 14, 2015).

[60] *See*, *e.g.*, *Updating Part 1 Report and Order*, 30 FCC Rcd at 7539–46, paras. 109–26 (adopting a rule for caps on DE credits).

[61] *Council Tree Investors, Inc. v. FCC*, 863 F.3d 237 (3d Cir. 2017).

[62] *Id*. at 241.

[63] In response to the *NPRM*, Council Tree relies on many of the arguments it made in 2015, attaching a lengthy appendix taken directly from the 2015 proceeding. *See* Council Tree Comments, WT Docket Nos. 14-170, 05-211, GN Docket No. 12-268, RM-11395, at 28 (rec. May 14, 2015) (contending that given "the impact of the Bidder Effect on FCC spectrum auctions, an inescapable conclusion emerges – the [2014] level of DE auction participation, and the competition it brings, should be preserved or improved going forward, not restricted or cut back").

Commission and Court accurately foresaw that the rules adopted then would offer *bona fide* designated entities opportunities to participate in auctions and the provision of spectrum-based services. In every spectrum license auction since, the percentage of winning bidders that are designated entities has remained similar to or has risen higher than the percentage in Auction 97.[64] In six of those eight auctions, the percentage of applicants qualifying to bid that were designated entities was higher than in Auction 97.[65] This data meaningfully demonstrate that, consistent with the Commission's statutory duty,

[64] Different auctions inevitably involve different participants, including designated entities, yet comparing the performance of those different entities still provides a relative measure of the effectiveness of the applicable DE rules, including the improvements the *Updating Part 1 Report and Order* made by making more parties designated entities. Comparisons involving Auction 97, however, present a particular difficulty, given the subsequent determination that Northstar and SNR were not eligible designated entities as they had claimed. Including Northstar and SNR as designated entities, 48% (15 of 31) of winning bidders in Auction 97 were designated entities. *See Auction 97 Closing Public Notice*, 30 FCC Rcd 630, Attach. B. One subsequent auction, Auction 103, had a similar but slightly lower percentage, specifically 46% (13 of 28) of winning bidders. *Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services Closes; Winning Bidders Announced for Auction 103*, AU Docket No. 19-59, Public Notice, 35 FCC Rcd 2015, 2032–34, Attach. B (WTB-OEA 2020). However, if Northstar and SNR are included but no longer considered designated entities, the percentage in Auction 97 falls to 42% (13 of 31), meaning every subsequent auction has had a higher percentage of designated entities among its winning bidders. Moreover, in three auctions, Auctions 1002, 105, and 108, the percentage of designated entities among winning bidders approached 80%, or nearly double the percentage in Auction 97, even though the total number of winning bidders in the subsequent auctions was larger. *See Auction of Flexible-Use Licenses in the 2.5 GHz Band Closes; Winning Bidders Announced for Auction 108*, AU Docket No. 20-429, Public Notice, 37 FCC Rcd 10117, 10128–133, Attach. A (WTB-OEA 2022) (78% of winning bidders (49 of 63) claimed eligibility for a DE bidding credit) (*Auction 108 Closing Public Notice*); *Auction of Flexible-Use Service Licenses in the 3.45–3.55 GHz Band Closes; Winning Bidders Announced for Auction 110*, AU Docket No. 21-62, Public Notice, 37 FCC Rcd 308, 320–322, Attach. A (WTB-OEA 2022) (57% of winning bidders (13 of 23) claimed eligibility for a DE bidding credit) (*Auction 110 Closing Public Notice*); *Auction of Flexible-Use Service Licenses in the 3.7–3.98 GHz Band Closes; Winning Bidders Announced for Auction 107*, AU Docket No. 20-25, Public Notice, 36 FCC Rcd 4318, 4329–32 (WTB-OEA 2021) (52% of winning bidders (11 of 21) claimed eligibility for a DE bidding credit) (*Auction 107 Closing Public Notice*); *Auction of Priority Access Licenses in the 3550–3650 MHz Band Closes; Winning Bidders Announced for Auction 105*, AU Docket No. 19-244, Public Notice, 35 FCC Rcd 9287, 9299–9317, Attach. A (WTB-OEA 2020) (79% of winning bidders (181 of 228) claimed eligibility for a DE bidding credit) (*Auction 105 Closing Public Notice*); *Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services Closes; Winning Bidders Announced for Auction 103*, AU Docket No. 19-59, Public Notice, 35 FCC Rcd 2015, 2032–34, Attach. B (WTB-OEA 2020) (46% of winning bidders (13 of 28) claimed eligibility for a DE bidding credit) (*Auction 103 Closing Public Notice*); *Auction of 24 GHz Upper Microwave Flexible Use Service Licenses Closes*, AU Docket No. 18-85, Public Notice, 34 FCC Rcd 4294, Attach. A (WTB-OEA 2019) (52% of winning bidders (15 of 29) claimed eligibility for a DE bidding credit) (*Auction 102 Closing Public Notice*); *Winning Bidders Announced for Auction of 28 GHz Upper Microwave Flexible Use Service Licenses (Auction 101)*, AU Docket No. 18-85, Public Notice, 34 FCC Rcd 4279, Attach. A (WTB-OEA 2019) (64% of winning bidders (21 of 33) claimed eligibility for a DE bidding credit) (*Auction 108 Closing Public Notice*); *Incentive Auction Closing and Channel Reassignment Public Notice*, AU Docket No. 14-252, Public Notice, 32 FCC Rcd 2786, Attach. B (IATF-MB-WTB 2017) (76% of winning bidders (38 of 50) claimed eligibility for a DE bidding credit) (*Broadcast Incentive Auction Closing Public Notice*).

[65] Not considering the later disqualification of Northstar and SNR, the percentage of applicants qualifying to bid in Auction 97 that claimed DE status was 53%. *Auction of Advanced Wireless Services (AWS-3) Licenses; 70 Bidders Qualified to Participate in Auction 97*, AU Docket No. 14-78, Public Notice, 29 FCC Rcd 13465, 13477–80, Attach. A. (WTB 2014). *See Auction of Flexible-Use Licenses in the 2.5 GHz Band for Next-Generation Wireless Services; 82 Applicants Qualified to Bid in Auction 108*, AU Docket No. 20-429, Public Notice, 37 FCC Rcd 7862, 7876–80, Attach. A (WTB-OEA 2022) (76% of qualified bidders (62 of 82) claimed eligibility for a DE bidding credit); *Auction of Flexible-Use Service Licenses in the 3.45–3.55 GHz Band for Next-Generation Wireless Services; 33 Applicants Qualified to Bid in Auction 110*, AU Docket No. 21-62, Public Notice, 36 FCC Rcd 13638, 13652–53, Attach. A (WTB-OEA 2021) (67% of qualified bidders (22 of 33) claimed eligibility for a DE bidding credit);
(continued….)

the part 1 rule modifications adopted in 2015 serve the public interest by using bidding preferences to ensure that small businesses and rural telephone companies are given the opportunity to participate in the provision of spectrum-based services.[66] Accordingly, we decline to conduct future auctions of AWS-3 spectrum licenses, including Auction 113, using the outdated rules that are no longer in effect.

25. We are not persuaded by arguments that the Commission may not use competitive bidding rules, including DE eligibility requirements, that differ from those used in Auction 97.[67] EchoStar and Council Tree assert that the use of the current competitive bidding rules and procedures, as amended, for the upcoming AWS-3 auction would undermine robust participation by DEs.[68] This claim is rooted in their fear that the DE eligibility rules we adopt today would reduce the winning net bids in Auction 113 and thereby increase the amount of Northstar's and SNR's deficiency payment.[69] We find that argument unavailing.

26. As an initial matter, all auctions conducted since 2015 have been conducted under the updated rules in effect at the time, including the increased gross revenue thresholds we adopt today for the AWS-3 service-specific rules. These rules have led to robust participation by small entities and rural providers.[70] We find that their use in Auction 113 is likely to expand the pool of entities that can potentially qualify for DE bidding credits while still allowing the Commission to "prevent[] the unjust enrichment of entities that would be ineligible to receive DE benefits in their own right."[71]

27. The Commission has, from time to time, updated its auction rules to promote the efficient assignment of spectrum licenses, promote economic opportunity and competition, ensure that innovative technologies can be brought to market, and encourage auction participation by small businesses and rural providers.[72] As demonstrated by the outcomes of auctions held since Auction 97, the reforms adopted in

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Auction of Flexible Use Service Licenses in the 3.7–3.98 GHz Band; 57 Applicants Qualified to Bid in Auction 107, AU Docket No. 20-25, Public Notice, 35 FCC Rcd 12829, 128, Attach. A (WTB-OEA 2020) (70% of qualified bidders (40 of 57) claimed eligibility for a DE bidding credit); *Auction of Priority Access Licenses for the 3550–3650 MHz Band; 271 Applicants Qualified to Bid in Auction 105*, AU Docket No. 19-244, Public Notice, 35 FCC Rcd 6672, 6685–99, Attach. A (WTB-OEA 2020) (78% of qualified bidders (211 of 271) claimed eligibility for a DE bidding credit); *Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services*, AU Docket No. 19-59, Public Notice, 34 FCC Rcd 9626, Attach. A (WTB-OEA 2019) (49% of qualified bidders (17 of 35) claimed eligibility for a DE bidding credit); *Auction of 24 GHz Upper Microwave Flexible Use Service Licenses for Next Generation Wireless Services*, AU Docket No. 18-85, Public Notice, 34 FCC Rcd 933, Attach. A (WTB-OEA 2019) (45% of qualified bidders (17 of 38) claimed eligibility for a DE bidding credit); *Auction of 28 GHz Upper Microwave Flexible Use Service Licenses for Next Generation Wireless Services*, AU Docket No. 18-85, Public Notice, 33 FCC Rcd 10968, Attach. A (WTB-OEA 2018) (60% of qualified bidders (24 of 40) claimed eligibility for a DE bidding credit); *62 Applicants Qualified to Bid in the Forward Auction (Auction 1002) of the Broadcast Incentive Auction*, AU Docket No. 14-252, Public Notice, 31 FCC Rcd 7628, 7640, Attach. A (77% of qualified bidders (48 of 62) claimed eligibility for a DE bidding credit).

[66] 47 U.S.C. § 309(j)(4)(D).

[67] *See* EchoStar Corporation Comments at 1 (EchoStar); Council Tree Investors, Inc. Comments at 9–12 (Council Tree) (arguing that replicating Auction 97 rules for Auction 113 is "sound public policy" and using "new" rules "contravenes basic legal tenets").

[68] *See* EchoStar Comments at 1–2 (advocating for the use of Auction 97 competitive bidding rules, arguing that those particular rules facilitated robust participation and competition through attracting bidders claiming eligibility for designated entity DE bidding credits); Council Tree Comments at 12–13 (asserting that competition from designated entities was key to the success of Auction 97).

[69] *See* Echostar Comments at 4; Council Tree Comments at 6.

[70] *See supra* note 65.

[71] *Updating Part 1 Report and Order*, 30 FCC Rcd 7493 at 7496–97, para. 6.

2015 have served this purpose. We therefore affirm that the updated rules will govern the conduct of Auction 113. As is our standard practice when adopting auction rules, and as we did in advance of Auction 97, we also give notice to potential auction participants that future auctions will be subject to any modifications that the Commission may adopt for its part 1 general competitive bidding rules in the future.[73]

B. Updating Eligibility Criteria for Small and Very Small Business Bidding Credits for Auctions of AWS-3 Spectrum Licenses

28. We adopt the *NPRM*'s proposal to update the AWS-3 service specific competitive bidding rules to align the gross revenue thresholds used to determine eligibility for small and very small business bidding credits with the DE eligibility requirements contained in the part 1 rules and the requirements of the SBREA.[74] For purposes of DE eligibility, a small business is defined as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $55 million for the preceding five years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $20 million for the preceding five years. This change will bring the DE eligibility requirements for AWS-3 services in line with the Commission's standardized schedule for small business bidding credits in part 1, subpart Q.[75]

29. In accordance with the schedule of DE bidding credits set forth in part 1, a qualifying small business will continue to be eligible for a bidding credit of 15% and a qualifying very small business will be eligible for a bidding credit of 25%, subject to the bidding credit cap specified in section 1.2110(f)(2)(ii) of the Commission's rules.[76] The changes to the annual gross revenue thresholds we adopt today are summarized in the table below.

(Continued from previous page)

[72] *See Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures* , WT Docket No. 05-211, Second Report and Order and Second Further Notice of Proposed Rule Making, 21 FCC Rcd 4752, 4756, para. 8 (2006) ("The changes in the Commission's designated entity rules over time have been the result of the Commission's continuing effort to maintain this balance [of statutory goals] effectively in the face of a rapidly evolving telecommunications industry, legislative changes, judicial decisions, and the demand of the public for greater access to wireless services.") (footnote omitted); *Amendment of Part 1 of the Commission's rules – Competitive Bidding Procedures*, WT Docket No. 97-82, Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 15293, 15293, para. 1 (2000) (modified by Erratum, DA 00-2475 (rel. Nov. 3, 2000) ("This *Order* . . . clarifies and amends our general competitive bidding rules for all auctionable services. These modifications are intended to increase the efficiency of the competitive bidding process and provide more specific guidance to auction participants.") (footnote omitted).

[73] As already noted, *supra* note 55, the Commission currently is considering a proposal to a require auction applicants to make certain certifications as to whether they are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. *See Foreign Adversary NPRM*. If such a rule were to be adopted and made effective prior to the deadline for submitting an application to participate in Auction 113, the new requirement could apply to Auction 113 applicants.

[74] *See NPRM* at 4–5, paras. 10–14.

[75] *See* 47 CFR § 1.2110(f)(2)(i)–(ii).

[76] *See id.*

	Former AWS-3 Small Business Definitions (used for Auction 97)	Updated AWS-3 Small Business Definitions Adopted Today
"Small business" (15% bidding credit)	$40 million in average gross revenues over the preceding three years	$55 million in average gross revenues over the preceding five years
"Very small businesses" (25% bidding credit)	$15 million in average gross revenues over the preceding three years	$20 million in average gross revenues over the preceding five year

30. The eligibility requirements that we adopt today harmonize the AWS-3 DE rules with both the part 1 standardized schedule of DE bidding credits and the amended Small Business Act's current five-year average gross receipts benchmark. By updating the AWS-3 DE eligibility requirements to match the requirements that have been used for all other auctions of 5G-ready services since 2015, we provide small businesses and rural service providers with a simple, consistent, and predictable avenue for facilitating access to capital, thereby increasing participation and competition in an AWS-3 auction.[77]

31. In all auctions of licenses likely to be used to provide 5G services in a variety of bands since the part 1 schedule of bidding credits was updated in 2015, the Commission has consistently used the DE business size standards that we adopt today, as modified by this Order.[78] That is, the Commission has used the two larger average gross revenue thresholds and associated bidding credits in the part 1 schedule of bidding credits.[79] The results from these auctions demonstrate that using the two larger size standards to assign bidding credits has provided a real opportunity for bidders claiming eligibility as small businesses to win licenses to provide spectrum-based services at auction.[80] By adopting average annual gross revenue thresholds that are not too high, and thus not overly inclusive, we preserve the effectiveness of DE benefits for the small businesses that are intended to benefit from our DE rules. This proposal

[77] *See, e.g.*, *Facilitating Shared Use in the 3100–3550 MHz Band*, WT Docket No. 19-348, Second Report and Order, Order on Reconsideration, and Order of Proposed Modification, 36 FCC Rcd 5987, 6039, para. 146 (2021) (use of the part 1 small business tiers and associated bidding credits provides consistency and predictability for small businesses) (*3.45 GHz Second Report and Order)*; *see also Updating Part 1 Report and Order*, 30 FCC Rcd at 7572, para. 80 (noting the benefit of establishing the part 1 schedule to inform the setting of service-by-service eligibility requirements).

[78] 47 CFR § 27.1301(a), (c)(1) (600 MHz Service); *id*. § 27.1601(a) (3.45 GHz Service); *id.* § 27.1402(a) (3.7 GHz Service); *id.* § 27.1219(a–b) (Educational Broadband Service); *id.* § 30.302(a–b) (Upper Microwave Flexible Use Service); *id.* § 96.30(a), (c)(1) (Citizens Broadband Radio Service).

[79] 47 CFR § 1.2110(f)(2)(i)(B–C).

[80] *See* 47 U.S.C. § 309(j)(4)(D) (bidding preferences for small businesses used to create opportunities to participate in the provision of spectrum-based services); *see also Auction 108 Closing Public Notice*, 37 FCC Rcd at 10128–133, Attach. A (22 of 63 winning bidders claimed eligibility for small business bidding credits); *Auction 110 Closing Public Notice*, 37 FCC Rcd at 320–322, Attach. A (six of 23 winning bidders claimed eligibility for small business bidding credits); *Auction 107 Closing Public Notice*, 36 FCC Rcd at 4329–32 (two of 21 winning bidders claimed eligibility for small business bidding credits); *Auction 105 Closing Public Notice*, 35 FCC Rcd at 9299–9317, Attach. A (113 out of 228 winning bidders claimed eligibility for small business bidding credits*); Auction 103 Closing Public Notice*, 35 FCC Rcd at 2032–34, Attach. B (five of 28 winning bidders claimed eligibility for small business bidding credits); *Auction 102 Closing Public Notice*, 34 FCC Rcd 4294, Attach. A (six of 29 winning bidders claimed eligibility for small business bidding credits); *Auction 101 Closing Public Notice*, 34 FCC Rcd 4279, Attach. A (six of 33 winning bidders claimed eligibility for small business bidding credits); *Broadcast Incentive Auction Closing Public Notice*, 32 FCC Rcd 2786, Attach. B (15 of 50 winning bidders for 600 MHz licenses claimed eligibility for small business bidding credits).

received strong support in the record, with the majority of commenters, including those representing small and rural interests, generally supporting raising the average annual gross revenue thresholds as proposed in the *NPRM*.[81]

32. We also adopt our proposals to amend the AWS-3 competitive bidding rules to reflect the five-year benchmark mandated by the amended Small Business Act.[82] Adopting this benchmark will bring the AWS-3 competitive bidding rules into alignment with the Small Business Act, as we have done for all other service specific designated entity requirements since 2019.[83] Simultaneously, we adopt our proposal to codify this requirement in its part 1 standardized schedule of bidding credits such that eligibility for small business bidding credits would be based on an entity's average gross revenues for the preceding five years.[84] We find that this modification to the part 1 standardized schedule of bidding credits will ensure consistency with the requirements of the Small Business Act in spectrum bands that may be subject to competitive bidding in the future, and we adopt the proposal. Few commenters addressed this proposal, and those that did, supported it.[85]

33. One commenter asks the Commission to go beyond its proposal and increase the eligibility threshold beyond the existing part 1 rules.[86] That commenter does not propose any specific thresholds or provide a justification for why auctions of licenses for the AWS-3 spectrum in the Commission's inventory should be treated differently from other auctions for licenses likely to be used to provide 5G services. Based on the Commission's prior experience with bidding credits in spectrum auctions and the lack of service-specific justifications in the record, we are not persuaded that we should adopt small business size standards for AWS-3 spectrum that differ from those used in auctions for other 5G-ready services.

34. Finally, we decline to increase the bidding credit percentages for small businesses and very small businesses and decline to include the 35% bidding credit from our part 1 standardized schedule of bidding credits for entities with not more than $4 million in average annual gross revenues.[87] When determining the amount of bidding credits and who should be eligible for them, we take care to avoid "expanding the scope of DE benefits to a level that may incentivize gamesmanship."[88] The Commission

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[81] *See* Rural Wireless Association, Inc. Comments at 1 (RWA); Blooston Rural Carriers Comments at 2–3 (Blooston); Competitive Carriers Association Comments at 2 (CCA); WISPA – The Association for Broadband Without Boundaries Comments Reply at 3–4 (WISPA); *see also* Kelly Moore, Aubry Moore, Brennan Moore, and Harlan Moore Comments (the Moores) (indicating that the rules should be revised as proposed). The Moores also advise that rules regarding secondary spectrum markets and personal data should be enforced, which is beyond the scope of this proceeding. *Id.*

[82] *NPRM* at 5, para. 14.

[83] *See, e.g.,* 47 CFR § 27.1219(a); *Transforming the 2.5 GHz Band*, WT Docket No. 18-120, Report and Order, 34 FCC Rcd 5446, 5478-79, para. 89 (2019).

[84] *NPRM* at 6, para. 17.

[85] *See* Blooston Comments at 3; RWA Comments at 3; CCA Comments at 3, n.27; WISPA Comments at 3.

[86] CCA Comments at 5–6. *See* Letter from Angela Simpson, General Counsel/SVP Legal and Regulatory Affairs and Alexandra Mays, Assistant General Counsel & Directory, Regulatory Affairs, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 25-70, 25-71, 13-185, AU Docket No. 25-117 (filed July 16, 2025).

[87] *Id.* at 6–7 (proposing that the Commission should increase small business bidding credit amounts to 25% for small businesses and 50% for very small businesses); WISPA Reply at 4 (supporting CCA's proposal to increase small business bidding credit amounts); WISPA Comments at 2–3 (advocating for the Commission to adopt a 35% bidding credit for entities with no more than $4 million in average annual gross revenues).

[88] *Updating Part 1 Report and Order*, 30 FCC Rcd at 7527, para. 80 (declining to adopt increases to the bidding credit percentages).

has consistently used only the two largest DE business size standards and associated bidding credits outlined in its part 1 rules when adopting service-specific rules for competitive bidding for spectrum licenses, including in Auction 97.[89] This approach has facilitated the successful participation of many eligible small businesses in Commission auctions over the last decade and has provided uniformity and predictability for designated entities and other bidders as well.[90] We are not persuaded by the limited record before us that AWS-3 spectrum is different in a way that warrants deviating from the rule frameworks that have governed previous auctions.[91] We find that the bidding credit percentages and thresholds in the part 1 size standards continue to "provide a simple, consistent, and predictable avenue for facilitating small business participation in auctions."[92]

C. Rural Service Provider Bidding Credits for Future Auctions of AWS-3 Spectrum Licenses

35. Consistent with the findings in the *Updating Part 1 Report and Order* and our approach in other bands where the spectrum is likely to be used to provide 5G services,[93] we adopt our proposal to offer a 15% bidding credit to a rural service provider, as defined in section 1.2110(f)(4)(i) of the Commission's rules and subject to the bidding credit cap defined in section 1.2110(f)(4)(ii) of the Commission's rules, that has not claimed a small business bidding credit.[94] Those commenters that addressed this proposal generally supported extending bidding credits to rural service providers in auctions of licenses for AWS-3 spectrum.[95] Permitting bidders to claim a rural service provider bidding credit in Auction 113, a bidding credit that was not available when this spectrum was initially auctioned, will allow a diversity of service providers to compete more effectively for spectrum licenses in rural areas. We find that adopting this bidding credit will promote robust participation in Auction 113.

36. Some commenters advocate for increasing the bidding credit percentage for rural service providers so that it matches the percentage provided to very small businesses, generally reasoning that more small businesses will be eligible for the larger bidding credit given the new thresholds we adopt, in addition to new entrants.[96] As with calls to increase the bidding credit percentages for small business designated entities, the commenters advocating to increase the bidding credit percentage for rural service providers fail to demonstrate that services particular to the limited number of licenses being auctioned in

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[89] *See Service Rules for Advanced Wireless Services H Block— Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands*, WT Docket No. 12-357, Report and Order, 28 FCC Rcd 9483, 9580–81, para. 260 (2013); *AWS-3 2014 Report and Order*, 29 FCC Rcd at 4680–81, para. 189 (deciding to follow the model of other services with respect to DE bidding credits for AWS-3). *See also* 47 CFR § 27.1301(a)(1–2) (service rules for the 600 MHz band auction); *id*. § 27.1601(a)(1)(i–ii) (3.45 GHz Service); *id.* § 27.1402 (3.7 GHz Service); *id*. § 27.1219(b) (Educational Broadband Service); *id.* § 96.30(c)(1) (Citizens Broadband Radio Service).

[90] *See supra* notes 64, 65, and 81.

[91] The Commission also, on more than one occasion, has rejected unsupported requests by WISPA that it add a third tier of bidding credits in other spectrum bands. *See Transforming the 2.5 GHz Band Order*, Report and Order, WT Docket No. 18-120, 34 FCC Rcd 5446, 5479, para. 89, n.259 (2019); *Promoting Investment in the 3550–3700 MHz Band*, GN Docket No. 17-258, 33 FCC Rcd 10598, 10646, para. 88, n.348 (2018). As in the past, WISPA has failed to provide the necessary justification of why a third tier of bidding credits is warranted.

[92] *Updating Part 1 Report and Order*, 30 FCC Rcd at 7528, para. 82.

[93] *See* 47 CFR § 27.1300(b), (c)(2) (600 MHz Service); *id*. § 27.1601(b) (3.45 GHz Service); *id.* § 27.1402(b) (3.7 GHz Service); *id.* § 27.1219(c) (Educational Broadband Service); *id.* § 30.302(c) (Upper Microwave Flexible User Service); *id.* § 96.30(b), (c)(2) (Citizens Broadband Radio Service).

[94] *NPRM* at 5, para. 15.

[95] Blooston Comments at 3; CCA Comments at 2; RWA Comments at 2; WISPA Comments at 3.

[96] *See* Blooston Comments at 3–4; CCA Comments at 7–8; WISPA Reply at 4–5.

the AWS-3 band would materially benefit from a larger rural service provider bidding credit. We see nothing in the record that disturbs the Commission's conclusion when it adopted a rural service provider credit that "rural service providers generally have greater access to capital and infrastructure than other small businesses or new entrants," making it appropriate for the rural service provider credit to equal the smallest credit amount available to a small business.[97]

37. Our past experience with the rural service provider bidding credit indicates that the existing part 1 rural service provider bidding credit achieves an appropriate balance of the statutory obligations that the Commission is charged with pursuing, while sufficiently enabling rural service providers to compete for spectrum licenses.[98] Thus, we confirm that the part 1 rural service provider bidding credit standard will apply for auctions of licenses for AWS-3 spectrum as proposed in the *NPRM*.[99]

IV. THE COMMISSION IS NOT REQUIRED TO USE THE 2014 COMPETITIVE BIDDING RULES FOR AUCTION 113 IN 2025

38. As discussed above, the Commission will conduct Auction 113 under the part 1 competitive bidding rules in effect at the time of the auction, and not part 1 rules that were in effect during Auction 97. As the *NPRM* observed, when establishing the AWS-3 service ahead of Auction 97, the Commission "specified that such licenses would be subject to competitive bidding and that the competitive bidding procedures contained in part 1 of the Commission's rules would apply, unless otherwise specified."[100] The current part 1 rules include improvements related to DEs that were adopted in the wake of Auction 97.[101] As discussed above, the Commission's longstanding part 1 rules have led to robust participation by small entities and rural providers. Notwithstanding the assertions of EchoStar and Council Tree, nothing in the language of the *AWS-3 2014 Report and Order* or the part 27 rules indicates that the part 1 rules used in Auction 97 must be used to conduct any and all future auctions of licenses for AWS-3 spectrum.

39. Under the Commission's rules, any auction involving AWS-3 licenses will be governed by the "general competitive bidding procedures set forth 47 CFR part 1, subpart Q."[102] Neither EchoStar nor Council Tree addresses the straightforward application of the text of these rules. Instead, they claim

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[97] *Updating Part 1 Report and Order*, 30 FCC Rcd at 7538, para. 107.

[98] *See* Blooston Comments at 4 ("Results of recent FCC auctions show that the [rural service provider] bidding credit has been effective in facilitating the acquisition of commercial wireless licenses by rural telephone companies, cooperatives, and groups of these entities."). *See also Auction 108 Closing Public Notice*, 37 FCC Rcd at 10128–133, Attach. A (27 of 63 winning bidders claimed eligibility for rural service provider bidding credits); *Auction 110 Closing Public Notice*, 37 FCC Rcd at 320–22, Attach. A (seven of 23 winning bidders claimed eligibility for rural service provider bidding credits); *Auction 107 Closing Public Notice*, 36 FCC Rcd at 4329–32 (nine of 21 winning bidders claimed eligibility for rural service provider bidding credits); *Auction 105 Closing Public*, 35 FCC Rcd at, 9299–9317, Attach. A (68 out of 228 winning bidders claimed eligibility for rural service provider bidding credits*); Auction 103 Closing Public Notice*, 35 FCC Rcd at 2032–34, Attach. B (eight of 28 winning bidders claimed eligibility for rural service provider bidding credits); *Auction 102 Closing Public Notice*, 34 FCC Rcd 4294, Attach. A (WTB-OEA 2019) (nine of 29 winning bidders claimed eligibility for rural service provider bidding credits); *Auction 101 Closing Public Notice*, 34 FCC Rcd 4279, Attach. A (WTB-OEA 2019) (15 of 33 winning bidders claimed eligibility for rural service provider bidding credits); *Broadcast Incentive Auction Closing Public Notice*, 32 FCC Rcd 2786, Attach. B (23 of 50 winning bidders for 600 MHz licenses claimed eligibility for rural service provider bidding credits).

[99] *NPRM* at 5, para. 15.

[100] *Id*. at 2, para. 5 (citing *AWS-3 2014 Report and Order* and 47 CFR § 27.1105).

[101] *See generally Updating Part 1 Report and Order*, 30 FCC Rcd 7493.

[102] 47 CFR § 27.1105. *See AWS-3 2014 Report and Order*, 29 FCC Rcd at 4675–76, paras. 177 and 179; *Auction 97 Procedures Public Notice*, 29 FCC Rcd at 8404, para. 49.

that Auction 113 will be a continuation of Auction 97 and therefore the Commission must continue to use the 2014 part 1 rules in future AWS-3 auctions, including Auction 113.[103] In an attempt to marry Auction 113 to Auction 97, Council Tree interprets the words "subsequent auction" and "re-auction," that appear in the Commission's rules regarding the consequences of an auction default, to require an "inextricable link" between the first auction and the second.[104]

40. In reality, these phrases mean the opposite of what Council Tree asserts. The terms "subsequent auction" and "re-auction," on their face, refer to a new auction that will offer licenses for spectrum that has been offered but not successfully assigned in a prior auction.[105] In all material respects, Auction 97 has concluded: the Commission has completed the process of competitive bidding, issued licenses to all winning bidders, finished the transition process, and accomplished all other prerequisites to the provision of wireless service for licenses that were successfully auctioned. Bidding in Auction 97 concluded more than a decade ago. The Commission's default rules rely on bids in two auctions of licenses for the same spectrum to determine the consequences of a default in the first one, but this does not suggest that the second auction is a continuation of the first. The Commission is entitled to set the rules of each auction within its statutory parameters. By using the updated part 1 rules, the Commission is able to leverage experience and expertise that it did not have at the time of Auction 97—and indeed leverage its experience in Auction 97 itself—to better promote robust competition and combat fraud in Auction 113.

A. Applying the Current Part 1 Competitive Bidding Rules in Auction 113 is Not a Violation of Due Process

41. Using the part 1 rules in effect at the time of future AWS-3 auctions is consistent with applicable law and the reasonable expectations of any party involved in Auction 97. Applying current part 1 rules in future AWS-3 auctions is consistent with due process of law. Application of the Commission's rules at the time of the auction is neither a prohibited primary retroactive application nor secondary retroactive application of the rules. Furthermore, EchoStar's contention that changes in rules applicable to Auction 97 and a future AWS-3 auction effectively single out the defaulters in Auction 97 for differential treatment ignores their own legal responsibility as defaulters.

42. *Primary retroactivity*. An agency order is impermissible as "primarily retroactive" if it "alters the *past* legal consequences of past actions."[106] An order can be primarily retroactive if it (1) "increase[s] a party's liability for past conduct"; (2) "impair[s] rights a party possessed when he acted"; or (3) "impose[s] new duties with respect to transactions already completed."[107]

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[103] EchoStar Comments at 15; Council Tree Comments at 5–6.

[104] Council Tree Comments at 5. Council Tree further attempts to relitigate arguments it presented with respect to the Commission's competitive bidding rules for designated entities that were adopted in 2015, over the objections and arguments by Council Tree. It also repeats many of these arguments in the proceeding to adopt rules for Auction 113. *See* Council Tree Comments, AU Docket No. 25-117, at 3 n.5 (rec. Apr. 11, 2025) (attaching and citing its own comments in response to the *NPRM* "incorporating [Council Tree Investor's] May 14, 2015 Comments filed in WT Docket No. 14-170 et al."). Arguments regarding the Commission's authority to apply particular rules are best addressed in this proceeding, while the details of auction-specific procedures are best addressed in the auction procedures proceeding.

[105] *See* 47 C.F.R. §§ 1.2104(g) ("subsequent auction"), 1.2109(b)–(c) ("re-auction").

[106] *Mobile Relay Assocs. v. FCC*, 457 F.3d 1, 11 (D.C. Cir. 2006) (quoting *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 219 (1988) (Scalia, J., concurring) (emphasis in original)).

[107] *Landgraf v. USI Film Prods.*, 511 U.S. 244, 280 (1994).

43. Applying part 1 rules in effect at the time of Auction 113 will not alter "the past legal consequences for past actions" taken by Northstar and SNR.[108] To the contrary, the "past legal consequences of past actions" by Northstar and SNR are determined by the Commission's rules governing default penalties, which were well established prior to Action 97 and have not changed in any meaningful way since then.[109] It is those rules, not the DE rules, that determines a defaulter's liabilities, rights, and duties.

44. As such, applying part 1 rules in effect when Auction 113 commences would not "increase [DISH's] liability for past conduct" by penalizing Northstar and SNR "in the form of a larger deficiency payment owed than if the Auction 97 DE rules remained in place."[110] The Commission's default payment rules determine the amounts of Northstar's and SNR's default payment obligations or, in other words, the default payment rules establish the liabilities applicable to the defaulters. Pursuant to the rules, a bidder's obligation to pay its entire bid amount is set when its bid is accepted, and after default the amount due may be reduced based on the results of a later auction.[111] The amount that a defaulter will ultimately owe is determined by the delta between its winning bid and the winning bid in a subsequent auction, and "[i]f the subsequent winning bid . . . equals or exceeds the defaulted bid, no deficiency payment will be assessed."[112] The bidding rules that are applied in a subsequent auction would not "increase [DISH's] liability for past conduct" because the maximum amount of the liability due to its past conduct was established at the time DISH defaulted, and the Commission's rules controlling default payments have not changed.[113] Accordingly, using those rules in a future AWS-3 auction would not "increase [DISH's] liability for past conduct."[114]

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[108] *Mobile Relay Assocs.*, 457 F.3d at 11 (rejecting challenge that Commission's rebanding rules were primarily and secondarily retroactive as to existing 800 MHz Specialized Mobile Radio licensees).

[109] In one instance, a defaulting winning bidder in Auction 35 had related default payments assessed after Auctions 58, 71, and 78, respectively. *See Final Default Payment for Auction 35 License CW-BTA 127-C1 (Elmira-Corning-Hornell, NY)*, Letter Order, 25 FCC Rcd 16888 (WTB-ASAD 2010) (assessing payments based on subsequent winning bid in Auction 78); *Final Default Payment for Auction No. 35*, Letter Order, 22 FCC Rcd 16251 (WTB-ASAD 2007) (assessing payments based on subsequent winning bid in Auction 71); *Final Default Payment for Auction No. 35*, Letter Order, 20 FCC Rcd 10975 (WTB-ASAD 2005) (assessing payments based on subsequent winning bids in Auction 58). Furthermore, the application of the rule at times relieved the defaulting bidder of any further liability. *See Final Default Payment for Auction No. 35*, Letter Order, 20 FCC Rcd 10971 (WTB-ASAD 2005) (subsequent winning bid in Auction 58 exceeded the defaulted bid in Auction 35, resulting in no deficiency payment obligation). And, of course, the rule was not limited only to defaults in Auction 35. *See, e.g.*, *Final Default Payment for Fifteen Auction 40 Licenses CP-BEA084-FA (Baton Rouge, LA-MS); CP-BEA087-FA (Beaumont-Port Arthur, TX); CP-BEA127-FA (Dallas-Fort Worth, TX-AR-OK); CP-BEA129-FA (San Angelo, TX); CP-BEA129-FB (San Angelo, TX); CP-BEA129-FC (San Angelo, TX); CP-BEA129-FD (San Angelo, TX); CP-BEA129-FE (San Angelo, TX); CP-BEA130-FA (Austin-San Marcos, TX); CP-BEA134-FA (San Antonio, TX); CZ-MEA031-AA (Houston); CZ-MEA031-AJ (Houston); CA-MEA031-AK (Houston); CZ-MEA031-AV (Houston); CZ-MEA038-AV (San Antonio)*, Letter Order, 27 FCC Rcd 2845 (WTB-ASAD 2012) (assessing final default payments for defaults in Auction 40).

[110] *Landgraf*, 511 U.S. at 280; EchoStar Comments at 21. We note that EchoStar argues only that using the updated part 1 rules in Auction 113 is primarily retroactive on this ground. *See* EchoStar Comments at 19–23.

[111] 47 CFR § 1.2104(g)(2) ("[a] bidder assumes a binding obligation to pay its full bid amount upon acceptance of the winning bid at the close of an auction").

[112] *Id*. § 1.2104(g)(2)(i). In addition to the deficiency portion of its obligation, a defaulting bidder also owes an additional payment, calculated based on the lower bid amount used in determining the deficiency portion. *Id.* § 1.2104(g)(2)(ii).

[113] *Landgraf*, 511 U.S. at 280.

[114] *Id.* EchoStar and Council Tree also rely on an out-of-context statement from *Mountain Solutions*: "Mountain Solutions' position[,] that it should not be liable for a default penalty created in part by the Commission's decision (continued….)

45. *Secondary Retroactivity*. EchoStar further claims that conducting Auction 113 using the part 1 rules that are in effect at that time would have secondary retroactive effect, making their use impermissible. A change in law that does not result in primary retroactivity nonetheless "can still be impermissibly secondarily retroactive."[115] "This sort of retroactivity" is "characteristic of a rule having exclusively 'future effect' but affect[s] the desirability of past transactions."[116] However, simply having an effect, even if negative, on expectations based on past rules does not make a new rule secondarily retroactive.

46. As a preliminary matter, EchoStar could not reasonably rely on a future AWS-3 auction replicating Auction 97, with respect to rules or outcome. At the outset of the AWS-3 service, the Commission gave notice that future AWS-3 auctions would rely on the part 1 rules then in effect, meaning that Northstar and SNR never could have relied upon the Auction 97 rules being applied in perpetuity.[117] The Commission expressly admonished bidders that any future auction of AWS-3 spectrum, which would determine subsequent winning bid amounts for purposes of default obligations, could be subject to updated rules. Participants in Auction 97 were on notice of potential for changes in the Commission's competitive bidding rules, and they reasonably should have expected the Commission to update or modernize its rules in an auction being held over a decade later.[118] It would be irresponsible for the Commission to ignore the vast changes involving spectrum-based services since Auction 97.[119] As

(Continued from previous page)
to change the rules for reauction after Mountain Solutions had been a successful bidder under a prior regime, has some persuasive force." *See Mountain Solutions v. FCC*, 197 F.3d 512, 523 (D.C. Cir. 1999); Council Tree Comments at 9; EchoStar Comments at 17–18. At the outset, that statement is dicta. As the court pointed out, it "ha[d] yet to hear from the Commission," *id.*, because no default payment had yet been assessed. Beyond that, neither Council Tree nor EchoStar shows how this sentence supports their argument that applying the current part 1 rules in Auction 113 will be impermissibly retroactive. That is likely because *Mountain Solutions* did not involve a retroactivity claim. Rather, the issue there was whether the Commission had abused its discretion in denying the petitioner's request to waive the petitioner missing a payment deadline, which caused the petitioner to be in default on its winning bids in a spectrum auction and, as a consequence, potentially to incur default payments. *See Mountain Solutions*, 197 F.3d at 518–19. The petitioner there argued (among other things) that it was "inequitable" for the Commission to enforce the payment rule against it because the agency "ha[d] granted a de facto waiver" to other bidders. *See id.* at 523. Thus, the statement that Council Tree and EchoStar rely on signals, at most, a concern about perceived unfairness. There is no fairness-related issue here because Northstar and SNR were the only defaulters in Auction 97.

[115] EchoStar Comments at 23.

[116] *Celtronix Telemetry, Inc. v. FCC*, 272 F.3d 585, 589 (D.C. Cir. 2001).

[117] *See AWS-3 2014 Report and Order*, 29 FCC Rcd at 4675–76, paras. 177 and 179.

[118] For the same reason, there is no merit to Council Tree's argument that the Commission failed to provide "fair notice" that the part 1 rules in effect during Auction 97 may not apply in future auctions of AWS-3 spectrum licenses. Council Tree Comments at 9–11. A party has fair notice when, "by reviewing the regulations and other public statements issued by the agency," it can "identify, with ascertainable certainty, the standards with which the agency expects parties to conform." *General Elec. Co. v. EPA*, 53 F.3d 1324, 1329 (D.C. Cir. 1995) (internal quotation marks and citation omitted). The *AWS-3 2014 Report and Order* and the Commission's rules gave Northstar and SNR (and any other bidder in Auction 97) sufficient notice that future AWS-3 auctions would rely on the part 1 rules then in effect. *See supra* para. 22.

[119] Consider just the difference between the roughly 580 megahertz of spectrum that the Commission considered available in 2014 with the 1,123 megahertz considered available in 2024. *See Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 13-135, Seventeenth Report, 29 FCC Rcd 15311, 15360 (2014); *Communications Marketplace Report*, 2024 Communications Marketplace Report, FCC 24-136, 2024 WL 5330303, at *32 (rel. Dec. 31, 2024). It should be noted that the latter does not include the additional megahertz available in the millimeter wave bands. *Id.*, 2024 WL 5330303, at *33.

the D.C. Circuit has recognized, "an agency must be allowed to adjust its policies to changing circumstances, within the framework of the rules it established in advance of the auction."[120]

47. Moreover, the benefits of applying the revised part 1 rules in a future AWS-3 auction will outweigh the burden claimed by EchoStar.[121] Agencies must "balance the harmful 'secondary retroactivity' of upsetting prior expectations or existing investments against the benefits of applying their rules to those preexisting interests."[122] In 2015, the Commission updated the part 1 rules after finding that the rule amendments served the public interest, and evidence in the record shows that DE participation in Commission auctions has been enhanced by those updates. That finding was made in part based on the experience the Commission gained from administering Auction 97—an auction in which the defaults of Northstar and SNR significantly affected the outcome. Today's actions further align eligibility criteria for DE bidding credits for AWS-3 spectrum licenses with the Commission's part 1 rules and with the DE eligibility requirements used in auctions for 5G-ready spectrum licenses since Auction 97. The "amorphous injury" to Northstar and SNR—i.e., a purely speculative decrease in winning bid amounts in Auction 113—is outweighed by the public interest benefits in enhancing *bona fide* DE participation in spectrum auctions and in harmonizing the competitive bidding rules.[123] In conducting Auction 113 pursuant to the reformed part 1 rules, the Commission is "exercis[ing] its discretion to balance fairness to losing bidders with the needs of the market and the public interest."[124] Accordingly, there is no impermissible secondary retroactivity.

48. *Disparate Treatment*. In support of its argument that due process requires that Auction 113 be conducted using Auction 97 part 1 rules, EchoStar complains that Northstar and SNR would be impermissibly "singled out" by the use of modified part 1 rules.[125] This argument is unsupported and unpersuasive. It disregards Northstar and SNR's own responsibility for improperly claiming bidding credits under the Commission's DE rules in Auction 97. Northstar and SNR, and their guarantors, will be subject to default obligations based on their defaulted winning bids in Auction 97—bids that they won while relying on improperly claimed bidding credits—pursuant to a rule that applied to all other Auction 97 participants. Had any other winning bidder defaulted in that auction, it would have had its final default payment determined just as Northstar's and SNR's will be. The only thing that "singles out" Northstar and SNR is that they voluntarily defaulted on winning bids of over $3 billion in Auction 97 after improperly claiming billions in small business bidding credits. EchoStar similarly argues that Northstar and SNR are unique in that "any bidders in future auctions outside the AWS-3 band will have fresh, revised expectations based on application of the Commission's post-Auction 97 revisions to its [p]art 1 competitive bidding rules."[126] But this claim ignores that the Commission regularly admonishes potential auction participants that future auctions will also be subject to any modifications that the Commission may adopt for its part 1 general competitive bidding rules in the future.[127]

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[120] *U.S. Airwaves, Inc. v. FCC*, 232 F.3d 227, 235 (D.C. Cir. 2000).

[121] Though EchoStar asserts that it invested billions on various network build-out efforts "in part on the expectation that any default payment would be circumscribed to the regime governing Auction 97," that overlooks the fact that these investments were made to comply with build-out conditions and deadlines independently arising from its license holdings. EchoStar Comments at 5.

[122] *National Cable & Telecommunications Assn., v. FCC*, 567 F.3d 659, 670 (D.C. Cir. 2009).

[123] *See Celtronix Telemetry v. FCC,* 272 F.3d at 590.

[124] *U.S. Airwaves*, 232 F.3d at 236.

[125] *See* EchoStar Comments at 27.

[126] *Id*.

[127] *See supra* para. 22.

B. The Commission Provided the Notice and Opportunity for Comment Required by the Administrative Procedure Act

49. We find no merit in Council Tree's contention that the Commission failed to comply with the APA.[128] Council Tree complains that the Commission's use of a fixed comment period from the release of the *NPRM* rather than from the date of its Federal Register publication does not meet APA requirements.[129] The APA requires that notice of regulatory action be published in the Federal Register and permits action only after such notice is provided.[130] It does not define the minimum period of notice before a deadline for comments. Commission rules state that "a reasonable time will be provided" and that such time will be "specified in the NPRM," without prescribing a specific length of time.[131]

50. The *NPRM* was adopted at the Commission Open Meeting on February 27, 2025, and was released by publication on the Commission's website on February 28, 2025. It set a deadline for comments to be filed by March 31 and for reply comments by April 14. The Federal Register published a summary of the *NPRM*, including information about the dates for comments and replies, on March 13, or 12 business days and 18 calendar days prior to the comment deadline.[132]

51. That notice satisfied the requirements of the APA and the Commission's rules and gave interested parties a sufficient opportunity to participate in the rulemaking.[133] Council Tree does not claim that the comment period was unreasonably short or that it was prejudiced in any way. In fact, Council Tree hired outside counsel and filed 18 pages of comments by the March 31 deadline. Eleven other parties filed comments within this time period, and no party claimed to have been unable to meet a filing deadline or otherwise sought additional time to address the *NPRM*.

52. We are likewise unpersuaded by Council Tree's claim that the Commission violated the APA by "fail[ing] to identify and seek any comment on any issue relating to the inextricable linkage of Auctions 97 and 113."[134] The APA requires an agency to publish a notice that identifies "either the terms or substance of the proposed rule or a description of the subjects and issues involved."[135] That notice "must be sufficient to fairly apprise interested parties of the issues involved, but it need not specify every precise proposal which [the agency] may ultimately adopt as a rule."[136] The Commission satisfied that requirement when it proposed updating the DE rules for Auction 113.

C. Applying Part 1 Rules in Effect at the Time of Any Future AWS-3 Auctions Will Not Breach Any Contractual Duty of the Commission

53. Contrary to EchoStar's and Council Tree's assertions, changes to the competitive bidding rules do not breach the DISH guaranties.[137] EchoStar relies on a savings clause in the guaranties—a

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[128] Council Tree Comments at 16–17 (citing 5 U.S.C. § 553(b)–(c)).

[129] *Id.*

[130] *See* 5 U.S.C. § 553(b)-(c).

[131] 47 CFR § 1.415(c).

[132] Federal Communications Commission, Competitive Bidding Rules for Auction of AWS-3 Licenses, 90 Fed. Reg. 11931 (Mar. 13, 2025).

[133] *See Omnipoint Corp v. FCC*, 78 F.3d 620, 629–30 (D.C. Cir. 1996) (finding sufficient notice when comments were due seven days after Federal Register publication, noting that the Commission issued the relevant Further Notice of Proposed Rulemaking seven days prior to Federal Register publication, after having taken related action ten days earlier, and that plaintiffs "were not harmed by the short comment period").

[134] Council Tree Comments at 8.

[135] 5 U.S.C. § 553(b)(3).

[136] *Nuvio Corp. v. FCC*, 473 F.3d 302, 310 (D.C. Cir. 2006) (alteration in original) (citation omitted).

provision that the guaranties may be enforced to "the fullest extent permissible under the laws and public policies" in the event that "and to the extent that[] the obligations of the Guarantor under this Guaranty shall be adjudicated to be invalid or unenforceable."[138] EchoStar contends that because changing the bidding credit rules from Auction 97 violates its due process rights, enforcing the guaranties would exceed the savings clause provision of "permissible" enforcement.[139] As explained above, changes in the Commission's bidding credit rules do not prejudice any rights of EchoStar protected by due process and its strained reading of the savings clause fails to prove any breach of the guaranties.

54. EchoStar suggests that applying the part 1 competitive bidding rules in effect at the time that the auction takes place is somehow analogous to the government's actions in the *Winstar* case.[140] It is not. In that case, the Supreme Court addressed the enforcement of a regulation that contradicted contractual assurances of specific future accounting treatment that a banking regulator had made to induce healthier savings and loan companies to purchase failing financial entities.[141] EchoStar never received any contractual assurance that future AWS-3 auctions would be conducted under the Auction 97 rules, and the Commission never extended any such assurance. As already noted, to the contrary, the Commission provided notice that the Commission's competitive bidding rules would be subject to future changes.

55. Likewise, the Commission's improvement of its competitive bidding rules does not breach any applicable covenant of good faith and fair dealing.[142] Notwithstanding claims by EchoStar or Council Tree, the underlying default obligations are set by section 1.2104(g) and those liabilities are reflected in the guaranties. The final amount of those obligations will be determined by the applicable subsequent winning bids—not by any of the changes that the Commission has made to the competitive bidding rules since Auction 97 or contemplates making now. Whatever the subsequent winning bid amounts, EchoStar remains liable for any deficiency regardless of the DE rules, or any other particular rules, in a future auction.

D. EchoStar's Pre-Auction Request for Post-Auction Relief Is Not Ripe

56. Finally, EchoStar and Council Tree request that, if it does not apply the 2014 part 1 rules in Auction 113, the Commission "refrain from requiring any deficiency payments pursuant to Section 1.2104(g) of the Commission's rules and from enforcing the DISH guaranties."[143] Obviously, the Commission has not yet assessed a final default payment for the defaulted bids from Auction 97. Indeed, the outcome of a future auction of AWS-3 spectrum licenses may prove such a request to be unnecessary if the subsequent winning bids are equal to or greater than Northstar's and SNR's prior defaulted winning bids. Thus, we decline at this time to consider EchoStar's and Council Tree's request that the Commission "refrain from requiring any deficiency payments pursuant to Section 1.2104(g) of the Commission's rules and from enforcing the DISH guaranties" if it amends the rules as proposed in the *NPRM*.[144]

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[137] *See* EchoStar Comments at 27–30; Council Tree Reply at 3 (endorsing EchoStar Comments).

[138] *See* EchoStar Comments at 10–11 (quoting para. 10 of each guaranty).

[139] EchoStar Comments at 28.

[140] *Id.* (citing *United States v. Winstar Corp.*, 518 U.S. 839, 895 (1996) (quoting *Lynch v. United States*, 292 U.S. 571, 579 (1934))).

[141] *See United States v. Winstar Corp.*, 518 U.S. 839 (1996).

[142] *See* EchoStar Comments at 28–29.

[143] *Id.* at 31; *see* Council Tree Reply at 3.

[144] EchoStar Comments at 31; *see* Council Tree Reply at 3.

57. EchoStar's and Council Tree's request in this regard is similar to that of the petitioner in *Mountain Solutions* in that the default liability, if any, is not yet ripe.[145] Indeed, the request here is even more premature. In *Mountain Solutions*, there were subsequent winning bids for seven of the ten licenses involved in the petitioner's defaults.[146] Here, by contrast, there are no subsequent winning bids with respect to the defaults by Northstar and SNR. As WISPA observes in its reply comments, at this point, any injury related to deficiency payments and enforcement of the guaranties is speculative and, accordingly, any requests for related Commission action are premature.[147] We therefore do not need to consider any request by EchoStar or Council Tree for relief from the obligations of SNR, Northstar, or DISH under the rules and the guaranties until after the Commission is able to calculate any final payment for the defaults.

V. TRIBAL LICENSING WINDOW

58. In the *NPRM*, the Commission sought comment on the possible use of a Tribal licensing window for Auction 113.[148] After consideration of the comments received in response, we find that it would not be in the public interest to implement a Tribal licensing window for the inventory proposed for Auction 113.

59. In seeking comment on a possible Tribal licensing window, the Commission noted that the Spectrum and Secure Technology and Innovation Act directs the Commission to use competitive bidding to "grant licenses for spectrum in the inventory of the Commission as of the date of enactment of this Act in the bands of frequencies referred to by the Commission as the 'AWS–3 bands.'"[149] The Act also directs proceeds from the auction to the general fund of the Treasury to, among other things, reimburse funds borrowed by the Commission to carry out the Commission's Supply Chain Reimbursement Program.[150] The Spectrum and Secure Technology and Innovation Act also includes a directive for the Commission to "initiate systems of competitive bidding under section 309(j)" for these AWS-3 licenses within 18 months of enactment and provision to processing applications and grant licenses notwithstanding the lapse in the Commission's broader authority under section 309(j), indicating congressional urgency in moving forward with Auction 113.[151]

60. Within this context, the Commission sought comment on whether a Tribal licensing window for any relevant portions of the limited number of AWS-3 licenses available for auction would be permissible according to the language of the statute. Additionally, the Commission sought comment on the appropriate eligibility requirements to adopt should it offer a Tribal licensing window. The Commission sought comment on the putative benefits of a Tribal licensing window given the bandwidth available for auction and the presence of Federal operations in the band. Finally, the Commission sought general comment on the potential impact of a Tribal licensing window on the process for auctioning these licenses.

61. Numerous Tribal entities and their representatives—including Tribal governments, a Tribal regulatory entity, a Tribal wireless provider, and public interest groups—filed in support of including a Tribal licensing window in Auction 113.[152] They argued that adopting a Tribal licensing

[145] *See Mountain Solutions v. FCC*, 197 F.3d at 523.

[146] *Id.* at 521.

[147] WISPA Reply at 2.

[148] *NPRM* at 6–7, paras. 18–21.

[149] *Spectrum and Secure Technology and Innovation Act* § 5403.

[150] *Id*. § 5404; *see also* 47 U.S.C. § 1601 et seq.

[151] *Spectrum and Secure Technology and Innovation Act* § 5403.

[152] *See* National Congress of American Indians, et al., (NCAI) Comments; Navajo Nation Telecommunications Regulatory Commission (NNRTC) Comments; Shoshone-Bannock Tribes (SBT) Comments; Letter from Nat

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window would serve the public interest, promote Tribal spectrum access, and support access to communications services in rural, unserved, and underserved areas.[153] In addition, a number of commenters address the eligibility criteria for a Tribal licensing window in Auction 113, referencing previous proceedings where the Commission prioritized Tribal licensing.[154] By contrast, CTIA opposes including a Tribal licensing window in Auction 113, arguing that doing so would not be consistent with the goals of the Spectrum and Secure Technology and Innovation Act, which include "auction[ing] . . . this valuable spectrum, which has already been sitting in the Commission's inventory unused for far too long."[155]

62. We find that it would not be in the public interest to implement a Tribal licensing window in the context of Auction 113, given Congress's specific directives in the Spectrum and Secure Technology and Innovation Act regarding the inventory to be licensed and the timetable for doing so.[156] Congress was clear in the Spectrum and Secure Technology and Innovation Act that the Commission is to auction all the unassigned AWS-3 spectrum in its inventory as of December 2024, and that the proceeds from the auction are ultimately to be used to reimburse the Treasury for funds deposited in the Spectrum Auction Trust Fund to fill the funding shortfall in the Supply Chain Reimbursement Program and support the removal of telecommunications equipment that poses a risk to national security.[157] What is more, the text of the Spectrum and Secure Technology and Innovation Act reflects the urgent public interest in moving expeditiously to secure American networks from equipment that poses a risk to national security, and in using proceeds from the AWS-3 spectrum auction to achieve that goal. We agree with CTIA that conducting a Tribal licensing window, which would remove spectrum prior to the auction from the congressionally specified inventory and could potentially reduce the auction proceeds available for the Supply Chain Reimbursement Program, would not further the public interest goals of the Spectrum and Secure Technology and Innovation Act.[158] Additionally, CTIA argues that an auction of AWS-3

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Purser, Government Affairs Policy Advocate, Public Knowledge, et al. to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (filed July 11, 2025); Letter from OJ Semans, Sr., COLT (Coalition of Large Tribes) Executive Director, to Brendan Carr, Chairman, FCC, GN Docket Nos. 25-59, 25-70, 13-185 (filed July 7, 2025); Letter from the United Church of Christ Media Justice Ministry, et al. to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (filed Apr. 29, 2025); Letter from Michael Calabrese, Director, Wireless Future Open Technology Institute at New America and Harold Feld, Senior Vice President, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (filed Apr. 22, 2025); Letter From Dr. Buu Nygren, President, The Navajo Nation, to Brendan Carr, Chairman, FCC, GN Docket Nos. 25-70, 25-71, 13-185, at 2 (filed Feb. 21, 2025).

[153] *See, e.g.*, NCAI Comments at 7–8; NNRTC Comments at 9–13; SBT Comments at 1–2.

[154] NNRTC Comments at 6–14; NCAI Comments at 7–8; SBT Comments at 1–2; WISPA Comments at 3–4.

[155] CTIA – The Wireless Association (CTIA) Comments at 7–8; *see* CTIA Reply at 9–11; Letter from Sarah Leggin, Vice President, Regulatory Affairs, CTIA – The Wireless Association, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185, at 2 (filed May 30, 2025); Letter from Sarah Leggin, Vice President, Regulatory Affairs, CTIA – The Wireless Association, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185, at 2 (filed July 15, 2025).

[156] CTIA also argues that Tribal licensing windows, both in general and in the context of Auction 113, are contrary to section 309(j) of the Communications Act of 1934. CTIA Comments at 6–9; CTIA Reply Comments at 4–9. Because we decline to adopt a Tribal licensing window for Auction 113, we do not reach the issue of the Commission's authority to implement Tribal licensing windows in other auctions.

[157] *See* 47 U.S.C. § 1601 et seq. NNRTC argues that it is impermissible for the Commission to base public interest findings predominantly on expected auction revenue; however, in this instance, we base our finding not on expected revenue, but rather on the public interest in fulfilling the mandate given to us by Congress in the legislation. *See* NNRTC Comments at 11 ("The Communications Act explicitly forbids basing public interest findings predominantly on expected auction revenue . . . .").

inventory licenses can still benefit Tribes. However, there is disagreement about whether this is true. The Navajo Nation Telecommunications Regulatory Commission counters that they "have seen too many cases where auction winners acquire licenses covering Navajo lands but do not build infrastructure . . . because it is not economically lucrative to do so, or if they do, [Navajo lands] are the very last areas built out."[159] Although we do not adopt a Tribal priority window for Auction 113, we acknowledge the Commission's trust relationship with Tribal Nations, and we remain committed to finding ways to address the connectivity challenges facing Tribal Nations.[160]

63. Furthermore, as CTIA suggested, conducting a Tribal licensing window in connection with Auction 113 could further delay the AWS-3 spectrum from being used to provide service.[161] This spectrum has been in inventory for a decade now amidst protracted litigation and the subsequent lapse of the Commission's auction authority. With the Spectrum and Secure Technology and Innovation Act, Congress provided the authority to auction these licenses and established a clear and swift timeline for moving forward.[162] Consistent with the public benefits of this well-established service and as reflected by the legislative action, the public interest mandates prioritizing expeditious licensing. Several commenters claim that implementing a Tribal licensing window would not delay the auction and such a window could even be held simultaneously with traditional bidding to expedite the process.[163] We do not find these arguments compelling. In our experience with the Tribal priority window in the 2.5 GHz auction, considerable time and resources were required in order to establish and conduct a Tribal licensing window with adequate outreach and support for potential participants. For these same reasons, we do not find it feasible to hold a Tribal licensing window and bidding simultaneously in this proceeding. Finally, because we decline to adopt a Tribal licensing window, we find it unnecessary at this time to evaluate the various proposals in the record regarding eligibility criteria for participation in a Tribal licensing window for Auction 113.

(Continued from previous page)

[158] CTIA Comments at 9. Additionally, CTIA argues that an auction of AWS-3 inventory licenses can still benefit Tribes. *See* CTIA Comments at 3 ("[W]ireless providers—working in partnership with Tribal governments—have made significant inroads delivering wireless broadband connectivity to Tribal communities and across Tribal lands."). However, there is disagreement about whether this is true. *See* NNRTC Comment at 11 ("We have seen too many cases where auction winners acquire licenses covering Navajo lands but do not build infrastructure in our communities because it is not economically lucrative to do so, or if they do, we are the very last areas built out.").

[159] NNRTC Comments at 11.

[160] The Commission's trust relationship flows from the federal government's trust responsibility to Tribal Nations. *See Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, Order, 16 FCC Rcd 4078 (2000) (recognizing that "the federal government has a trust responsibility to and a government-to-government relationship with recognized tribes"); *Memorandum of Understanding among the U.S. Dep't of Interior and the FCC and the U.S. Dep't of Commerce Nat'l Telecommunications and Information Administration* (Nov. 2022) (recognizing "the United States fiduciary trust responsibility for trust and restricted Indian lands"). *See also, e.g., Wireless Telecommunications Bureau and Office of Native Affairs and Policy Seek Comment on Tribal Nation and Native Hawaiian Access to Spectrum and Related Data*, GN Docket No. 23-265, Public Notice, 38 FCC Rcd 6760 (WTB-CGB 2023). *See generally Federal Communications Commission Enhances the Universal Licensing System By Adding Tribal Specific Entity Types*, Public Notice, 39 FCC Rcd 7508 (WTB 2024) (adding a Tribal specific entity type to certain Universal Licensing System forms to "improve identification of how and where Tribal Nations are directly accessing licensed wireless spectrum" and to facilitate exemption from filing fees for Tribal Nations and Tribally controlled business entities).

[161] CTIA Reply at 9–10.

[162] *Spectrum and Secure Technology and Innovation Act* § 5404.

[163] NCAI Comments at 8–9; NNRTC Reply at 5–6.

VI. PROCEDURAL MATTERS

64. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),[164] 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."[165] Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule and policy changes contained in this Order on small entities. The FRFA is set forth in Appendix B.

65. *Paperwork Reduction Act Analysis*. The Office of Management and Budget (OMB) has approved the collection of information in the Application to Participate in an FCC Auction, FCC Form 175, including collecting five years of annual revenue information from applicants for a small business bidding credit and information from applicants for a rural service provider bidding credit.[166] This Order does not contain new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. 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.[167]

66. *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 and Second Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

67. *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).

68. *Further Information.* For additional information on this proceeding, contact Erik Salovaara of the Office of Economics and Analytics, Auctions Division, at Erik.Salovaara@fcc.gov or Lyndsey Grunewald of the Office of Economics and Analytics, Auctions Division, at Lyndsey.Grunewald@fcc.gov or (202) 418-0660.

VII. ORDERING CLAUSES

69. IT IS ORDERED, pursuant to the authority found in sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 303, and 309(j); the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, H.R. 5009, 118th Cong. Div. D, Title LIV, § 5403, that this Report and Order and Second Report and Order IS ADOPTED.[168]

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[164] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[165] *Id.* § 605(b).

[166] *See* Office of Information and Regulatory Affairs, Office of Management and Budget, *Information Collection Review*, https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202503-3060-019# (last visited July24, 2025) (Paperwork Reduction Act information collection approval for FCC Form 175 to collect relevant information through 3/31/2028).

[167] *See* 44 U.S.C. § 3506(c)(4).

[168] Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

70. IT IS FURTHER ORDERED that the rules and requirements as adopted in this Report and Order and Second Report and Order WILL BECOME EFFECTIVE thirty (30) days after publication in the *Federal Register*.

71. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of this Report and Order and Second Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

72. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL SEND a copy of this Report and Order and Second Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 27 to read as follows:

PART 1- PRACTICE AND PROCEDURE

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

AUTHORITY: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

2. Amend § 1.2110 by revising paragraphs (b)(1)(i) and (f)(2)(i) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(b) Eligibility for small business and entrepreneur provisions —

(1) Size attribution.

(i) The gross revenues of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of its controlling interests shall be attributed to the applicant (or licensee) and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules. An applicant seeking status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules, must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues for each of the previous five years of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of its controlling interests.

* * * * *

(f) Bidding credits. ***

* * * * *

(2) Small business bidding credits.—(i) Size of bidding credits. A winning bidder that qualifies as a small business, and has not claimed a rural service provider bidding credit pursuant to paragraph (f)(4) of this section, may use the following bidding credits corresponding to its respective average gross revenues for the preceding 5 years:

(A) Businesses with average gross revenues for the preceding 5 years not exceeding $4 million are eligible for bidding credits of 35 percent;

(B) Businesses with average gross revenues for the preceding 5 years not exceeding $20 million are eligible for bidding credits of 25 percent; and

(C) Businesses with average gross revenues for the preceding 5 years not exceeding $55 million are eligible for bidding credits of 15 percent.

* * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

1. The authority citation for part 27 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

2. Amend § 27.1106 by revising paragraphs (a) and (b), and adding paragraph (c) to read as follows:

§ 27.1106 Designated Entities in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands.

* * * * *

(a) Small business.

(1) A small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding $55 million for the preceding five (5) years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding $20 million for the preceding five (5) years.

(b) Bidding credits. A winning bidder that qualifies as a small business as defined in this section or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(i)(C) of this chapter, subject to the cap specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business as defined in this section or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i)(B), subject to the cap specified in § 1.2110(f)(2)(ii) of this chapter.

(c) Rural service provider bidding credit. A rural service provider, as defined in § 1.2110(f)(4) of this chapter, which has not claimed a small business bidding credit may use a bidding credit of 15 percent as specified in § 1.2110(f)(4)(i), subject to the cap specified in § 1.2110(f)(4)(ii) of this chapter.

APPENDIX B

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[169] the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses, et al., NPRM* (*Notice*), released in February, 2025.[170] The Commission sought written public comment on the proposals and issues raised in the *Notice*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the Federal Register.[171]

A. Need for, and Objectives of, the Rules

2. In the *Report and Order and Second Report and Order* (*Order*) the Commission updates the DE rules for AWS-3 spectrum bands to enable the Commission to offer licenses for spectrum within those bands that is currently in the Commission's inventory through competitive bidding in the near future. In addition, the *Order* resolves all remaining open issues and also addresses comments from small and other entities that were filed in response to the *Notice*. Together, the rules we adopt today will further the Commission's goal of facilitating the use of presently fallow spectrum and further advancing the deployment of fifth generation wireless (5G) services by efficiently bringing to auction licenses covering spectrum that is likely to be used to provide 5G services. In addition, these rules will also foster competition in wireless services by facilitating participation in an auction of licenses for AWS-3 spectrum by entities designated by in section 309(j)(3) and (4) of the Communications Act of 1934, as amended, (the Act) to be given opportunities to participate in spectrum-based services (designated entities or DEs).

3. Specifically, the *Order* adopts rules that provide small businesses and rural service providers with greater opportunities to participate in the provisioning of 5G services by aligning the Commission's outdated, service-specific eligibility requirements for AWS-3 with its current practice. Additionally the Order modifies the part 1 size definitions for small business bidding credits so that the length of time over which revenues are averaged for determining bidding credit eligibility is five years, in conformance with the Small Business Act, as amended.

4. Lastly, the proceeds generated from the auctions will bolster another of the Commission's long-standing objectives: protecting our national security by supporting the Commission's Supply Chain Reimbursement Program, which implements the Secure and Trusted Communications Networks Act of 2019[172] through its reimbursement of eligible advanced communications service providers, some of which are small entities, for their costs incurred through the removal, replacement, and disposal of equipment and services provided by untrustworthy entities such as Huawei Technologies Company or ZTE Corporation.

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

5. There were no comments filed that specifically addressed the information presented in the IRFA.

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[169] 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[170] *Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses, et al.*, GN Docket Nos. 25-70, 25-71, and 13-185, Notice of Proposed Rulemaking, FCC 25-12 (rel. Feb. 28, 2025) (*Notice*).

[171] 5 U.S.C. § 604.

[172] Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub. L. No. 118-159, Div. E, Title LIV, § 5401–5405 (*Spectrum and Secure Technology and Innovation Act*).

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

6. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA,[173] the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and provide a detailed statement of any change made to the proposed rules as a result of those comments.[174] The Chief Counsel did not file any comments in response to the *Notice*.

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

7. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.[175] The RFA generally defines the term "small entity" as having the same meaning under the Small Business Act.[176] In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act.[177] 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.[178]

8. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions.[179] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, in general, a small business is an independent business having fewer than 500 employees.[180] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.[181] Next, "small organizations" are not-for-profit enterprises that are independently owned and operated and not dominant their field.[182] While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.[183] Finally, "small governmental jurisdictions" are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.[184] Based on the 2022 U.S. Census of

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[173] Small Business Jobs Act of 2010, Pub. L. No. 111-240, 124 Stat. 2504 (2010).

[174] 5 U.S.C. § 604(a)(3).

[175] *Id.*§ 604(a)(4).

[176] *Id.* § 601(6).

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

[178] 15 U.S.C. § 632.

[179] 5 U.S.C. § 601(3–6).

[180] *See* SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

[181] *Id*.

[182] 5 U.S.C. § 601(4).

[183] *See* SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/.

Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.[185]

9. *Licenses Assigned by Auctions.* The Commission's small business size standards with respect to licenses assigned by auction involve eligibility for bidding credits in the auction of licenses for various wireless frequencies. In the auction of these licenses, the Commission may define and adopt criteria for different classes small businesses. The criteria for these small business classes may be defined in the Commission's rules[186] or may require consultation with the U.S. Small Business Administration, Office of Size Standards.[187] For licenses subject to auction, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. In addition, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

10. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[188] 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.[189] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[190] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[191] Of that number, 2,837 firms employed fewer than 250 employees.[192] 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.[193] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.[194] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

11. *Advanced Wireless Services (AWS) - (1710–1755 MHz and 2110–2155 MHz bands (AWS-1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS-2); 2155–2175 MHz band (AWS-3); 2000–2020 MHz and 2180–2200 MHz (AWS-4))*. Spectrum is made

(Continued from previous page)

[184] 5 U.S.C. § 601(5).

[185] *See* U.S. Census Bureau, 2022 Census of Governments –Organization, https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html, tables 1–11.

[186] *See* 47 CFR § 27.702(a)(1–3). This is an illustrative example of three types of small businesses for an auction of licenses in a certain frequency that is codified in the Commission's rules.

[187] *See* 5 U.S.C. § 601(3).

[188] *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.

[189] *Id.*

[190] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[191] *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. At this time, the 2022 Economic Census data is not available.

[192] *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.

[193] 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.

[194] *Id.*

available and licensed in these bands for the provision of various wireless communications services.[195] Wireless Telecommunications Carriers (*except* Satellite)[196] is the closest industry with a SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[197] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[198] Of this number, 2,837 firms employed fewer than 250 employees.[199] Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

12. According to Commission data as of December 2021, there were approximately 4,472 active AWS licenses.[200] The Commission's small business size standards with respect to AWS involve eligibility for bidding credits in the auction of licenses for these services. For the first auction of AWS licenses, the Commission defined a "small business" as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a "very small business" as an entity with average annual gross revenues for the preceding three years not exceeding $15 million.[201] Pursuant to these definitions, 57 winning bidders claiming status as small or very small businesses won 215 of 1,087 licenses.[202] In the most recent auction of AWS licenses, 15 of 37 bidders qualifying for status as small or very small businesses won licenses.[203]

13. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

14. *Satellite Telecommunications.* This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and

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[195] *See* 47 CFR § 27.1(b).

[196] *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.

[197] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[198] *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.

[199] *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.

[200] Based on a FCC Universal Licensing System search on December 10, 2021, https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = AD, AH, AT, AW; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

[201] *See* 47 CFR §§ 27.1002, 27.1102, 27.1104, 27.1106.

[202] *See* Federal Communications Commission, Economics and Analytics, Auctions, Auction 66: Advanced Wireless Services (AWS-1), Summary, Spreadsheets, https://www.fcc.gov/sites/default/files/wireless/auctions/66/charts/66cls2.pdf.

[203] *See Auction of Advanced Wireless Services (AWS-3) Licenses Closes; Winning Bidders Announced for Auction 97*, Public Notice, DA-15-131, Attachments A–B, (Auction No. 97) (January 30, 2015).

broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."[204] Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $44 million or less in annual receipts as small.[205] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[206] Of this number, 242 firms had revenue of less than $25 million.[207] Consequently, using the SBA's small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

E. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

15. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.[208]

16. The Commission expects that the rules adopted in the *Order* will impose new and/or additional reporting or recordkeeping and/or other compliance obligations on small entities as well as other applicants and licensees. These obligations are discussed in greater detail below. The Commission believes that these rules assist the Commission in meeting its statutory goals by facilitating the auction, and subsequent use, of unassigned spectrum. Further, the Commission does not believe that the costs and/or administrative burdens associated with the adopted rules will unduly burden small entities. We note that the rules adopted in the *Order* modify requirements that were in place prior to the last major update to the Commission's competitive bidding rules in 2015 in order to bring them in line with the policies and procedures that have been used in auctions of 5G-ready services since 2015. Therefore, small entities that have participated in Commission auctions since 2015 may already be familiar with such policies and requirements and may have the necessary processes and procedures in place to facilitate compliance, thereby resulting in minimal incremental costs to comply with the modifications adopted in the *Order*.

17. Typically, the auction procedures inform prospective applicants that they should familiarize themselves with the Commission's general competitive bidding rules, Commission decisions regarding competitive bidding procedures, application requirements, obligations of Commission licensees, construction permit holders, and support recipients, and the Commission's service rules for the

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[204] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[205] *See* 13 CFR § 121.201, NAICS Code 517410.

[206] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[207] *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.

[208] 5 U.S.C. § 604(a)(5).

frequency band available in the auction or for construction permits or universal service support, and that they must be thoroughly familiar with the procedures, terms, and conditions contained in the public notice adopting procedures for the auction.[209] We therefore do not expect that the amended definitions adopted in the *Order* will increase the need for small entities to hire attorneys, engineers, consultants, or other professionals because it does not increase the level of education or due diligence beyond what was required of applicants under the previous competitive bidding rules for the AWS-3 spectrum bands.

18. As mentioned, the *Order* adopts rule changes that will affect reporting, recordkeeping, and/or other compliance requirements for small and other entities. The *Order* amends the Commission's rules related to designated entities eligible for bidding credits for licenses subject to auction in the AWS-3 bands. It adopts the same revenue thresholds that the Commission has used in recent years to determine eligibility for small and very small business bidding credits, which are provided for in the Commission's part 1 standardized schedule of bidding credits. It also amends the AWS-3 bidding credit eligibility criteria to align with the amended Small Business Act's requirement that federal agencies that categorize business concerns that provide services as a "small business concern" based on annual average gross receipts only do so if the agency considers such receipts "over a period of not less than five years." Specifically, we adopt a requirement for an entity to have average gross revenues for the preceding five years not exceeding $55 million to be a small business, and such an entity would be eligible for a bidding credit of 15%. To be classified as a very small business an entity would be required to have average gross revenues for the preceding five years not exceeding $20 million and would be eligible for a bidding credit of 25%.[210] We also adopt a rural service provider bidding credit for auctions of licenses for AWS-3 spectrum that has been offered. Lastly, the *Order* modifies the Commission's general part 1 competitive bidding rules to incorporate the five-year average gross receipts benchmark for the purpose of determining which entities qualify for small business bidding credits for consistency with the Small Business Act.

F. Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

19. 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."[211]

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[209] *See, e.g.*, *Auction 107 Procedures Public Notice*, 35 FCC Rcd at 8407, para. 5; *Auction of Priority Access Licenses in the 3550–3650 GHz Band; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 105; Bidding in Auction 105 Scheduled to Begin June 25, 2020*, AU Docket No. 19-244, Public Notice, 35 FCC Rcd 2140, 2143, para. 5 (2020).

[210] The standardized schedule of bidding credits provided in Section 1.2110(f)(2)(i) defines small businesses based on average gross revenues for the preceding three years. In December 2018, Congress revised the standard set out in the Small Business Act for categorizing a business concern as a "small business concern," by changing the annual average gross receipts benchmark from a three-year period to a five-year period. Thus, as a general matter, a federal agency cannot propose to categorize a business concern as a "small business concern" for Small Business Act purposes unless the size of the concern is based on its annual average gross receipts "over a period of not less than 5 years." 15 U.S.C. § 632(a)(2)(C)(ii)(II), *as amended by* SBERA, Pub. L. 115-324 (Dec. 17, 2018). We therefore adopt the Small Business Act's revised five-year average gross receipts benchmark for purposes of determining which entities qualify for small business bidding credits. But because the SBA has not yet revised its regulations to update the definition of "small business concern," for purposes of compliance with the Regulatory Flexibility Act, the Commission will continue to use the SBA's current definitions of "small business," which is based on a three-year benchmark.

[211] 5 U.S.C. § 604(a)(6).

20. The rules adopted by the Commission in the *Order* reflect its efforts to minimize significant economic impact to small entities where practicable and its consideration of various alternatives in reaching its conclusions. For example, the adopted rules update the competitive bidding rules for the AWS-3 spectrum bands to align with current practices. We considered alternatives that would apply rules that deviated from our prevailing practices. However, by adopting rules similar to the DE rules that have been used in recent auctions of wireless, 5G-ready spectrum, compliance burdens on small businesses will be minimized, as many small businesses will already be familiar with these requirements. As a result, the adopted approach could lessen the compliance costs for small entities who have participated in any wireless spectrum auction since 2015.

21. *Competitive Bidding and Bidding Credits for Small Entities*. The Commission administers bidding credit programs to promote small business service provider participation in auctions and in *the* provision of spectrum-based services. Based on our analysis of past auction data, the relative costs of participation are lowered for small businesses that take full advantage of the bidding credit programs. The current DE rules for auctions of licenses in AWS-3 spectrum bands were adopted prior to the last major update to the part 1 competitive bidding rules in 2015. Thus, as mentioned in the prior section, we have modified these DE rules so that they conform with the DE rules set forth in part 1, subpart Q, of the Commission's rules and are consistent with recent auctions. Specifically, we modify the DE rules for AWS-3 to apply the current part 1 definition of a qualifying "small business" and a "very small business"[212] and apply the bidding credits for these two categories, and for rural service providers. We also modify the part 1 size definitions for small business bidding credits so that the amount of time over which revenues are averaged for determining bidding credit eligibility is five years, in conformance with the Small Business Act.[213] We considered comments suggesting the Commission implement larger bidding credits for small businesses. We conclude, however, that the bidding credit percentages adopted in the *Order* will sufficiently enable small businesses seeking to participate in auctions to gain access to capital, thereby fostering their increased participating and competitive in auctions, without incentivizing gamesmanship.

22. In addition, to reduce costs to small and other entities, the Commission provides resources and educational materials to assist all auction participants, including small entities, with understanding the requirements of auction participation, including applying for bidding credits. Small entities and other auction participants may seek clarification of, or guidance regarding, auction procedures, the competitive bidding rules, and any requirements related to the authorizations or support to be made available through the auction from Commission staff prior to each auction's application window. Further, an FCC Auctions Hotline provides small entities one-on-one access to Commission staff for information about the auction process and procedures. Lastly, through the FCC Auctions Technical Support Hotline, the Commission provides a technical assistance resource to small entities and other applicants, on issues such as access to or navigation within the electronic short-form application (FCC Form 175) and use of the bidding system.

G. Report to Congress:

23. The Commission will send a copy of the *Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.[214] In addition, the Commission will send a copy of the *Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the Federal Register.[215]

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[212] 47 CFR § 1.2110(f)(2)(i).

[213] *See* 15 U.S.C. § 632(a)(2)(C)(ii)(II), *as amended by* SBREA, Pub. L. 115-324 (Dec. 17, 2018).

[214] 5 U.S.C. § 801(a)(1)(A).

[215] *Id.* § 604(b).

APPENDIX C

List of Commenters

Comments

Benton Institute for Broadband & Society
Blooston Rural Carriers (Blooston)
Competitive Carrier Association (CCA)
Council Tree Investors, Inc. (Council Tree)
CTIA
EchoStar Corporation
Institute for Local Self-Reliance
Moore, Kelly; Moore, Aubry; Moore, Brennan; and Moore, Harlan (the Moores)
National Congress of American Indians
Navajo Nation Telecommunications Regulatory Commission (NNTRC)
Open Technology Institute at New America
Public Knowledge
Rural Wireless Association, Inc. (RWA)
Shoshone-Bannock Tribes
Tribal Digital Village Network
Waskawiwin
WISPA – The Association for Broadband Without Boundaries (WISPA)
X-Lab

STATEMENT OF
CHAIRMAN BRENDAN CARR

Re: *Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses; et. al,* Report and Order and Second Report and Order, GN Docket Nos. 25-70, 25-71, 13-185 (July 24, 2025)

July 2025 is an important milestone in America's spectrum policy.

As part of the One Big Beautiful Bill, which President Trump signed into law on the 4th of July, Congress restored the FCC's spectrum auction authority. This ended a two-year period when that authority lapsed and America's spectrum spigot was shut off. Even more, the new law directs the Commission and NTIA to free up no less than 800 megahertz of spectrum, creating a robust pipeline for 5G and next-gen wireless services.

Two days before the bill became law, I announced that restoring America's leadership in wireless would be one of the central pillars of the Commission's new Build America Agenda. The spectrum provisions of the Big Beautiful Bill will give our agenda a big boost, because freeing up spectrum creates jobs, increases competition, and drives down prices for consumers. Basically—more spectrum means more building.

From my first day as Chairman, I made every effort to get more spectrum in the marketplace. At my very first open meeting as FCC Chairman, the initial item we considered was a proposal to kickstart the process for reauctioning a large number of licenses in the so-called AWS-3 bands (1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz). These are spectrum licenses that have been laying fallow for years.

With today's action, we move another step closer to that auction and getting these powerful bands into consumers' hands, where they belong. We do so by establishing the designated entity eligibility requirements for the auction. This item also creates a 15 percent bidding credit for qualifying rural service providers—an important step to closing the digital divide.

But restoring America's leadership in wireless is not the only objective of our Build America Agenda that an AWS-3 auction will advance. National security is another. That is because the proceeds from this auction will be used to complete the "rip and replace" program to protect our networks from untrustworthy and insecure foreign equipment.

For their work on this item, I'd like to thank Maureen Flood, Lyndsey Grunewald, Mike Gussow, Bill Huber, Madelaine Maior, Erik Salovaara, and Jeff Tignor.

STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses; et. al,* Report and Order and Second Report and Order, GN Docket Nos. 25-70, 25-71, 13-185 (July 24, 2025)

With today's Order, we implement a congressional directive on the AWS-3 spectrum licenses remaining in inventory. Preparing for this auction allowed us to continue to exercise our auction muscles while we waited for our auction authority to be reinstated. While I believe the Federal Communications Commission (FCC, Commission) could have conducted both a Tribal Licensing Window and an AWS-3 auction within the timeframe Congress indicated, I understand that the Commission's interpretation of Congress's directive in this Act was to move to auction expeditiously. For these reasons I approve in part and concur in part.

Notwithstanding my partial concurrence, I would like to thank the Chairman and his staff for working with me on edits to this Order that affirm our Trust Responsibility to Tribal Nations.

The United States Trust Responsibility to Tribes is a legal obligation established by the Constitution, Tribal Treaties, and more than a hundred years of Supreme Court precedent.[216] As part of the federal government, the FCC has this responsibility. Under this principle, we engage with Tribal Nations on a government-to-government basis, a practice known as the Trust Relationship, and are charged with carrying out the law in a manner that supports Tribal sovereignty. With regard to spectrum policy, the unique legal framework and relationship between the federal government and Tribes requires us to ensure that Tribes have a fair and meaningful opportunity to secure spectrum rights essential to their economic development, public safety, and cultural preservation.

In the record for the auction of AWS-3 licenses, at least twelve stakeholders across various comments agreed with this approach and supported a Tribal Licensing Window.[217] The Navajo Nation, the Shoshone-Bannock Tribes, a Tribal regulatory entity, a national organization representing hundreds of Tribal Governments, an intertribal organization representing more than 50 Tribes with large reservations, a Tribal wireless broadband provider, a non-profit that trains Tribes to build and operate Internet networks, and numerous public interest groups asked us to hold a Tribal Licensing Window.[218] Holding a Tribal Licensing Window is consistent with and acknowledges our Trust Responsibility. While we will not hold a window in this auction, I am grateful to Chairman Carr for agreeing to seek comment about Tribal Licensing Windows in future auction proceedings. I look forward to future auctions now that our auction authority is restored.

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[216] *See* U.S. Const. art. I, § 8, cl. 3; *Cherokee Nation v. Georgia*, 30 U.S. 1, 16 (1831); *Seminole Nation v. United States*, 316 U.S. 286, 296-97 (1942); *see generally* Cohen's Handbook of Federal Indian Law §5.04(3) (Nell Jessup Newton ed., 2012).

[217] National Congress of American Indians, et al., (NCAI) Comments; Navajo Nation Telecommunications Regulatory Commission (NNTRC) Comments; Shoshone-Bannock Tribes (SBT) Comments; Coalition of Large Tribes (COLT) Comments; Letter From Dr. Buu Nygren, President, The Navajo Nation, to Brendan Carr, Chairman, FCC GN Docket Nos. 25-70, 25-71, 13-185, at 2 (Feb. 20, 2025); Letter from Nat Purser, Government Affairs Policy Advocate, Public Knowledge, et al. to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (July 11, 2025) (PK Letter); Letter from Michael Calabrese, Director, Wireless Future Open Technology Institute at New America and Harold Feld, Senior Vice President, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (Apr. 21, 2025); Letter from the United Church of Christ Media Justice Ministry, et al. to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (Apr. 28, 2025) (UCC Letter).

[218] *See* NNTRC Comments; Shoshone-Bannock Tribes Comments at 1; NCAI Comments; UCC Letter; COLT Comments; and PK Letter.

The record for Auction 113 also highlighted an ongoing problem that impedes connectivity on Tribal lands: there are cases in which auction winners acquire licenses that include Tribal lands but fail to build out on those lands.[219] Here, again, I am glad that in this item we are committing to finding ways to address the connectivity challenges that Tribal Nations face. I hope this commitment includes looking into complaints about unused spectrum, as overseeing the efficient use of spectrum is of paramount importance to our Agency.

To carriers, I want to remind you of the importance of serving all areas, including Tribal lands, and not letting spectrum sit unused. To Tribal Nations facing this issue, I want you to know that we take these complaints seriously. Cognizant of our Trust Responsibility, we will monitor the situation, and I commit to support seeking comment in future auctions on whether to adopt rules implementing forced partitions, "use or share," and "use or lose" conditions on licenses over Tribal lands where carriers fail to build out using spectrum acquired at auction.

Thank you.

[219] NNTRC Comments at 11.

STATEMENT OF
COMMISSIONER OLIVIA TRUSTY

Re: *Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses; et. al,* Report and Order and Second Report and Order, GN Docket Nos. 25-70, 25-71, 13-185 (July 24, 2025)

By updating the competitive bidding rules for auctioning the Commission's inventory of AWS-3 spectrum, we advance good policy on two important fronts, and check two long-standing items off of the FCC's to-do list.

First, we lay the groundwork to auction this valuable spectrum so it can be put to its highest and best use: improving service quality and delivering faster internet speeds for consumers. The licenses to be offered in a future auction will enhance coverage in diverse geographic areas and deliver a much-needed injection of spectrum for LTE and 5G deployment.

Second, we help enhance the security of our networks. Proceeds from the AWS-3 auction will help fund the Commission's Supply Chain Reimbursement Program, which supports the removal and replacement of untrusted equipment from companies like Huawei and ZTE. While we've made significant national progress in securing our networks, threats persist, as both Congress and the Commission have recognized. Fully funding "Rip and Replace" is essential to rooting out remaining vulnerabilities, safeguarding our communications infrastructure, driving economic growth, and preserving U.S. leadership in next-generation wireless technologies.

I thank the FCC staff for their work on today's item and for moving swiftly to bring the AWS-3 spectrum to auction. I also commend the President and Congress for their work to address the nation's spectrum shortage in the One Big Beautiful Bill, by restoring the FCC's general auction authority, building out a forward-looking spectrum pipeline, and recognizing that resilient, secure networks are fundamental to our economic and national security.

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

In the Matter of	)	
	)	
In re: Delete, Delete, Delete	)	GN Docket No. 25-133

DIRECT FINAL RULE

Adopted: July 24, 2025 **Released: July 28, 2025**

Comment Date: (10 days after publication in the Federal Register)

By the Commission: Chairman Carr and Commissioner Trusty issuing separate statements; Commissioner Gomez dissenting and issuing a statement.

I. INTRODUCTION

1. Today marks the next step in a bold initiative to modernize the Commission's regulatory framework and pave the way for the next generation of innovation. In this proceeding,[1] we have launched a sweeping review eventually aimed at eliminating outdated rules, reducing unnecessary regulatory burdens, accelerating infrastructure deployment, promoting network modernization, and spurring innovation. Our goal is clear: streamline, simplify, and smartly deregulate across multiple fronts simultaneously to better serve the public and support technological progress.

2. In initiating this proceeding, we generally sought to identify rules that are outdated, obsolete, unlawful, anticompetitive, or otherwise no longer in the public interest. In today's item, we specifically focus on the repeal of certain rules for which prior notice and comment are unnecessary, but for which we elect to provide an opportunity for input on that assessment. Absent any significant adverse comments in response to this *Direct Final Rule*, these rules will be repealed. Pursuant to the framework established here, direct final rule procedures also can be employed in the future in other scenarios where prior notice and comment is unnecessary under the Administrative Procedure Act (APA).[2]

II. DISCUSSION

3. *Good Cause to Forgo Notice and Comment*. Under the APA, when an agency for "good cause" finds that notice and public comment "are impracticable, unnecessary, or contrary to the public interest," it need not follow notice and comment procedures before modifying or repealing rules.[3] Prior

[1] *See, e.g.*, *In Re: Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, DA 25-219 (Mar. 12, 2025) (*Delete, Delete, Delete Public Notice*); *Consumer and Governmental Affairs Bureau Seeks Comment On Termination of Certain Proceedings As Dormant*, CG Docket No. 25-165, Public Notice, DA 25-376 (CGB May 2, 2025). The Commission may elect to proceed independently in each context.

[2] We thus reject commenters' unwarranted concerns that direct final rule procedures will be employed by the Commission outside scenarios where prior notice and comment is unnecessary under the APA. *See, e.g.*, Letter from Public Knowledge et al., to Hon. Brendan Carr, Chairman, FCC, GN Docket No. 25-133, at 1-2 (filed July 17, 2025) (Public Knowledge *et al*. July 17 *Ex Parte* Letter); TechFreedom Comments, GN Docket No. 25-133, at 5-6 & n.15 (filed July 17, 2025) (TechFreedom July 17 *Ex Parte* Letter). Where deregulation triggers the notice-and-comment rulemaking process required by the APA, the Commission will proceed in that manner, just as it is doing with respect to other deregulatory items this month on which the full Commission will vote.

[3] 5 U.S.C. § 553(b)(B).

notice and comment are "unnecessary" when "'the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.'"[4]

4. We have identified 11 rule provisions—covering 39 regulatory burdens, 7,194 words, and 16 pages—that plainly do not serve the public interest any longer because they govern obsolete technology,[5] outdated marketplace conditions,[6] expired deadlines,[7] or repealed legal obligations.[8] Applying the "good cause" standard discussed above, we conclude that prior notice and comment are unnecessary before repealing the rules identified in Appendix A.

5. *Direct Final Rule Process*. At times when the Commission has found prior notice and comment unnecessary before modifying or repealing rules, it simply adopted the relevant rule change without any additional process.[9] Although we reserve the right to proceed in that manner, we elect in this decision to proceed using what commonly is known as a "direct final rule" process.[10] By proceeding through a direct final rule, the Commission chooses to provide *expanded* opportunities for public comment when it is not legally required to do so under the "good cause" standard.[11] Under a direct final rule process, rule changes are adopted without prior notice and comment, but accompanied by an

[4] *Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001).

[5] 47 CFR § 79.101 (regulating close-captioning for analog broadcast television receivers).

[6] 47 CFR § 63.65 (1963 regulation requiring applicants to file requests "in quintuplicate" to close a "public toll station" (such as a telephone booth) in communities where the applicant will continue to provide service through another toll station and to show, *inter alia,* the distance between the toll stations and the average number of messages send-paid and received-collect for the past six months).

[7] 47 CFR §§ 24.239-.253 (relating to post-auction cost-sharing obligations that sunset in 2005).

[8] 47 CFR § 1.789 (relating to telegraph regulations repealed 14 years ago).

[9] *See, e.g.*, *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Order on Reconsideration, Second Report and Order, Order, and Second Further Notice of Proposed Rulemaking, 38 FCC Rcd 827, 855-56 (2023); *Modernization of Media Regulation Initiative; Revisions To Cable Television Rate Regulations, et al.*, MB Dockets No. 17-105 and 02-144, Further Notice of Proposed Rulemaking and Report and Order, 33 FCC Rcd 10549, 10569-70, para. 41 (2018); *Delete, Delete, Delete et al.*, GN Docket No. 25-133, Order, DA 25-621 (CGB July 14, 2025); *Delete, Delete, Delete et al*., GN Docket No. 25-133, Order, DA 25-613 (WCB July 11, 2025); *2014 Quadrennial Regulatory Review, et al.*, MB Docket No. 14-50, Order, 36 FCC Rcd 9354, 9355, para. 2 (MB 2021); *Amendment of Section 1.80 of the Commission's Rules; Implementing Section 2 of the Preventing Illegal Radio Abuse Through Enforcement Act (Pirate Act)*, Order, 35 FCC Rcd 14591, 14591, para. 1 (EB, OMD 2020); *Accelerating Wireless Broadband Deployment By Removing Barriers To Infrastructure Investment*, WT Docket No. 17-79, Order, 34 FCC Rcd 9366 (WTB 2019).

[10] *See, e.g.*, Administrative Conference of the United States, Recommendation 2024–6, Public Engagement in Agency Rulemaking Under the Good Cause Exemption, 89 Fed. Reg. 106406, 106408-09 (Dec. 30, 2024) (ACUS Public Engagement and Good Cause Recommendation) (discussing the "direct final rule" process); *Sierra Club v. EPA*, 99 F.3d 1551, 1554 & n.4 (10th Cir. 1996) (discussing the direct final rule process used by the EPA). Although the FCC is not bound by the *ACUS Public Engagement and Good Cause Recommendation* or the practices employed by other agencies, we have considered them to the extent that they provided a useful point of reference subject to tailoring appropriate to our specific circumstances.

[11] We thus reject claims that our actions somehow seek to evade the APA or neglect the proper importance of notice and comment. *See, e.g.*, Public Knowledge *et al.* July 17 *Ex Parte* Letter at 1, 4; TechFreedom July 17 *Ex Parte* Letter at 4-7. Further, although the Commission has adopted specific rules codified in the Code of Federal Regulations related to notice-and-comment rulemaking procedures, *see* 47 CFR part 1, subpart C, there is no legal requirement that we adopt rules before employing processes permitted by the APA and the Communications Act. *See, e.g.*, 47 U.S.C. § 154(j) (absent previously-specified procedural obligations to the contrary "[t]he Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice").

opportunity for the public to file comments—and if we conclude that significant adverse comments have been filed, the relevant rule changes would not take effect until after a full notice and comment process.[12]

6. In particular, we will publish this item adopting direct final rules in the Federal Register, and allow for comment from interested parties within 10 days of Federal Register publication.[13] Until 10 days after Federal Register publication, this shall be a "permit-but-disclose" proceeding for purposes of our *ex parte* rules.[14] Because this comment process is directed toward the discrete objective of the direct final rule process, and to avoid unwarranted delay in that process, we prohibit filings addressing the rule changes contemplated in this *Direct Final Rule* more than 10 days after Federal Register publication, absent further direction from the Commission published in the Federal Register.[15] This both accords with the purpose of the comment process for direct final rules, and is similar (though not identical) to actions the Commission has taken in other contexts to provide a defined end-point for public filings to enable the Commission to focus its attention on the submissions already before it.[16]

7. The direct final rules will be effective 60 days after Federal Register publication. To the extent that the Commission receives comments on these direct final rules, we will evaluate whether they are significant adverse comments that warrant further procedures before changing the rules. In our assessment, we plan to be guided by ACUS's recommendation that "[a]n agency should consider any

[12] *ACUS Public Engagement and Good Cause Recommendation*, 89 Fed. Reg. at 10609, para. 2(d).

[13] *See, e.g.*, 47 CFR § 1.45(b) ("Oppositions to any motion, petition, or request may be filed within 10 days after the original pleading is filed."); *id*. § 1.106(g) ("Oppositions to a petition for reconsideration shall be filed within 10 days after the petition is filed."); *id*. § 1.1302(b) ("Any party who desires to preserve the right to appeal [a presiding officer's ruling terminates a hearing proceeding] shall file a notice of appeal within 10 days after the ruling is released."). Although some commenters advocate for a longer comment period such as the 30 day period reflected in ACUS's recommendations, *see, e.g.*, Public Knowledge *et al*. July 17 *Ex Parte* Letter at 4-5; TechFreedom July 17 *Ex Parte* Letter at 4-5 & n.15, we are not persuaded to adopt such timeframes for this particular direct final rule. Under the APA's good cause exception, we would have been justified proceeding immediately to rule as we have in the past without providing an opportunity for comment, but have elected to employ direct final rule procedures to guide future action. An unnecessarily long comment period would simply represent an unwarranted penalty on the Commission for electing to pursue this approach. And given the discrete number of rules and rationales for repeal implicated in this order, we are not persuaded that a longer comment cycle is needed. That is particularly true where, as here, advocates for groups that might be interested in the rules at issue have shown themselves to already be well aware of the contemplated changes even before adoption of the direct final rule, let alone Federal Register publication. *See, e.g.*, Public Knowledge *et al.* July 17 *Ex Parte* Letter at 4-5. In different circumstances in the future, such as where there is a significantly larger number of rules at issue (many or all of which require more involved analyses in support of repeal under the good cause exception), we remain able to adopt longer comment periods if warranted.

[14] 47 CFR § 1.1206.

[15] *See* 47 CFR § 1.1200(a) ("Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice."). Up until that date, we find it in the public interest to continue to operate under permit-but-disclosure procedures in this regard, consistent with the status of the *In Re: Delete, Delete, Delete* proceeding more generally.

[16] *See, e.g.*, 47 CFR § 1.58 (adopting a quiet period for forbearance proceeding based on "[t]he prohibition in § 1.1203(a) on contacts with decisionmakers concerning matters listed in the Sunshine Agenda"). Although in this instance no filings will be permitted after 10 days from Federal Register publication, we create a limited carve-out that allows a petition for reconsideration of this action to be filed 30 days after Federal Register publication, consistent with the requirements of section 405(a) of the Communications Act. *See* 47 CFR § 1.4(b)(1) (date of "public notice" for non-notice and comment rulemaking proceedings required to be published in the Federal Register is the date of Federal Register publication); 47 U.S.C. § 405(a) (establishing a deadline of 30 days from public notice for petitions for reconsideration of actions by the Commission). In the event that a petition for reconsideration is filed, we will subsequently specifically address any comment process associated with such a petition.

comment received during direct final rulemaking to be a significant adverse comment if the comment explains why: a. The [direct final] rule would be inappropriate, including challenges to the rule's underlying premise or approach; or b. The [direct final] rule would be ineffective or unacceptable without a change."[17]

8. In the event that we conclude that significant adverse comments have been filed, the Bureaus and Offices responsible for the rules subject to this *Direct Final Rule* will publish a timely withdrawal in the Federal Register so that this *Direct Final Rule* does not become effective until any appropriate additional procedures have been followed. If significant adverse comments are filed only with respect to a subset of the rule revision(s) addressed by this *Direct Final Rule*, the pertinent Bureaus and Offices will withdraw the portions of the *Direct Final Rule* that were subject to significant adverse comments. For example, if a significant adverse comment is filed regarding a single rule within a direct final rule addressing multiple rules, we will publish a withdrawal addressing only that rule.[18]

9. In the event that no comments are filed in response to this *Direct Final Rule*, we do not anticipate publishing a confirmation of the effective date in the Federal Register, but simply will allow the rule changes to take effect as originally specified.[19] Where comments are filed, but none of the comments are significant adverse comments, where warranted by the record the pertinent Bureaus and Offices will issue a Public Notice that will briefly explain why any comments filed were not determined to be significant adverse comments.[20]

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[17] *ACUS Public Engagement and Good Cause Recommendation*, 89 Fed. Reg. at 106409. The touchstone for analysis is whether a comment materially calls into question the conclusion that prior notice and comment is unnecessary under the APA, which is the predicate for use of direct final rule procedures. While we expect the formulation provided by ACUS to be a useful guide for conducting that analysis, our statutory determination of "good cause" to forgo notice and comment ultimately represents the critical issue, rather than the particular language used by ACUS.

[18] We disagree with any suggestion that the Commission may not evaluate what procedural path to take after a particular rule change has been withdrawn. *See, e.g.*, Public Knowledge *et al.* July 17 *Ex Parte* Letter at 4. It would be an unwarranted deterrent to the use of direct final rule procedures if, after withdrawing a rule change that was subject to a significant adverse comment, the agency was precluded from relying on procedures that otherwise would have been available but for its initial direct final rule—including not only notice and comment rulemaking, but potentially other procedures such as a new direct final rule, an interim final rule, or some other approach.

[19] We reject calls to delay the effective date of the rule changes here simply because the Commission does not plan to publish a confirmation notice that rule changes will take effect as contemplated by the *Direct Final Rule*. *See, e.g.*, Public Knowledge *et al.* July 17 *Ex Parte* Letter at 4. ACUS recommends merely that agencies "consider" a longer effective date where no confirmation notice is published if the *agency* needs to ensure it has adequate time to withdraw the rule in the event it receives significant adverse comments. *ACUS Public Engagement and Good Cause Recommendation*, 89 Fed. Reg. at 106409, § 5. Thus, the additional time is for the benefit of the agency, not the public. Particularly where we are repealing rules—and thus no regulated entities will be required to come into compliance with new duties—on grounds like those relied upon here, we are not persuaded by generic requests for additional time that a lengthier effective date actually is needed.

[20] Although the Public Notice is a document in a non-notice and comment rulemaking proceeding, nothing in that document is required to be published in the Federal Register by the Administrative Procedure Act given that the Public Notice is not itself adopting new or modified rules. As a result, the Commission also need not publish the Public Notice in the Federal Register to establish the date of "public notice" for the Public Notice under section 1.4(b)(1) of the rules—which is limited to documents in rulemaking proceedings "required by the Administrative Procedure Act, 5 U.S.C. 552, 553, to be published in the Federal Register," 47 CFR § 1.4(b)(1)—and instead the date of public notice of these Public Notices will be the release date. *See* 47 CFR § 1.4(b)(4). Although some commenters suggest that the failure to publish this Public Notice in the Federal Register stands in contrast to what ACUS recommends, *see, e.g.*, Public Knowledge *et al.* July 17 *Ex Parte* Letter at 4, the ACUS recommendation does not contemplate such an explanation being issued at all—let alone one published in the Federal Register. Indeed, the ACUS recommendation recognizes even publication of a confirmation notice in the Federal Register—let alone an associated explanation—as optional. *ACUS Public Engagement and Good Cause Recommendation*, 89

(continued….)

10. Although the Commission has a history of seeking to eliminate outdated, inappropriate, or otherwise unwarranted regulations, including by actions on delegated authority,[21] we elect to take this step at the full Commission level. While we intend to use direct final rule procedures at the full Commission level, in recognition of past actions on delegated authority to adopt or repeal some rules without notice and comment, we take this opportunity to reaffirm that all Bureaus and Offices may continue to take such actions in situations that are exempt from the APA's notice-and-comment requirements, consistent with such actions by Bureaus and Offices historically.[22] To ensure uniformity in this regard and to address what, by historical happenstance, has resulted in varied formulations throughout our rules, we take this opportunity to standardize the delegated authority of Bureaus and Offices to act without notice and comment on matters that fall within the APA's good cause exception and otherwise do not involve new or novel issues.[23] While rule changes adopted via direct final rule procedures are premised on the APA's good cause exception from notice and comment, our action clarifying and unifying the wording of delegations of authority to Bureaus and Offices also relies on a distinct exception from notice and comment under the APA—namely, the notice and comment exception for rules of "agency organization, procedure, or practice."[24]

(Continued from previous page)
Fed. Reg. at 106409, § 5. We thus are not persuaded that it would serve the public interest—including the efficiency goals of this proceeding—to voluntarily elect to publish such Public Notices in the Federal Register.

[21] *See, e.g.*, *supra* note 9; *Elimination of Obligation To File Broadcast Mid-Term Report (Form 397) Under Section 73.2080(f)(2), Modernization of Media Regulation Initiative*, Report and Order, MB Dockets No. 18-23 and 17-105, 34 FCC Rcd 668 (2019); *Modernizing Common Carrier Rules*, WC Docket No. 15-33, Report and Order, 32 FCC Rcd 7132, 7132, para. 2 (2017); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Order, DA 25-252, para. 1 (WCB Mar. 20, 2025) (taking action "consistent with the Commission's goal of eliminating unnecessary and burdensome regulations"); *see also Delete, Delete, Delete Public Notice*.

[22] *Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d at 755; *see* Public Knowledge *et al.* July 17 *Ex Parte* Letter at 2 (stating that bureaus should act when this standard is met). Consistent with longstanding Commission rules, the Bureaus and Offices will not have delegated authority to act on any "new or novel" issues.

[23] *Compare, e.g.*, 47 CFR § 0.361(a) (using one set of wording in circumscribing the scope of rule changes that can be adopted by CGB on delegated authority) *with, e.g.*, 47 CFR § 0.331(d) (using a different set of wording in circumscribing the scope of rule changes that can be adopted by WTB on delegated authority).

[24] 5 U.S.C. § 553(b)(A). Delegation of authority to Bureaus and Offices bears simply on who within the agency will be acting, and not on issues of substance—thus fitting comfortably within the APA's notice and comment exception for rules of "agency organization, procedure, or practice." *See, e.g.*, *Mendoza v. Perez*, 754 F.3d 1002, 1023 (D.C. Cir. 2014) ("Procedural rules 'do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.'") (citations omitted). The Commission often has delegated authority under the APA exception for rules of agency organization, practice, and procedure, and our action here is no different. *See, e.g.*, *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Dockets No. 19-195 and 11-10, Order, 37 FCC Rcd 14957, 14962-63, para.14 & n.39 (2022); *Amendment of Parts 0 and 1 of the Commission's Rules Regarding Delegations of Authority To Act On Applications For Review*, GN Docket No. 21-16, Order, 36 FCC Rcd 731, 733, para. 6 (2021); *Establishment of the Office of Economics and Analytics*, MD Docket No. 18-3, Order, 33 FCC Rcd 1539, 1540, para. 6 (2018); *Amendment of Part 90 of the Commission's Rules To Facilitate Future Development of SMR Systems In the 800 MHz Frequency Band, et al.*, PR Docket No. 93-144, Memorandum Opinion and Order on Remand, 14 FCC Rcd 17556, 17594-95, para. 80 (1999); *Amendment of Part 0 of the Commission's Rules With Respect To Delegations of Authority In Forfeiture Proceedings*, Order, 7 FCC Rcd 2650, 2650, para. 3 (1992); *Amendment of Part 0 of the Commission's Rules et al.*, 57 FCC 2d 1122, 1123, para. 4 (1976); *see also, e.g.*, *Amendment of Certain of the Commission's Part 1 Rules Of Practice and Procedure and Part 0 Rules of Commission Organization*, GC Docket No. 10-44, Report and Order, 26 FCC Rcd 1594, 1594-95, para. 1 n.1 (2011) (Although the FCC used notice-and-comment rulemaking procedures in that instance, "[b]ecause the Part 1 and Part 0 rules are procedural and organizational in nature, notice and comment are not required under the Administrative Procedure Act. *See* 5 U.S.C. § 553(b)(A) (notice and comment rulemaking requirements do not apply to rules of agency organization,
(continued….)

11. Finally, in specifying the mechanics of the direct final rule process as it will be used by the full Commission, we again rely on the notice and comment exception for rules of "agency organization, procedure, or practice."[25] Although we do not foreclose the possibility of adopting codified rules governing direct final rule procedures in the future,[26] we believe that whether any new procedures are needed to "best conduce to the proper dispatch of business and to the ends of justice"[27] most effectively can be discerned based on practical Commission experience, rather than speculation. In the meantime, the use of direct final rule procedures as established by this *Direct Final Rule* will provide a useful tool to proceed with repealing outdated or unwarranted rules where prior notice and comment is unnecessary under the APA.

III. PROCEDURAL MATTERS

A. Paperwork Reduction Act

12. This document does not contain new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. §§ 3501-3521. 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, 44 U.S.C. § 3506(c)(4).

B. Congressional Review Act

13. 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 Direct Final Rule to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

C. Filing Requirements

14. Interested parties may file comments on or before the date 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.**

(Continued from previous page)
procedure, or practice). Accordingly, any subsequent changes to these rules may be effected without the full public proceeding we have chosen to conduct in this instance."); *Guardian Fed. Sav. & Loan. Ass'n v. Fed. Sav. & Loan Ins. Corp.*, 589 F.2d 658, 666 (D.C. Cir. 1978) (delegation of authority was procedural rule not subject to APA notice and comment requirements). In clarifying and affirming the delegated authority as historically used by Bureaus and Offices to adopt rule changes exempt from prior notice and comment under the APA, we find nothing that would cause the delegations at issue here to constitute substantive rules.

[25] 5 U.S.C. § 553(b)(A). The procedures to be followed in direct final rulemaking bear simply on how parties will interact with the agency, and not on any substantive duties or obligations. This fits comfortably within the APA's notice and comment exception for rules of "agency organization, procedure, or practice." *See, e.g.*, *Mendoza v. Perez*, 754 F.3d at 1023 (D.C. Cir. 2014).

[26] *See, e.g.*, TechFreedom July 17 *Ex Parte* Letter.

[27] 47 U.S.C. § 154(j).

- 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.
- 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 and Governmental Affairs Bureau at (202) 418-0530.

D. Additional Information

15. For additional information, contact Marcus Maher of the Office of General Counsel at Marcus.Maher@fcc.gov or (202) 418-2339.

IV. ORDERING CLAUSES

16. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 201(b), and 303(r) of the Communications Act, 47 U.S.C. §§ 154(i), (j), 201(b), 303(r), this *Direct Final Rule* **IS ADOPTED**. Except as specified in paragraphs 17 and 18, this *Direct Final Rule* shall be effective upon Federal Register publication of the rule changes set forth in Appendix A, which also shall serve as the date of public notice of that action.[28]

17. **IT IS FURTHER ORDERED** that the amendments of the Commission's rules as set forth in Appendix A shall be effective 60 days after Federal Register publication. In the event that significant adverse comments are filed, we direct the Bureaus and Offices responsible for the rules subject to this *Direct Final Rule* to publish a timely document in the Federal Register withdrawing the rule so that the rule change does not become effective until any additional procedures have been followed. In the event that significant adverse comments are filed with respect to only a subset of the rule revisions, we direct the Bureau or Office responsible for such rule revision to publish a timely document in the Federal Register withdrawing only such rule so that the rule change does not become effective until any additional procedures have been followed.

18. **IT IS FURTHER ORDERED** that the amendments of the Commission's rules as set forth in Appendix B shall be effective upon Federal Register publication of the specified amendments to the Part 0 rules,[29] which also shall serve as the date of public notice of that action.

19. **IT IS FURTHER ORDERED** that the Office of the Managing Director, Performance Program Management, **SHALL SEND** a copy of this *Direct Final Rule* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

[28] Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

[29] Because changes to our rules governing delegations of authority involve agency organization, procedure, or practice rather than "a substantive rule," they are not subject to the default requirement that they take effect on or after 30 days after Federal Register publication. 5 U.S.C. § 553(d).

Marlene H. Dortch
Secretary

APPENDIX A

Direct Final Rules

For the reasons set forth above, the Federal Communications Commission amends parts 1, 24, 63, 64, and 79 of Title 47 of the Code of Federal Regulations as follows:

PART 1 – PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

Subpart E – Complaints, Applications, Tariffs, and Reports Involving Common Carriers

2. Remove and reserve § 1.789.

§ 1.789 [Removed and Reserved]

PART 24 – PERSONAL COMMUNICATIONS SERVICES

3. The authority citation for part 24 is revised to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 309 and 332.

Subpart E – Broadband PCS

4. Remove the undesignated center heading before § 24.239, and remove and reserve §§ 24.239 through 24.253.

§§ 24.239 through 24.253 [Removed and Reserved]

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

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, 571, unless otherwise noted.

8. Remove and reserve § 63.65.

§ 63.65 [Removed and Reserved]

PART 79 – ACCESSIBILITY OF VIDEO PROGRAMMING

11. The authority citation for part 79 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, 617.

Subpart B – Apparatus

10. Remove and reserve § 79.101.

§ 79.101 [Removed and Reserved]

APPENDIX B

Final Rules

For the reasons set forth above, the Federal Communications Commission amends part 0 of Title 47 of the Code of Federal Regulations as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 409, and 1754, unless otherwise noted.

Subpart B – Delegations of Authority

2. Amend § 0.231 to add paragraph (m) to read as follows:

§ 0.231 Authority delegated.

* * * * *

(m) Notwithstanding any other provision of this section, the Managing Director is delegated authority to adopt changes to rules the Office of Managing Director administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

3. Amend § 0.241 to add paragraph (n) to read as follows:

§ 0.241 Authority delegated.

* * * * *

(n) Notwithstanding any other provision of this section, the Chief of the Office of Engineering and Technology is delegated authority to adopt changes to rules the Office of Engineering and Technology administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

4. Amend § 0.251 to add paragraph (k) to read as follows:

§ 0.251 Authority delegated.

* * * * *

(k) Notwithstanding any other provision of this section, the General Counsel is delegated authority to adopt changes to rules the Office of General Counsel administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

5. Amend § 0.261 to add paragraph (c) to read as follows:

§ 0.261 Authority delegated.

* * * * *

(c) Notwithstanding any other provision of this section, the Chief of the Space Bureau is delegated authority to adopt changes to rules the Space Bureau administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

6. Amend § 0.271 to add paragraph (j) to read as follows:

§ 0.271 Authority delegated.

* * * * *

(j) Notwithstanding any other provision of this section, the Chief of the Office of Economics and Analytics is delegated authority to adopt changes to rules the Office of Economics and Analytics administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

7. Amend § 0.283 to add paragraph (e) to read as follows:

§ 0.283 Authority delegated.

* * * * *

(e) Notwithstanding any other provision of this section, the Chief of the Media Bureau is delegated authority to adopt changes to rules the Media Bureau administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

8. Amend § 0.291 to add paragraph (j) to read as follows:

§ 0.291 Authority delegated.

* * * * *

(j) Notwithstanding any other provision of this section, the Chief of the Wireline Competition Bureau is delegated authority to adopt changes to rules the Wireline Competition Bureau administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

9. Amend § 0.311 to add paragraph (c) to read as follows:

§ 0.311 Authority delegated.

* * * * *

(c) Notwithstanding any other provision of this section, the Chief of the Enforcement Bureau is delegated authority to adopt changes to rules the Enforcement Bureau administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

10. Amend § 0.331 to add paragraph (k) to read as follows:

§ 0.331 Authority delegated.

* * * * *

(k) Notwithstanding any other provision of this section, the Chief of the Wireless Telecommunications Bureau is delegated authority to adopt changes to rules the Wireless Telecommunications Bureau administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

11. Add an undesignated center heading above § 0.351 to read as follows:

Office of International Affairs

12. Amend § 0.351 to add paragraph (c) to read as follows:

§ 0.351 Authority delegated.

* * * * *

(c) Notwithstanding any other provision of this section, the Chief of the Office of International Affairs is delegated authority to adopt changes to rules the Office of International Affairs administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

13. Amend § 0.361 to add paragraph (d) to read as follows:

§ 0.361 Authority delegated.

* * * * *

(d) Notwithstanding any other provision of this section, the Chief of the Consumer and Governmental Affairs Bureau is delegated authority to adopt changes to rules the Consumer and Governmental Affairs Bureau administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

14. Amend § 0.371 to add paragraph (i) to read as follows:

§ 0.371 Authority delegated.

* * * * *

(i) Notwithstanding any other provision of this section, the Director of the Office of Communications Business Opportunities is delegated authority to adopt changes to rules the Office of Communications Business Opportunities administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

15. Amend § 0.391 to add paragraph (j) to read as follows:

§ 0.391 Authority delegated.

* * * * *

(j) Notwithstanding any other provision of this section, the Director of the Office of Workplace Diversity is delegated authority to adopt changes to rules the Office of Workplace Diversity administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

16. Amend § 0.392 to add paragraph (l) to read as follows:

§ 0.392 Authority delegated.

* * * * *

(l) Notwithstanding any other provision of this section, the Chief of the Public Safety and Homeland Security Bureau is delegated authority to adopt changes to rules the Public Safety and Homeland Security Bureau administers where the rule changes are exempt from prior notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b), and where the action on delegated authority is not new or novel.

STATEMENT OF
CHAIRMAN BRENDAN CARR

Re: *Delete, Delete, Delete*, Direct Final Rule, GN Docket No. 25-133 (July 24, 2025).

When I announced my Build America Agenda, I said that outdated and unnecessary regulations from Washington often derail efforts to build high-speed networks and infrastructure across the country. That is why delivering on the agenda's core objectives will require implementing smart policies while carrying out a massive deregulation initiative.

We are doing so through our *In Re: Delete, Delete, Delete* proceeding—the largest deregulatory effort in FCC history.

Today, we are taking the next step in this important process by taking rules off the books that regulate telegraph services, rabbit-ear broadcast receivers, and telephone booths—technologies that were considered outdated decades ago.

We are acting under our authority through the Administrative Procedure Act. In the spirit of efficiency, this law gives the Commission the authority to fast track the elimination of rules that inarguably fail to serve the public interest. Using this authority, the Commission can forgo the usual prior notice and public comment period before repealing the rules for these bygone regulations.

Today's action will remove 11 outdated and useless rule provisions—covering at least 39 regulatory burdens, 7,194 words, and 16 pages. Say goodbye to restrictions on phone booth closures, captioning on analog TV receivers, auction obligations that lapsed 20 years ago, and references to long-repealed telegraph rules.

The public will have the opportunity to provide input on today's action, but absent any significant adverse comments, the rules identified in this item will be repealed.

Thank you Adam Candeub, Michael Janson, David Konczal, Marcus Maher, Christopher Santini and Chin Yoo from the Office of General Counsel for their hard work on this item.

DISSENTING STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Delete, Delete, Delete*, Direct Final Rule, GN Docket No. 25-133 (July 24, 2025).

I am the first to acknowledge that over time the Commission's rules need to be cleaned up and I commend the Chair for using Commission resources to identify such rules. That said, process matters. The direct final rule process could potentially serve a role with the right procedures and guardrails in place.

To that end, I told the Chairman that I could support initiating a proceeding to look at how a direct final rule process could be used going forward and including a notice of proposed rulemaking proposing to eliminate the rules the draft order purports to eliminate today. That offer was declined.

Accordingly, I cannot support the establishment of procedures to erase rules that have been adopted pursuant to notice and comment without seeking public comment on appropriate processes and guardrails. Notably, this order does not limit the direct final rule process to elimination of rules that are objectively obsolete with a clear definition of how that will be applied, asserting instead authority to remove rules that are "outdated or unwarranted."

While the order points to recommendations from the Administrative Conference of the United States, which has identified circumstances where good cause could exist to issue direct final rules consistent with the Administrative Procedure Act, it fails to meaningfully analyze or cabin the types of rules that could be eliminated through this process and then dismisses without explanation the minimum timeframe for public comment the Administrative Conference specifically recommended.[30]

In defense of the abbreviated timeframe, the order points to Commission rules where 10-day time limits are imposed. In each of those examples, however, interested stakeholders will have had actual notice the proceedings were ongoing and prior opportunities to comment. Those circumstances do not exist here and notably absent from the order is any explanation of why time is of the essence. I have to wonder, if these rules are so obsolete, what difference would providing 30-days-notice make?

One thing that is clear in this order is the intent to meet an arbitrary rule reduction quota. Eleven rule provisions, 39 regulatory burdens, 7,194 words, and 16 pages. Those sound like big numbers intended to impress. But what happens when they make a mistake? What happens when a rule that actually matters is removed from the CFR? What we cannot do is allow the meeting of an arbitrary numerical goal to be more important than doing our job.

The way we do things matters. The Administrative Procedure Act exists to protect the public interest in government actions through the use of fair procedures consistent with due process. The fact that the process adopted today effectively evades review by an informed public is a feature, not a bug. All the handwringing about the need to move at lightning speed to eliminate rules that have no impact because they are taking up multiple pages in the CFR makes no sense.

I appreciate that the public comments to the draft order reflected concerns from across the ideological spectrum and that the Chairman implemented changes to address some of those concerns. But the comments and responsiveness demonstrate my point. Public comment matters and stakeholders need sufficient opportunity to raise issues we regulators may not have thought of. We should have sought comment on standards to be applied, appropriate guardrails and comment periods.

I dissent.

[30] *ACUS Public Engagement and Good Cause Recommendation*, 89 Fed. Reg. at 106409.

STATEMENT OF
COMMISSIONER OLIVIA TRUSTY

Re: *Delete, Delete, Delete,* Direct Final Rule, GN Docket No. 25-133 (July 24, 2025).

Today, the Commission takes the next step in the "Delete, Delete, Delete" initiative, a focused effort to reduce regulatory red tape, unleash innovation, and advance prosperity by identifying and eliminating outdated and obsolete rules that no longer serve the public interest.

As technology has evolved and consumer behavior has shifted, many legacy regulations remain on the FCC's books long after their relevance has faded. This morning, we target some of the most obsolete provisions, including rules tied to expired deadlines, repealed telegraph regulations, and long outdated technologies like closed captioning requirements for analog television receivers. We're also eliminating rules tied to market realities that no longer exist, such as those related to telephone booths.

The Order uses the streamlined "direct final rule" process to efficiently repeal outdated provisions that are both insignificant in nature and impact, and inconsequential to the industry and the public, while still allowing for timely public input. By clearing away regulatory clutter, the Commission can focus more sharply on today's priorities: expanding access to high-speed connectivity for all Americans and restoring U.S. leadership in next-generation communications technologies.

I want to thank the dedicated staff across our Offices and Bureaus for their comprehensive review of the Commission's rules. I look forward to continuing to work with my colleagues to ensure our regulations are modern, focused, and serve the best interests of American businesses and consumers.

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

In the Matter of	)	
	)	
Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges	)	CG Docket No. 17-169
	)	
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

NOTICE OF PROPOSED RULEMAKING

Adopted: July 24, 2025 **Released: July 25, 2025**

Comment Date: [30 days after Federal Register publication]
Reply Date: [60 days after Federal Register publication]

By the Commission: Chairman Carr and Commissioners Gomez and Trusty issuing separate statements.

I. INTRODUCTION

1. The Commission's slamming and Truth-in-Billing (billing) rules aim to ensure that consumers receive service from the telephone provider of their choice and their bills are both easy to understand and contain only charges they authorize. These goals are simple and commonsense, yet they have resulted over the last several decades in complicated, highly-prescriptive, and outdated regulations that may stifle innovation without giving consumers much in the way of additional protection.

2. In this Notice of Proposed Rulemaking (Notice), we explore whether our slamming and billing rules remain necessary to protect consumers. If so, we propose changes to modernize and simplify the rules to reflect the evolution of the telecommunications marketplace and reduce regulatory burdens, while retaining core consumer protections against unauthorized carrier switches and charges.

II. BACKGROUND

A. Slamming

3. Slamming is the illegal practice of submitting or executing a change in a consumer's wireline telephone service provider for local, local toll, or long distance service without their permission,[1] effectively depriving consumers of their chosen provider, distorting the market, and rewarding companies that deceive consumers via misrepresentation and other fraudulent practices.

4. Slamming emerged four decades ago, a side-effect of the Commission's then newly-adopted equal access requirements,[2] which facilitated competition in the long distance service market following the divestiture of AT&T. With competition for long distance service came incentives for unscrupulous

[1] Section 258 of the Communications Act of 1934, as amended (Communications Act or Act), adopted in section 101(a) of the Telecommunications Act of 1996, made it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." 47 U.S.C. § 258(a) (codifying Telecommunications Act of 1996, Pub. L. No. 104-104, § 101(a), 110 Stat. 56, 77 (1996)).

[2] Equal access allows subscribers to access the facilities of a designated interexchange carrier (IXC) by dialing "1" only, rather than dialing a multi-digit access code for some IXCs.

long distance providers to switch consumers' long distance carriers without their consent by submitting a change request to the consumers' local telephone companies. The Commission's slamming rules protect consumers from such illegal switches, and provide a remedy if they have been slammed. After Congress adopted section 258 of the Communications Act,[3] the Commission specified four alternative forms of evidence carriers could use to demonstrate that a consumer consented to a carrier change: (1) a Letter of Agency; (2) an electronic authorization (a call to a toll-free number that records the caller's originating automatic number identification); (3) "[a]ny State-enacted verification procedures applicable to intrastate preferred carrier change orders only;" or (4) a third-party verification, which is a recorded conversation between an independent third-party verifier and the consumer.[4] Consumers could further protect themselves from an unauthorized change by freezing their choice of carriers, a process known as a preferred interexchange carrier (PIC) freeze.[5]

5. Over the years, the Commission has enforced against slammers, both through the Enforcement Bureau with fines[6] and through the Consumer and Governmental Affairs Bureau's (CGB) adjudications that reimburse consumers for slamming losses.[7] But today, consumers rarely file slamming complaints.[8] Fewer consumers subscribe to separate local and long distance wireline services,[9] and newer

[3] 47 U.S.C. § 258(a) (procedures for informal complaints filed pursuant to section 258).

[4] 47 CFR § 64.1120(c).

[5] 47 CFR § 64.1190.

[6] *See, e.g.*, *Central Telecom Long Distance, Inc.*, Forfeiture Order, 31 FCC Rcd 10392 (2016) (*Central Telecom Forfeiture Order*); *Consumer Telcom, Inc.*, Forfeiture Order, 31 FCC Rcd 10435 (2016) (*Consumer Telcom Forfeiture Order*); *U.S. Telecom Long Distance, Inc.*, Forfeiture Order, 31 FCC Rcd 10413 (2016) (*U.S. Telecom Forfeiture Order*); *Preferred Long Distance, Inc.*, Forfeiture Order, 30 FCC Rcd 13711 (2015) (*Preferred Forfeiture Order*).

[7] 47 CFR § 1.719 (establishing procedures for informal complaints filed pursuant to section 258). *See, e.g.*, *Clear Rate Communications, Complaint Regarding Unauthorized Change of Subscriber's Telecommunications Carrier*, Order, 37 FCC Rcd 8634 (CGB 2022) (granting a slamming complaint where a Clear Rate telemarketer claimed to have called on behalf of CenturyLink); *Clear Rate Communications, Complaint Regarding Unauthorized Change of Subscriber's Telecommunications Carrier*, Order, 35 FCC Rcd 10369 (2020) (granting a slamming complaint where a Clear Rate telemarketer falsely told the complainant that her carrier, Verizon, had gone out of business).

[8] *See Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges*, CG Docket No. 17-169, Report and Order, 33 FCC Rcd 5773, 5774, para. 7 (2018) (*2018 Slamming Order*). In the past, however, such complaints were common. For example, the Commission processed 20,154 slamming complaints and 4,558 cramming complaints in 1998. *Truth-in-Billing and Billing Format,* CC Docket No. 98-170, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7494, n.4 (1999) (*First Truth-in-Billing Order*). Similarly, the Commission processed 8,761, 12,795, and 20,475 slamming complaints in 1995, 1996, and 1997, respectively. *Id.* For a list of Enforcement Bureau slamming and cramming investigations based on consumer complaints, *see 2018 Slamming Order*, 33 FCC Rcd at 5775-77, paras. 8-12 & n.14.

[9] *See, e.g.*, *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, WC Docket No. 18-141, Memorandum Opinion and Order, 34 FCC Rcd 6503, 6508, para. 11 (2019) (observing that consumers and businesses are rapidly transitioning from legacy switched access voice services to interconnected VoIP service, mobile and fixed wireless services, and over-the-top voice applications). Among those who still have a wireline phone, many have bundled plans with broadband and VoIP service, not traditional wireline with separate local and long distance service. *See, e.g.*, Application of Pac. Bell Tel. Co. d/b/a AT&T California for Targeted Relief from its Carrier of Last Resort Obligation and Certain Associated Tariff Obligations, filed with the Cal. Pub. Utilis. Comm'n, Mar. 3, 2023, Declaration of Mark A. Israel at 23-25, https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M502/K977/502977267.pdf (stating that only 6.5% of AT&T's California customers had POTS (Plain Old Telephone Service) in 2022). The Commission observed in the *2024 Communications Marketplace Report* that, as of December 2023, residential fixed voice connections were approximately 26% switched-access and approximately 74% interconnected VoIP, with residential switched-access connections comprising approximately only 10% of all fixed retail voice connections. *Communications Marketplace*

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technologies like Voice over Internet Protocol (VoIP)[10] and Commercial Mobile Radio Service (CMRS)[11] have overtaken traditional wireline communications.[12] As such, the Commission's Enforcement Bureau has not taken action against a service provider for slamming since 2021.[13] The number of slamming orders CGB released also has dropped precipitously. For example, CGB released more than 1,500 slamming orders in 2003, but has not released any slamming orders or received any consumer complaints that describe a slam in 2025.[14] Further, there is no evidence that the types of services consumers once used, such as separate local and long distance services, will regain the popularity or levels of availability they once enjoyed.

B. Truth-in-Billing

6. To address consumer confusion about bills and to help consumers spot slamming, the Commission adopted "billing principles" in 1999.[15] The billing principles were generally broad,[16] and

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Report, GN Docket No. 24-119, 2024 Communications Marketplace Report, FCC 24-136, at para. 156 (2024), available at https://docs.fcc.gov/public/attachments/FCC-24-136A1.pdf.

[10] Section 9.3 of our rules defines interconnected VoIP service as "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; 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." 47 CFR § 9.3.

[11] Section 332(d)(1) of the Act defines CMRS as "any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission." 47 U.S.C. § 332(d)(1).

[12] *See* note [[9]], *supra*. The National Center for Health Statistics (NCHS) found that, in 2023, 75 percent of adults in the U.S. had a cell phone only. NCHS, National Health Interview Survey Early Release Program, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2023, https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202406.pdf. Further, according to the Pew Research Center, 90 percent of U.S. adults had a smartphone in 2023. Pew Research Center, American's Use of Mobile Technology and Home Broadband, (Jan. 31, 2024), https://www.pewresearch.org/internet/2024/01/31/americans-use-of-mobile-technology-and-home-broadband. For more industry data, *see* CTIA, The Wireless Industry, Industry Data, https://www.ctia.org/the-wireless-industry/infographics-library (last visited June 27, 2025).

[13] The *Tele Circuit Forfeiture Order* was based on slams and crams that occurred in 2017 (and one cram that occurred in 2018). *Tele Circuit Network Corp.*, Forfeiture Order, 36 FCC Rcd 7664, 7667-69, para. 9 (2021) (*Tele Circuit Forfeiture Order*); *Tele Circuit Network Corp.*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 4379, 4399-400 (2018) (*Tele Circuit NAL*) (all violations occurred in 2017, with the exception of one cram that occurred on Jan. 9, 2018, and one section 1.17 violation that occurred on Jan. 26, 2018).

[14] Consumer complaints filed in the past several years alleging slamming generally were not slams because they involved unauthorized switching to VoIP and/or CMRS services of two providers, Clear Rate Communications and Telplex Communications d/b/a RingPlanet (f/k/a Preferred Long Distance). The Commission's slamming rules apply only to telecommunications carriers. *See* 47 CFR § 64.1120. Moreover, even though CMRS providers are telecommunications carriers, CMRS providers are excluded from the verification requirements in Subpart K of part 64 of our rules "as long as they are not required to provide equal access to common carriers for the provision of telephone toll services, in accordance with 47 U.S.C. 332(c)(8)." *Id*. § 64.1120(a)(3). Thus, even if VoIP and CMRS providers engage in misrepresentation to switch the service of consumers without authorization, they are not slamming under our rules. *See 2018 Slamming Order*, 33 FCC Rcd at 5773 & n.2 ("VoIP providers and Commercial Mobile Radio Service providers are not subject to the slamming verification rules."); *see also, e.g.*, *Telplex Commc'ns d/b/a RingPlanet, Complaint Regarding Unauthorized Change of Subscriber's Telecommunications Carrier*, Order, 36 FCC Rcd 11470, 11471, para. 5 (CGB 2021) (denying a slamming complaint despite alleged misrepresentations by telemarketers because the service involved was a VoIP service).

[15] *See First Truth-in-Billing Order*, 14 FCC Rcd at 7493-97, paras. 1-5. As initially adopted, the billing rules applied to all telecommunications carriers, except that certain rules were not applicable to CMRS providers. *See id*. at 7501-03, paras. 13-19. In 2005, in the *Second Truth-in-Billing Order*, the Commission extended the billing
(continued….)

required that billing carriers identify the name of the service provider associated with each charge; separate charges by service provider; and clearly and conspicuously notify the customer of any change in service provider.[17] However, they included specific parameters, such as requiring the billing carrier to prominently display a toll-free number on each bill.[18] Subsequent Commission orders amended the billing rules to add additional detailed requirements.

7. The billing rules include requirements that bills must: (1) be clearly organized, clearly identify the service provider associated with each charge, and highlight any new provider (i.e., one that did not bill the customer for service during the last billing cycle); (2) contain brief, clear, and non-misleading descriptions of the charges that appear on the bill; and (3) contain clear and conspicuous disclosure of any information that the consumer might need to make inquiries about, or to contest, charges on the bill, including toll-free numbers.[19] In response to continued concerns about unauthorized third-party charges billed to consumers, the Commission adopted additional billing rules for wireline carriers in 2012.[20] There, the Commission required wireline carriers that offer blocking of third-party charges to clearly and conspicuously notify consumers of this option on their bills, websites, and at the point of sale and to place third-party charges in a distinct section separate from all carrier charges.[21] Finally, in 2018, the Commission codified the prohibition against placing unauthorized charges on bills (i.e., cramming) that it had enforced under section 201(b) of the Act.[22]

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requirement in section 64.2401(b), i.e., that "[c]harges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered," to CMRS providers. *Truth-in-Billing and Billing Format, Nat'l Ass'n of State Util. Consumer Advocates' Pet. For Declaratory Ruling Regarding Truth-in-Billing,* CC Docket No. 98-170, CG Docket 04-208, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, 20 FCC Rcd 6448, 6456-58, paras. 16-20 (2005) (*Second Truth-in-Billing Order*), *vacated in part*, *Nat'l Ass'n of State Util. Consumer Advocates v. FCC*, 457 F.3d 1238 (11th Cir.), *modified*, 468 F.3d 1272 (11th Cir. 2006) (invalidating preemption of certain state requirements for wireless bills). At present, sections 64.2401(a)(2), (a)(3), (c), and (f) do not apply to CMRS providers as defined in section 20.9 of our rules, or to other providers of mobile service as defined in section 20.7 of our rules. *See* 47 CFR § 64.2400(b)(1).

[16] In the *First Truth-in-Billing Order*, the Commission stated, "we adopt broad, binding principles to promote truth-in-billing, rather than mandate detailed rules that would rigidly govern the details or format of carrier billing practices." *First Truth-in-Billing Order*, 14 FCC Rcd at 7498, para. 9. The Commission reiterated its use of broad principles adopted in the *First Truth-in-Billing Order* in the *Second Truth-in-Billing Order*. *Second Truth-in-Billing Order*, 20 FCC Rcd at 6450, para. 4.

[17] *First Truth-in-Billing Order*, 14 FCC Rcd at 7509, para. 28.

[18] *First Truth-in-Billing Order*, 14 FCC Rcd at 7533-34, para. 65. The Commission also required each carrier to make its business address available upon request to consumers. *Id*. at 7534, para. 65.

[19] 47 CFR § 64.2401. The rules also require wireline carriers to separate charges by service provider where charges for two or more carriers appear on the same telephone bill and to distinguish on telephone bills between "deniable" and "non-deniable" charges, i.e., a non-deniable charge is a charge for which non-payment for service would not result in termination of the consumer's basic local service. 47 CFR § 64.2401(a)(2) and (c). In addition, the rules require carriers to "make a business address available upon request from a consumer." *Id*. § 64.2401(d).

[20] *Id*.

[21] The rules also require wireline carriers to provide separate totals for carrier and non-carrier charges. *See Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges ("Cramming"); Consumer Information and Disclosure; Truth-in-Billing and Billing Format*, CG Docket Nos. 11-116 and 09-158, CC Docket No. 98-170, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 4436, 4455, para. 48 (2012) (*2012 Cramming Order*); 47 CFR § 64.2401(f).

[22] *See 2018 Slamming Order*, 33 FCC Rcd at 5781, para. 24. The Commission previously sought comment on modifying the truth-in-billing rules to prohibit carriers from assessing separate Telephone Access Charges, such as Subscriber Line Charges and Access Recovery Charges. *Eliminating Ex Ante Pricing Regulation and Tariffing of*
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8. Cramming typically involved third parties placing unauthorized charges on consumer telephone bills at a time when wireline billing carriers allowed third parties to place their charges on the carrier's bills.[23] As the Commission described in the *2012 Cramming Order*, carriers were compensated for third party billing and received additional compensation from third parties for each consumer complaint or inquiry they handled regarding unauthorized charges.[24] Specifically, pursuant to a contract, the billing aggregator or vendor would provide the carrier with the consumer's telephone number, the amount to be charged, requests that the charge be placed on the consumer's telephone bill, and proof of consumer authorization was not generally provided to or required by the carrier.[25] The vendor would compensate the billing aggregator and the carrier for their services.[26] The carrier also was compensated by the vendor or the billing aggregator for the billing-and-collection service it provided.[27] Changes in billing practices and the marketplace for third party services may have rendered this approach anachronistic. Coupled with the decrease in slamming, which often led to cramming,[28] it appears that cramming is no longer a significant problem for consumers. The Commission has not taken an enforcement action for billing since 2016, and that was based on activity that occurred primarily in 2013.[29]

III. DISCUSSION

9. In this Notice, we seek comment on whether slamming, billing comprehension, and cramming remain a consumer protection problem. If there is still a need for rules, we propose and seek comment on modernizing and simplifying the rules while preserving the core consumer protections. We believe the current rules are outdated and highly prescriptive, and may stifle innovation without benefiting consumers. We also propose to consolidate the rules into a single rule section.

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Telephone Access Charges, WC Docket No. 20-71, Notice of Proposed Rulemaking, 35 FCC Rcd 3165 (2020). More recently, the Wireline Competition Bureau invited parties to refresh the record on the issues raised in that Notice of Proposed Rulemaking. *Parties Asked to Refresh the Record on Telephone Access Charges Notice of Proposed Rulemaking*, WC Docket No. 20-71, Public Notice, DA 25-508 (WCB Jun. 11, 2025).

[23] *2012 Cramming Order*, 27 FCC Rcd at 4439-40 paras. 6-8; 47 CFR § 64.2401(f) (addressing the blocking of third-party charges. As the Commission explained in the *2012 Cramming Order*, the wireline telephone companies' practice of placing third-party charges on their own bills to their consumers is the "root cause" of the problem, as this practice enables fraud in the form of cramming and attracts fraudsters. *2012 Cramming Order*, 27 FCC Rcd at 4452, para. 41.

[24] *2012 Cramming Order*, 27 FCC Rcd at 4453, para. 43.

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] In many cases, an unauthorized charge was the result of an unsuccessful (or cancelled) slam, when the consumer remained with the preferred interexchange carrier, or returned to the preferred carrier after discovering the slam, but the slamming carrier assessed a recurring charge for the unauthorized long distance service, despite not providing any service. *See, e.g.*, *Central Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5517, 5523-26, paras. 15-16 (2014) (*Central Telecom NAL*) (describing these unauthorized charges).

[29] *See, e.g.*, *Central Telecom Forfeiture Order*, 31 FCC Rcd at 10407-08, paras. 36-38; *Central Telecom NAL*, 29 FCC Rcd at 5535-36 (listing dates in the Appendix); *Consumer Telcom Forfeiture Order*, 31 FCC Rcd at 10450-51, paras. 35-37; *Consumer Telcom, Inc*., Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17196, 17213 (2013) (*Consumer Telcom NAL*) (listing dates in the Appendix). In 2019, the Commission sought renewed comment on the billing rules, with a focus on whether to extend them to VoIP service, and whether to require separation of government mandated charges from others. *CGB Seeks to Refresh the Record on Truth-in-Billing Rules to Ensure Protections for All Consumers of Voice Services*, CC Docket No. 98-170, WC Docket No. 04-36, Public Notice, 34 FCC Rcd 12202 (CGB 2019). The Commission did not take action pursuant to that public notice, and the two proceedings referenced in it remain pending.

A. Unified Approach

10. We propose to adopt a unified approach to our slamming and billing rules to favor rules that are clear, enforceable, easy-to-understand and implement, and that do not unnecessarily impede innovation that benefits consumers.

11. Our existing slamming and billing rules, which contain a slew of highly-prescriptive and inflexible requirements, risk stifling innovation that can help consumers either by, for example, discouraging innovative billing mechanisms that consumers may prefer or by making switching to a new provider an overly-cumbersome and annoying process. The rules may also be outdated due to changes in the telephone service market or technology more generally. For example, USTelecom, in its Project Delete comments, notes that our existing billing rules require carriers' paper bills to list a toll-free number for the carrier, even though this requirement does not apply to electronic bills.[30] Such a requirement, they argue, "imposes unnecessary staffing costs given that appropriate contact information is freely available on the Internet."[31]

12. As a threshold matter, we seek comment on whether our slamming rules remain necessary. The Commission promulgated these rules decades ago when consumers frequently had separate local and interexchange carriers and when slamming was a significant consumer issue. Slamming no longer appears to be a consumer problem, yet our current rules prescribe detailed methods of proving consumer consent to a switch. Are the consumer harms that gave rise to the rules still enough of a problem to justify the rules? Are consumers protected in other ways, e.g., through state requirements or contract remedies? What are the harms of continuing to keep the rules in terms of compliance costs and to innovation in billing and pricing? Are there other costs to keeping the rules, such as impeding consumer choice and reducing competition? Can we eliminate the slamming rules and still enforce section 258's requirement that carriers "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service . . . in accordance with such verification procedures *as the Commission shall prescribe*."[32]

13. Likewise, we seek comment on whether our billing rules remain necessary. The Commission promulgated many of these rules more than a quarter century ago, at a time when confusion about bills and the possibility of third-party scam charges were much more prominent, along with the slamming that the rules made easier to detect. Yet these rules remain on our books, imposing bill requirements that may have outlived their use. Are the consumer harms that gave rise to the rules still enough of a problem to justify bill regulation? Are consumers protected in other ways, e.g., through state requirements or contract remedies, that suggest they no longer need federal rules, or at least Commission rules, to protect them? What are the harms of continuing to keep the billing rules in terms of compliance costs and to innovation in billing and pricing? Are there other consumer protection issues that the Commission may need to consider if it no longer requires prescriptive billing formats? Do carriers still include third party charges on their bills and if so, how often are consumers signing up for services that can be billed in this way?

14. If we conclude that our slamming rules and our billing rules remain necessary, we seek comment below on proposals to modernize and streamline those rules in order to protect consumers, promote innovation and competition, and avoid imposing unnecessary costs or regulatory burdens on carriers. In addition to the rule language itself, we propose to consolidate both subjects into a single rule section. We believe the close relationship between slamming and billing lends itself to rule consolidation and would make it easier for providers and consumers to understand the requirements without sifting through different sections of the Code of Federal Regulations. Under this proposal, we would consolidate

[30] *See* Comments of USTelecom—the Broadband Association, GN Docket No. 25-133, at 20 (Apr. 11, 2025).

[31] *Id*.

[32] 47 U.S.C. § 258(a) (emphasis added).

the rules in a single subpart that is titled "Protecting Consumers from Unauthorized Charges and Provider Switches." Would this make compliance with both sets of rules easier? Would it help consumers to more easily understand the rules' related protections?

15. Does our proposed consolidation promote our goal of rules that are clear, enforceable, easy-to-understand and implement, and that do not unnecessarily impede innovation that benefits consumers? Are there other ways we might reorganize the rules to serve the same goals? Are there other rules that could be consolidated into this subsection to further promote these principles? Would a consolidated and streamlined approach better reflect both current market offerings and the way consumers receive communications services? Are there disparate compliance burdens between large and small carriers that necessitate additional rules changes?

B. Slamming

16. If the record were to demonstrate that the slamming rules remain necessary, we propose to modernize and streamline the current rules consistent with the statutory requirements of section 258. Specifically, we propose to replace the prescriptive rules for verifying consumer switches with a simple requirement that would ensure consumers authorize switches, but also give providers flexibility in how they demonstrate that authorization. We propose to eliminate the rules related to Third Party Verification, Letters of Agency, an electronic authorization (a call to a toll-free number that records the caller's originating automatic number identification), and state-enacted verification procedures applicable to intrastate service.[33]

17. We also propose to eliminate our requirement that providers ensure consumers can stop, or "freeze," any attempt to switch their preferred interexchange carrier.[34] We do so because wireline slamming appears to be a waning consumer issue and thus detailed authorization rules no longer appear necessary. Second, we believe that overly-prescriptive rules on how exactly a provider can prove switch authorization might inhibit authorized switches by making the process cumbersome and annoying for consumers. The current rules are now decades old and may no longer align with how consumers prefer to communicate with service providers. We seek comment on these views and proposals.

18. In addition, we propose to delete "Consumer & Governmental Affairs Bureau, for resolution of the complaint" from section 64.1150(b). This language is not necessary because informal complaints are filed with the Commission, generally through its website, and shared or escalated throughout the Commission as needed.[35] This proposed revision would not change our complaint handling process for informal or formal complaints. The Commission will continue to process slamming complaints through our existing procedures for handling such complaints.[36] We also propose to delete sections 64.1150(e) and 64.1160(e) and replace those sections with a new section 64.1110(c), as shown in Appendix A. These two sections consist of identical "Election of forum" language,[37] and so we propose to replace the two subsections with one subsection that contains the same language. We seek comment on these proposals.

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[33] 47 CFR §§ 64.1120(c), 64.1130.

[34] *See id*. § 64.1190. If we adopt this proposal, consumers would remain free to request a PIC freeze from their carriers.

[35] Previously, such complaints were processed in the Common Carrier Bureau. *See First Truth-in-Billing Order*, 14 FCC Rcd at 7494, n.4.

[36] Consumers may continue to file informal complaints thorough our online Consumer Inquiries and Complaints Center, https://consumercomplaints.fcc.gov/hc/en-us. *See* Letter from Alisa Valentin, Broadband Policy Director, Public Knowledge, et al., to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 98-170, 17-169, 25-133, at 2 (filed Jul. 17, 2025) (Public Knowledge *ex parte*).

[37] *See* 47 CFR §§ 64.1150(e), 64.1160(e).

19. We also propose a streamlined rule for proving such consent. Specifically, we propose a new rule that states:

> No telecommunications carrier shall submit or execute a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service **except in accordance with carrier procedures reasonably designed to obtain verification of the** consent of the subscriber. No telecommunications carrier may engage in any material misrepresentation to obtain a subscriber's consent to change a provider of telecommunications service. In the event of a dispute, the provider must prove with clear and convincing evidence **that it followed its procedures to verify** that the **switch was** authorized and that the provider did not engage in any material misrepresentation to obtain such consent. Nothing in this section shall preclude any state commission from enforcing these procedures with respect to intrastate services.

In sum, we propose to replace section 64.1120's five subsections and many requirements and section 64.1130 with a single paragraph that prohibits a carrier from submitting or executing a provider change without proper authorization and states the clear and convincing strict evidentiary standard providers must meet,[38] while maintaining the important requirement for consumer authorization and the prohibition against misrepresentation.[39]

20. Does our proposal achieve our goals of modernizing our rules while preserving consumer protection against unauthorized switches? Commenters opposing the proposed elimination of our verification rules should explain how such rules remain relevant and useful. Does the misrepresentation prohibition offer sufficient protection for consumers, including people with disabilities, so that the comprehensive verification rules are unnecessary?[40] Are we correct that the current rules deter consumers who continue to subscribe to separate local and long distance landline service from switching from one preferred carrier to another? Would the proposed rule curtail current marketplace practices that benefit consumers? Is there a risk that slamming will reemerge if we streamline the rules as proposed?

C. Truth-in-Billing

21. If the record demonstrates that billing rules remain necessary, we propose to modernize and simplify them. The Commission designed the rules to help consumers understand their bills and to deter slamming and cramming. As described above, these consumer harms appear to no longer be a significant consumer issue, yet the rules' complexity may inhibit innovative billing structures and impose unnecessary regulatory burdens.

22. We thus propose to eliminate the requirements that bills contain a separate section for third party charges, that bills contain specific contact information, and that providers offering subscribers the option to block third-party charges must notify subscribers of this option and prominently disclose that to consumers on each telephone bill and at the point-of-sale and on carrier websites.[41] We also propose to eliminate the "purpose" section of the rules as unnecessary.[42] We further propose to eliminate the

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[38] We propose to delete section 64.2401(a)(4); the language we propose to eliminate is in proposed new section 64.1190(c).

[39] 47 CFR § 64.1120(a)(1)(i)(A). Many slamming complaints involved provider misrepresentation. For instance, a provider's agent might tell a consumer that it represented a different provider. In the *2018 Slamming Order*, the Commission codified a rule prohibiting material misrepresentation, including material omissions, in sales calls to protect consumers from slamming. *2018 Slamming Order*, 33 FCC Rcd at 5778-80, paras. 15-19.

[40] *See 2018 Slamming Order*, 33 FCC Rcd at 5778, n.44 (explaining why a ban on material misrepresentation is a procedure, required by section 258(a) of the Act and as the court interpreted the term in *AT&T v. FCC*, 323 F.3d 1081, 1086 (D.C. Cir. 2003) (*AT&T*)).

[41] *See* 47 CFR § 64.2401(a)(3), (d), (f).

[42] *Id*. § 64.2400(a).

requirements in sections 64.2401(a)(2) and (c), because we believe that there is no longer a significant consumer issue of carrier bills containing billing for more than one carrier, or billing for non-carrier services.[43] We seek comment on these proposals.

23. We believe that billing models have changed over the years and that third-party billing for telecommunications services is rare. Historically, most cramming on wireline bills involved third parties billing for "telecommunications services" through a billing aggregator, who would forward third-party charges to the billing carrier; however, that billing situation appears to no longer exist.[44] We believe we no longer need to maintain third-party billing rules that may stifle innovation and prevent carriers from communicating information in ways that best meet consumer expectations. We seek comment on this belief. For instance, could our prescriptive formatting rules pose barriers to carrier adoption of innovative billing practices, e.g., display of bill charges that are more easily understandable and readable for consumers across multiple means of presentation? Do our rules deter carriers from updating or improving their billing systems by imposing unnecessary costs and constraints on the formatting of such bills? What are the burdens that maintaining these rules would impose on carriers? Do the rules keep carriers from adapting to evolving consumer expectations?

24. Next, we propose to revise the rules that prescribe several ways consumers can contact carriers to ask questions about billing. This section includes requirements to prominently display a toll-free telephone number on each paper bill and to provide a physical address upon request by a consumer.[45] We believe much of consumer contact with carriers has evolved away from the use of toll-free numbers and physical mail, making this rule unnecessary. Moreover, to the extent there remains consumer demand for toll-free numbers, providers are free to include them in bills or other locations, such as on their websites. We seek comment on this view. What are the burdens on carriers to display this information on paper bills? Do consumers prefer other channels for communications related to their bills? How might the proposed elimination of toll-free contact numbers and physical addresses on paper bills impact consumers?

25. At the same time, we propose to retain the core of the billing rules and to streamline them. Specifically, we propose to simplify the requirements to specify that telephone bills must be clearly organized and contain clear and conspicuous disclosure of any information that the subscriber may need to make inquiries about, or contest, charges on the bill. The bill must also clearly and conspicuously identify any change in service provider, including identification of charges from any new service provider, and the name of the service provider associated with each charge and a brief, clear, non-misleading, plain language description of the service or services rendered. We propose to retain our existing definition of "clear and conspicuous" as notice that would be apparent to the reasonable consumer.[46] We also propose to retain our prohibition against unauthorized charges.[47]

26. We seek comment on these proposals. Would the proposed changes ensure that consumers, including people with disabilities, continue to receive the information they need to understand their bills and protect them from bogus or unauthorized charges? Would they continue to ensure that consumer have information about how to contact their carriers with questions related to the information contained

[43] As we note above, *see* para. 8 *supra*, the Commission has not taken an enforcement action for such billing violations since 2016, and that was based on activity that occurred primarily in 2013. This suggests that these billing practices no longer pose a significant consumer concern.

[44] *2012 Cramming Order*, 27 FCC Rcd at 4439-40, paras. 6-8.

[45] 47 CFR § 64.2401(d). The first sentence of section 64.2401(d) is being retained in new proposed section 64.1190(c)(1). Existing section 64.2401(d) does not require physical addresses to be included on bills; it only requires that a carrier "make a business address available upon request from a consumer."

[46] 47 CFR § 64.2401(e). This subsection would be renumbered as 47 CFR § 64.1190(d). *See* App. A.

[47] 47 CFR § 64.2401(g). This subsection would be renumbered as 47 CFR § 64.1190(e). *See* App. A.

on their bills? Would they give carriers sufficient flexibility in their billing practices to better serve customers, including people with disabilities? Do the Commission's current rules deter carriers from adopting improvements to billing systems for fear that such improvements will not meet requirements of the billing rules? Are there other changes we should consider adopting, either in addition to or instead of this proposal? The emergence of Artificial Intelligence (AI)-driven fraud poses threats to consumers in different arenas. Companies across a variety of industries are also increasingly using AI to enhance and automate business practices. How should the emergence of AI inform any changes we make to the billing rules?[48] And is there a risk that billing problems, including cramming, will reemerge if we streamline the rules as proposed? We seek comment on these proposals.

27. Does our existing definition of "clear and conspicuous" provide sufficient clarity for consumers and providers? Alternatively, should we adopt the Federal Trade Commission's (FTC's) definition of clear and conspicuous? The FTC defines clear and conspicuous to be a notice that "is reasonably understandable and designed to call attention to the nature and significance of the information in the notice."[49] The FTC definition also includes subsections defining "reasonably understandable" and "designed to call attention," and explains "notices on websites or within-application messaging."[50] Are there other parts of the FTC rule that we should consider?

D. Costs and Benefits

28. In this Notice we propose to consolidate and simplify the slamming and billing rules and remove detailed requirements that may no longer be necessary due to changes in the telecommunications industry and consumer preferences. If we were to adopt these proposals, the rules' essential consumer protections would remain. Further, providers would be granted more flexibility to innovate their processes should they decide to do so.

29. We do not anticipate that the proposed changes would impose any additional cost to consumers, particularly because we propose to retain the important prohibitions against misrepresentation and unauthorized charges, but we seek comment on this tentative conclusion. We have not received consumer complaints alleging violations of the slamming and billing rules recently,[51] and detailed requirements may no longer be necessary to protect consumers and therefore, it seems unlikely that streamlining these rules as proposed would harm consumers. Further, we do not expect these proposals to increase carrier costs. Carrier practices that satisfy the current rules would comply with our proposed changes. That is, a provider would not need to revise its bills or processes to comply with our proposed changes.

30. Accordingly, we tentatively conclude that the costs associated with the proposed rules are negligible and that the benefits associated with the proposed rules, which would consist of fewer requirements for carriers to follow when providing information on bills and when implementing a carrier change, outweigh the costs. We seek comment on our tentative conclusion and more generally on the benefits and costs associated with adopting the proposals set forth in this Notice. Comments should be accompanied by specific data and analysis supporting claimed costs and benefits.

E. Legal Authority

31. We believe we have the legal authority to make the changes discussed in this Notice under sections 201(b) and 258 of the Act. The Commission has based its slamming, cramming, and billing rules

[48] *See* Public Knowledge *ex parte* at 2.

[49] 16 CFR § 318.2.

[50] *Id*.

[51] *See* notes [14] and [24], *supra*, explaining that the most recent Commission enforcement action against a carrier for slamming and cramming was in 2021 (for activity that occurred in 2017-2018) and for billing violations was in 2016 (for activity that occurred in 2013).

on these statutory provisions in the past.[52] Section 201(b) prohibits telecommunications carriers from engaging in unjust and unreasonable practices,[53] which the Commission has found includes both deceptive marketing practices as well as deceptive billing practices.[54] Section 258 prohibits carriers executing a switch unless they do so "in accordance with such verification procedures as the Commission shall prescribe."[55]

32. We tentatively conclude, for example, that the proposed rule changes—specifically, the proposed revisions to section 64.1120— would establish "verification procedures" consistent with the authority specified in section 258.[56] In *AT&T*, the D.C. Circuit explained that a "procedure" as required by the text of the statute is "a particular course of action" or "a particular step adopted for doing or accomplishing something."[57] In the *2018 Slamming Order*, the Commission explained that "a sales call is often an important 'step' in the carrier change process, and that a misrepresentation in this step can fatally undermine the subsequent steps (i.e. verification procedures) . . . . Thus, the accuracy of the sales call is a critical 'step' or 'course of action' intertwined with the process of confirming that the consumer's consent has been obtained."[58] We tentatively conclude that the proposed rule relating to misrepresentation is a procedure consistent with *AT&T* and the *2018 Slamming Order*. Do commenters agree? Are there other sources of authority on which we could rely to adopt any of the rules we discuss in this Notice?

IV. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Act Analysis

33. The Regulatory Flexibility Act of 1980, Public Law 96-354, as amended (RFA),[59] requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."[60] Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy changes in this Notice of Proposed Rulemaking on small entities. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the Notice indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

B. Initial Paperwork Reduction Act Analysis

34. This Notice may propose new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, invites the general public and the Office of Management and

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[52] *See, e.g.*, *2018 Slamming Order*, 33 FCC Rcd at 5778, para. 16.

[53] *See* 47 U.S.C. § 201(b).

[54] *See, e.g.*, *Advantage Telecommunications Corp.,* Forfeiture Order, 32 FCC Rcd 3723, 3725, para. 7 (2017); *Preferred Forfeiture Order*, 30 FCC Rcd at 13791, paras. 17-18; *First Truth-in-Billing Order*, 14 FCC Rcd at 7503-09, paras. 20-27.

[55] *See* 47 U.S.C. § 258(a).

[56] Section 258 of the Act made it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." 47 U.S.C. § 258(a)

[57] *AT&T*, 323 F.3d at 1087.

[58] *2018 Slamming Order*, 33 FCC Rcd at 5778 & n.44.

[59] *See* 5 U.S.C. §§ 601-6233. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[60] 5 U.S.C. § 605(b); *see also id*. § 603.

Budget (OMB) to comment on these information collection requirements. 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.

C. Filing Requirements—Comments and Replies

35. 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 replies 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).[61]

- 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 (other than U.S. Postal Service Express Mail and Priority Mail) 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 and Governmental Affairs Bureau at (202) 418-0530.

D. Ex Parte Rules

36. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[62] 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

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

[62] 47 CFR § 1.1206.

consistent with rule 1.1206(b). Written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must, when feasible, be filed through the electronic comment filing system in the docket established for this 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.

E. Providing Accountability Through Transparency Act

37. Consistent with the Providing Accountability Through Transparency Act of 2023, Public Law 118-9, a summary of this document will be available on https://www.fcc.gov/proposed-rulemakings.[63]

F. Additional Information

38. For additional information on this proceeding, contact Mika Savir, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at mika.savir@fcc.gov or (202) 418-0384.

V. ORDERING CLAUSES

39. Accordingly, **IT IS ORDERED** that, pursuant to the authority found in sections 1-4, 201(b) and 258 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201(b), 258, this Notice of Proposed Rulemaking **IS ADOPTED**.[64]

40. **IT IS FURTHER ORDERED** that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before 30 days after publication in the Federal Register and reply comments on or before 60 days after publication in the Federal Register.

41. **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 Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[63] 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act of 2023, Pub. L. No. 118-9 (2023), amended the Administrative Procedure Act to add a requirement to publish a short summary, in plain language, of each notice of proposed rulemaking.

[64] Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

APPENDIX A

Proposed Rules

The Federal Communications Commission proposes to amend 47 CFR part 64 to read as follows:

PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. Amend the title of Subpart K to read as follows:

Subpart K— Protecting Consumers from Unauthorized Charges and Provider Switches

2. Amend § 64.1110 by adding a new paragraph (c) to read as follows:

(c) The Federal Communications Commission will not adjudicate a complaint filed pursuant to §§ 1.719 or §§ 1.720-1.740 of this chapter, involving an alleged unauthorized change, as defined by § 64.1100(e), while a complaint based on the same set of facts is pending with a state commission.

3. Amend § 64.1120 by replacing the entire paragraph with the following:

> No telecommunications carrier shall submit or execute a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service **except in accordance with carrier procedures reasonably designed to obtain verification of the** consent of the subscriber. No telecommunications carrier may engage in any material misrepresentation to obtain a subscriber's consent to change a provider of telecommunications service. In the event of a dispute, the provider must prove with clear and convincing evidence **that it followed its procedures to verify** that the **switch was** authorized and that the provider did not engage in any material misrepresentation to obtain such consent. Nothing in this section shall preclude any state commission from enforcing these procedures with respect to intrastate services.

4. Delete § 64.1130 in entirety.

5. Amend § 64.1150 by deleting "'s Consumer & Governmental Affairs Bureau, for resolution of the complaint" from paragraph (b) to read as follows:

(b) ***Referral of complaint.*** Any carrier, executing, authorized, or allegedly unauthorized, that is informed by a subscriber or an executing carrier of an unauthorized carrier change shall direct that subscriber either to the state commission or, where the state commission has not opted to administer these rules, to the Federal Communications Commission. Carriers shall also inform the subscriber that he or she may contact and seek resolution from the alleged unauthorized carrier and, in addition, may contact the authorized carrier.

6. Amend § 64.1150 by deleting "through 64.1130" from paragraph (d) to read as follows:

(d) ***Proof of verification.*** Not more than 30 days after notification of the complaint, or such lesser time as is required by the state commission if a matter is brought before a state commission, the alleged unauthorized carrier shall provide to the relevant government agency a copy of any valid proof of verification of the carrier change. This proof of verification must contain clear and convincing evidence of a valid authorized carrier change, as that term is defined in §§ 64.1120. The relevant governmental agency will determine whether an unauthorized change, as defined by § 64.1100(e), has occurred using such proof and any evidence supplied by the subscriber. Failure by the carrier to respond or provide proof of verification will be presumed to be clear and convincing evidence of a violation.

7. Amend § 64.1150 by deleting (e) in entirety.

8. Amend § 64.1160 by deleting (e) in entirety, and renumbering (f) and (g) as (e) and (f).

9. Amend § 64.1190 to read as follows:

(a) These rules shall apply to all telecommunications common carriers and to all bills containing charges

for intrastate or interstate services, except as follows:

Sections 64.1190(c)(2) and (3) shall not apply to providers of Commercial Mobile Radio Service as defined in § 20.9 of this chapter, or to other providers of mobile service as defined in § 20.7 of this chapter, unless the Commission determines otherwise in a further rulemaking.

(b) *Preemptive effect of rules.* The requirements in this subpart are not intended to preempt the adoption or enforcement of consistent truth-in-billing requirements by the states.

(c) ***Telephone Billing Requirements*** –

(1) Telephone bills shall be clearly organized and must contain clear and conspicuous disclosure of any information that the subscriber may need to make inquiries about, or contest, charges on the bill.

(2) Telephone bills must clearly and conspicuously identify any change in service provider, including identification of charges from any new service provider.

(3) Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered, and the name of the service provider associated with each charge. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

(d) ***Definition of clear and conspicuous.*** For purposes of this section, "clear and conspicuous" means notice that would be apparent to the reasonable consumer.

(e) ***Prohibition against unauthorized charges.*** Carriers shall not place or cause to be placed on any telephone bill charges that have not been authorized by the subscriber.

10. Delete § 64.2400.

11. Delete § 64.2401.

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Notice of Proposed Rulemaking* (*Notice*) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *Notice*. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2] In addition, the *Notice* and IRFA (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Proposed Rules

2. In the Notice, the Commission proposes to streamline the slamming and Truth-in-Billing (billing) rules. More specifically, the Commission proposes to reduce some of the requirements for carrier change verification under the slamming rules, while keeping the essential parts of these rules for consumer protection. The streamlining the Commission proposes is appropriate due to evolving technology and consumers' migration away from traditional local and long distance service and increased adoption of Voice over Internet Protocol (VoIP) service or Commercial Mobile Radio Service (CMRS) as their all-distance sole telephone service. The Commission proposes streamlining the billing rules to eliminate procedures that are no longer needed. Existing rules required providers ensure that consumers' telephone bills are clearly organized, display the name of each service provider, and contain descriptions of charges that are brief, clear, and non-misleading. Through this proposed streamlining, the Commission seeks continued protection of consumers from unauthorized carrier changes and charges while ensuring the information on their bills is clear so that they can make informed choices.

B. Legal Basis

3. The proposed action is authorized pursuant to sections 1-4, 201(b) and 258 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201(b), 258.

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

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[5] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act."[6] A "small business

[1] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[2] *Id.* § 603(a).

[3] *Id*.

[4] *Id*. § 603(b)(3).

[5] *Id.* § 601(6).

[6] *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
(continued….)

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.[7]

5. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions.[8] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, in general, a small business is an independent business having fewer than 500 employees.[9] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.[10] Next, "small organizations" are not-for-profit enterprises that are independently owned and operated and not dominant their field.[11] While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.[12] Finally, "small governmental jurisdictions" are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.[13] Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.[14]

6. *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[15] is the closest industry with an SBA small business size standard.[16] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[17] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[18] U.S. Census Bureau data for 2017 show that there were 3,054 firms

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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."

[7] 15 U.S.C. § 632.

[8] 5 U.S.C. § 601(3)-(6).

[9] *See* SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

[10] *Id*.

[11] 5 U.S.C. § 601(4).

[12] *See* SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/.

[13] 5 U.S.C. § 601(5).

[14] *See* U.S. Census Bureau, 2022 Census of Governments –Organization, https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html, tables 1-11.

[15] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[16] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[17] 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.

[18] *Id.*

that operated in this industry for the entire year.[19] Of this number, 2,964 firms operated with fewer than 250 employees.[20] 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.[21] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[22] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

7. *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[23] is the closest industry with an SBA small business size standard.[24] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[25] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[26] Of this number, 2,964 firms operated with fewer than 250 employees.[27] 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.[28] Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees.[29] 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.

8. *Competitive Local Exchange Carriers (CLECs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.[30]

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[19] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[20] *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.

[21] 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.

[22] *Id.*

[23] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[24] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[25] *Id.*

[26] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[27] *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.

[28] 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.

[29] *Id.*

[30] 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

(continued….)

Wired Telecommunications Carriers[31] 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.[32] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[33] Of this number, 2,964 firms operated with fewer than 250 employees.[34] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers.[35] Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees.[36] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

9. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers[37] is the closest industry with a SBA small business size standard.[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 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.[42] 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.

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Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

[31] *See* U.S. Census Bureau, *2017 NAICS Definition,* "*517311 Wired Telecommunications Carriers,*" https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[32] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[33] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[34] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[35] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[36] *Id.*

[37] *See* U.S. Census Bureau, *2017 NAICS Definition,* "*517311 Wired Telecommunications Carriers*," https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[38] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[39] *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. At this time, the 2022 Economic Census data is not available.

[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.

10. *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.[43] 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.[44] Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.[45] Mobile virtual network operators (MVNOs) are included in this industry.[46] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[47] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[48] Of that number, 1,375 firms operated with fewer than 250 employees.[49] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 207 providers that reported they were engaged in the provision of local resale services.[50] Of these providers, the Commission estimates that 202 providers have 1,500 or fewer employees.[51] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

11. *Toll Resellers*. Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers[52] 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.[53] Mobile virtual network operators (MVNOs) are included in this industry.[54] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[55] U.S. Census Bureau data for 2017 show that 1,386

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[43] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[44] *Id.*

[45] *Id*.

[46] *Id*.

[47] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[48] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517911, https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[49] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[50] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[51] *Id.*

[52] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[53] *Id.*

[54] *Id*.

[55] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

firms in this industry provided resale services for the entire year.[56] Of that number, 1,375 firms operated with fewer than 250 employees.[57] 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.[58] Of these providers, the Commission estimates that 438 providers have 1,500 or fewer employees.[59] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

12. *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[60] is the closest industry with a SBA small business size standard.[61] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[62] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[63] Of this number, 2,964 firms operated with fewer than 250 employees.[64] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 90 providers that reported they were engaged in the provision of other toll services.[65] Of these providers, the Commission estimates that 87 providers have 1,500 or fewer employees.[66] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

13. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[67] Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and

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[56] *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. At this time, the 2022 Economic Census data is not available.

[57] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[58] 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.

[59] *Id.*

[60] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[61] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[62] *Id.*

[63] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[64] *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.

[65] 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.

[66] *Id.*

[67] *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.

wireless video services.[68] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[69] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[70] Of that number, 2,837 firms employed fewer than 250 employees.[71] 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.[72] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.[73] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

14. ***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."[74] Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $44 million or less in annual receipts as small.[75] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[76] Of this number, 242 firms had revenue of less than $25 million.[77] Consequently, using the SBA's small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

15. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications

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[68] *Id.*

[69] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[70] *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. At this time, the 2022 Economic Census data is not available.

[71] *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.

[72] 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.

[73] *Id.*

[74] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[75] *See* 13 CFR § 121.201, NAICS Code 517410.

[76] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[77] *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.

telemetry, and radar station operation.[78] 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.[79] 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.[80] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[81] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[82] Of those firms, 1,039 had revenue of less than $25 million.[83] Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

16. *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.[84] 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.[85] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[86] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[87]

17. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[88] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[89] Of this number, 2,964 firms operated

[78] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[79] *Id.*

[80] *Id*.

[81] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[82] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[83] *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.

[84] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[85] *Id.*

[86] *Id.*

[87] 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.

[88] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[89] *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,

(continued….)

with fewer than 250 employees.[90] 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.[91] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[92] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

18. The Notice includes proposals to streamline the Commission's rules. The proposals do not impose any additional burdens on small entities; instead, the proposed rules, if adopted, would permit small entities more flexibility and fewer requirements when effecting a carrier change or billing a customer for telecommunications services.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

19. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities.[93] The discussion is required to include alternatives such as: "(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."[94]

20. In the Notice, the Commission is proposing to reduce regulatory burdens on all carriers, including small entities. The Commission is proposing to streamline the slamming and billing rules for all carriers; however, providers would still be in compliance with the rules if they followed the existing rules instead of the proposed streamlined rules. The Commission seeks comment on whether there are additional regulatory reforms that are needed to address disparate compliance burdens between large and small carriers with respect to the existing rules.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

21. None.

(Continued from previous page)
https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[90] *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.

[91] 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.

[92] *Id.*

[93] *Id.* § 603(c).

[94] *Id.* § 603(c)(1)-(4).

STATEMENT OF
CHAIRMAN BRENDAN CARR

Re: *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges; Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, CG Docket No. 17-169, CC Docket No. 98-170 (July 24, 2025).

When teeing up the Build America Agenda, I said that, "Just because a regulation has been on the books for thirty years, we are not going to keep it there out of a sense of inertia." That is why today we're taking a fresh look at our slamming and truth-in-billing rules.

Telephone slamming is a scam where bad actors illegally switch your local or long-distance wireline service provider without your knowledge. To help consumers spot slamming, the Commission established truth-in-billing rules to make sure third-party charges and other sets of information on your phone bill are easy to understand—and dispute if needed.

In the 1990s, slamming was of particular concern for consumers—to the point where it generated over 20,000 consumer complaints to the Commission a year. Fast forward to 2025, slamming complaints have receded significantly. In fact, the Commission has not received a single consumer complaint about a slam this year.

To go from over 20,000 consumer complaints a year to zero might sound like a story of successful consumer protection rules. But the reality is that the biggest drivers of the slamming slowdown are technology and the marketplace.

Back then, slammers targeted subscribers to wireline telephone service, but now, more than 75 percent of U.S. households have wireless-only phone service. It's a lot harder for slammers to illegally switch long-distance calling plans in a world where consumers typically subscribe to a single service that includes both local and long distance, often for a set monthly price. Slammers would also go after add-on services like call waiting, call forwarding, and 3-way calling. But add-ons like this are already built into service offerings today at no additional cost.

While the Commission has received zero consumer complaints about slamming in 2025, commenters *have* raised concerns that the Commission's slamming and truth-in-billing rules are imposing unnecessary burdens on the market.

So in the spirit of focusing on competition and today's market conditions, this item seeks comment on whether the FCC's specific regulatory requirements are still necessary to combat slamming. If there is still a need for regulations, we will explore ways to modernize and simplify our rules. If not, we can eliminate them. Our goal is to reduce regulatory burdens while retaining core consumer protections where needed.

For their work on this item, I'd like to thank Ed Bartholme, Zac Champ, Aaron Garza, David Konczal, Kim Makuch, Rick Mallen, Wes Platt, Mika Savir, Michelle Schaefer, Mark Stone, Andrew Wise, and Derek Yeo.

STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges; Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, CG Docket No. 17-169, CC Docket No. 98-170 (July 24, 2025).

For decades, the Commission's truth-in-billing rules have protected consumers from hidden fees, misleading charges, and unauthorized carrier switches. They have also provided needed transparency to consumers. Our slamming rules have maintained provider choice and disincentivized deception. Today's Notice of Proposed Rulemaking (NPRM) asks whether these rules are still necessary and proposes to streamline them.

I support this NPRM because we should streamline the Commission's rules when it is beneficial to do so. However, reducing obligations for industry should not come at the expense of consumer protection. I look forward to reviewing the comments in this proceeding to learn more about how removing or streamlining rules related to truth-in-billing, cramming, and slamming will affect consumers.

The item also proposes to consolidate truth-in-billing, cramming, and slamming items into a single subpart of the Code of Federal Regulations titled "Protecting Consumers from Unauthorized Charges and Provider Switches." Ironically, the title of a rule about "truth" in billing happens to be misleading. While this title is a step up from the one we have now, truth-in-billing is about more than just protecting consumers from slamming and cramming; it is also about promoting transparency. That is why I asked to include "Promoting Transparency in Billing" to the title of this subpart and am disappointed that this reasonable request was not implemented.

Additionally, even if the Commission removes or streamlines some rules, I strongly believe we should retain the requirement that providers list a toll-free phone number and physical address on physical phone bills. Particularly for older communities, low-literacy populations, or low-income or rural communities without high-speed Internet access, it is crucial that we continue to allow for recourse when consumers face billing issues.

As more consumer resources become available only online, communities without broadband connectivity are disadvantaged further. We must ensure that any rules the Commission adopts continue to meet all consumers where they are.

I would like to thank the Chairman's office for collaborating with me to make some edits, and I would like to thank the Consumer and Governmental Affairs Bureau for their work on this item.

STATEMENT OF
COMMISSIONER OLIVIA TRUSTY

Re: *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges; Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, CG Docket No. 17-169, CC Docket No. 98-170 (July 24, 2025).

The practice of unauthorized changes to a consumer's wireline phone service, commonly known as "slamming", originated more than four decades ago. When the Commission first implemented new rules to promote competition in the long-distance market, it received a surge of complaints from consumers who had been switched from their preferred provider without their consent. Many consumers also reported unauthorized charges, known as "cramming", appearing on their telephone bills. These two deceptive practices often occurred together.

Over the years, the Commission has launched enforcement actions against bad actors engaging in these deceptive practices. Today, the telecommunications landscape has evolved and complaints about slamming and cramming have declined significantly.

Based on information in the record, the rules that were once critical for addressing slamming and cramming abuses now regulate a problem that has largely disappeared. Streamlining the regulations will eliminate outdated and burdensome requirements that inhibit innovation in billing practices, while preserving essential protections against unauthorized provider switches and charges.

I thank the Consumer and Governmental Affairs Bureau for its work on this item.

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

In the Matter of	)	
	)	
Implementation of the National Suicide Hotline Act of 2018	)	WC Docket No. 18-336
	)	

FOURTH REPORT AND ORDER

Adopted: July 24, 2025 **Released: July 25, 2025**

By the Commission: Chairman Carr, Commissioner Gomez, and Commissioner Trusty issuing separate statements.

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I. INTRODUCTION

1. Today, we continue the Commission's longstanding efforts to improve access to the critical, lifesaving resources provided by the 988 Suicide & Crisis Lifeline (988 Lifeline or Lifeline). We do so by adopting rules that require wireless providers to transmit data that enables text messages sent to the 988 Lifeline to be routed to the closest local crisis center based on a person's general geographic location. This will maximize the value of the Lifeline's text-based services and improve access to lifesaving care while protecting the privacy of those who reach out for help. Service providers are already required to implement similar georouting capabilities for voice calls made to the 988 Lifeline.[1] This *Order* adopts parallel requirements for text messages so that all Americans in crisis have access to help, regardless of the technology used to contact the Lifeline.

[1] *See* 47 CFR § 52.202.

2. In doing so, we build on a history of successful initiatives by the Commission, service providers, our federal partners at the Substance Abuse and Mental Health Services Administration (SAMHSA) and the U.S. Department of Veterans Affairs (VA), and other stakeholders to expand access to the Lifeline. In particular, we leverage ongoing voluntary work being done by wireless service providers to develop text-to-988 georouting solutions with the Lifeline administrator.[2] The rules we adopt today support these efforts by providing a flexible, technology-neutral regulatory landscape for providers to develop text georouting solutions that are tailored to the needs of their networks and subscribers.

3. The need for our rules is clear when considering the devastating impact of suicide, which claimed more than 49,000 lives in 2023 alone, according to data from the Centers for Disease Control and Prevention, and was the second leading cause of death for people ages 10-34.[3] Suicide also disproportionately impacts veterans, rural Americans, and other at-risk individuals.[4] While the Lifeline provides an essential tool to combat this epidemic, according to the current administrator of the Lifeline, Vibrant Emotional Health (Vibrant or Lifeline Administrator), many of the individuals that reach 988 will need resources for follow-up care, including referrals to mental health resources within their local communities.[5] Currently, however, texts to 988 are routed based on the area code of the texter's phone number, rather than their location.[6] When a texter's area code does not correspond to their geographic location, it can be more difficult for these individuals to access the benefits of local resources.

4. In order to address this challenge, this *Fourth Report and Order* requires wireless providers to develop the capability to transmit georouting data in a format compatible with the Lifeline's platform so that texts may be routed to the geographic area where the handset is located, and to provide such georouting data for 988 text messages, when available, to the Lifeline. To protect the privacy of Lifeline users, the *Order* requires covered wireless providers to aggregate location data generated from cell-based technology to a level that will not identify the precise location of the handset, but only the community from which the text originated, thereby making local resources available while protecting texters' identities. Finally, in order to support industry efforts to efficiently develop and implement 988 text georouting capabilities, the *Order* adopts an implementation time frame of 18 months for nationwide providers, and 36 months for non-nationwide providers.

II. BACKGROUND

5. The 988 Lifeline is a helpline that connects individuals with a national network of over 200 crisis centers that provide 24/7 confidential support for people experiencing emotional, suicidal, and

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[2] *See* CTIA Reply at 9 ("The record developed in this proceeding makes clear that the wireless industry is continuing to collaboratively and voluntarily support efforts to improve the 988 Lifelin[e] . . . by identifying technical solutions to provide georouting data with text messages to 988."). Unless otherwise noted, all comments and reply comments cited herein refer to those filed in response to the *988 Georouting Third Further Notice* in WC Docket No. 18-336. *See Implementation of the National Suicide Hotline Act of 2018*, WC Docket No. 18-336, Third Report and Order and Third Further Notice of Proposed Rulemaking, 39 FCC Rcd 11823 (2024) (*988 Georouting Third Report and Order* or *Third Further Notice*).

[3] Centers for Disease Control and Prevention, *Facts about Suicide*, https://www.cdc.gov/suicide/facts/index.html (last visited June 30, 2025).

[4] *Id.*

[5] *See* Vibrant Emotional Health Comments at 6 (Vibrant Comments); *see also* County of Los Angeles Department of Mental Health Comments at 2 (LA County DMH Comments) (explaining that LA County residents that connect to out-of-area call centers may reach a counselor that is unfamiliar with LA County resources); Deaf Equality, Communication Service for the Deaf, TDIforAccess, and National Association of the Deaf Comments at 4 (Accessibility Organizations Comments).

[6] CX360 Comments at 10 ("CX360 already handles text messages to the 988 Lifeline, including routing those text messages to a geographically appropriate crisis center based on the help seeker's area code.").

substance use crises through call, text, and chat services.[7] The Lifeline is overseen by SAMHSA,[8] which is part of the Department of Health and Human Services (HHS).[9] Vibrant, a non-profit mental-health organization, currently serves as the Lifeline Administrator under a grant awarded by SAMHSA.[10]

6. The Commission has long worked to improve access to the 988 Lifeline, supported by Congress, mental health advocates, service providers, and the Commission's federal-agency partners at SAMHSA and the VA. In a series of actions beginning in 2018, the Commission proposed and then designated 988 as the easy-to-remember three digit dialing code to reach the Lifeline.[11] In 2021, the Commission adopted rules to enable text-to-988 capability so that help-seekers could access the Lifeline's critical services through a text message to the 988 dialing code, just as they would through a phone call.[12] Further, the Commission supported efforts to enable direct video calling to 988 so callers who are deaf or hard of hearing and use American Sign Language may reach 988.[13] To strengthen the reliability of 988, in 2023 the Commission adopted rules that require originating service providers and covered 988 service providers to report 988 Lifeline outages to the Commission's Network Outage Reporting System (NORS).[14] The Commission's outage reporting requirements became effective on April 15, 2025.[15]

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[7] *See* 988 Suicide & Crisis Lifeline, *About 988*, https://988lifeline.org/about/ (last visited July 21, 2025); SAMHSA, *Lifeline Timeline*, https://www.samhsa.gov/mental-health/988/lifeline-timeline (last visited June 30, 2025).

[8] To the extent that SAMHSA is reorganized, dissolved, or its responsibilities are transferred, all references to "SAMHSA" in this *Order* shall be interpreted to include any successor agency or entity that assumes authority for oversight of the 988 Lifeline, grants administration, or coordination on technical implementation of 988 services.

[9] In 2007, SAMHSA and the Department of Veterans Affairs (VA) partnered to establish 1-800-273-8255 (TALK), now 988, as the access point for the Veterans Crisis Line (VCL). Callers dialing 988 and selecting option 1 will be connected to the VCL. For text-to-988, individuals are given the option to connect with counselors from the VCL or the main 988 Lifeline. *See* SAMHSA, *Lifeline Timeline*, https://www.samhsa.gov/mental-health/988/lifeline-timeline (last visited June 30, 2025); Veterans Crisis Line, *How It Works*, https://www.veteranscrisisline.net/ (last visited June 30, 2025); *see also* 988 Suicide & Crisis Lifeline, *What to Expect*, https://988lifeline.org/get-help/what-to-expect/ (last visited June 30, 2025).

[10] *See* SAMHSA, *Cooperative Agreement for the National Suicide Prevention and Disaster Helpline, Notice of Funding Opportunity Number: SM-21-005*, https://www.samhsa.gov/grants/grants-dashboard?grants_dashboard__search=SM%2021%E2%80%93%20005&f%5B0%5D=by_nofo_number%3ASM-21-005 (last visited June 30, 2025) (listing the grants awarded by SAMHSA to the Mental Health Association of New York City (MHA NYC)); Vibrant, *Who We Are*, https://www.vibrant.org/who-we-are/ (last visited June 30, 2025) (noting that Vibrant was formerly known as MHA NYC). The project period for the current Lifeline Administrator's grant concludes on September 29, 2026. *See* U.S. Dep't of Health and Human Services, SAMHSA, Fiscal Year (FY) 2023 Funding Opportunity, 87 Fed. Reg. 64804, 64805 (Oct. 26, 2022). SAMHSA, as the agency with oversight of the 988 Lifeline, makes determinations regarding grant awards for the administrator.

[11] Previously, the Lifeline was only reachable by dialing a toll free number, 1-800-273-8255 (TALK). *See Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order, 35 FCC Rcd 7373, 7385, para. 27 (2020) (*988 First Report and Order*).

[12] *See Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Second Report and Order, 36 FCC Rcd 16901 (2021) (*Text-to-988 Second Report and Order*); *Wireline Competition Bureau Confirms No New Texting Formats for Text-to-988*, WC Docket No. 18-336, Public Notice, DA 25-517 (WCB June 13, 2025) (*WCB 988 Text Formats Public Notice*). *See also* SAMHSA, *988 Lifeline Performance Metrics*, https://www.samhsa.gov/mental-health/988/performance-metrics (last visited July 21, 2025). Since July 2022, the 988 Lifeline has received more than 2,902,182 text messages. *Id.* SAMHSA's performance metrics do not include Veterans Crisis Line text messages as texts to VCL are not routed through 988. *Id.*

[13] *See* 988 Suicide & Crisis Lifeline, *Deaf, Hard of Hearing, Hearing Loss*, https://988lifeline.org/deaf-hard-of-hearing-hearing-loss/ (last visited June 30, 2025).

[14] *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline*; *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*; *Implementation of the National Suicide Hotline Improvement Act of 2018*, PS Docket Nos. 23-5 and 15-80; WC Docket No. 18-336, Report and Order, 38 FCC Rcd

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7. *Efforts to Improve Routing of 988 Calls*. Many of the Commission's actions to facilitate Lifeline access have focused on improving the routing of 988 calls and text messages. As originally designed, the Lifeline system routed 988 calls to a local crisis center based on the caller's area code and exchange. However, the majority of Americans rely on wireless phones to place calls—including calls to the Lifeline—and a wireless subscriber's area code may not match the area code of their current residence or even the state in which they reside.[16] This mismatch can impair access to the Lifeline's services, because local crisis centers may be better able to assist individuals in crisis, and many of the individuals that reach out to 988 will need resources for follow-up care, including referrals to mental health resources within their current communities.[17]

8. In order to address this challenge, last year, the Commission adopted rules requiring wireless providers to develop georouting[18] solutions for 988 calls, so that callers can be connected to geographically appropriate crisis centers based on their geographic location.[19] The *988 Georouting Third Report and Order* built on voluntary collaborative efforts made by industry stakeholders to develop effective call routing solutions that delivered the benefits of localized routing, maintained the 988 Lifeline's centralized routing system, and safeguarded caller privacy.[20] In order to give providers flexibility, the Commission allowed providers to use any technically feasible options for meeting this requirement, to the extent that they are compatible with the system used by the 988 Lifeline.[21] And, to reduce burdens on smaller wireless providers, the *Georouting Third Report and Order* imposed separate implementation time frames for nationwide and non-nationwide providers, requiring nationwide providers

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6917 (2023). Under these rules, covered 988 providers must also directly notify SAMHSA, the VA, and the 988 Lifeline Administrator of any outages that potentially affect 988 special facilities. *Id.* at 6931-33, paras. 23, 25.

[15] *Public Safety and Homeland Security Bureau Announces April 15, 2025 Effective and Compliance Date for Certain Rules Governing Reporting of 911 and 988 Service Outages*, PS Docket Nos. 13-75, 15-80 and 23-5; ET Docket No. 04-35; WC Docket No. 18-336, Public Notice, 39 FCC Rcd 13512 (PSHSB Dec. 17, 2024).

[16] According to a 2016 Pew Research Center Report, roughly "10% of U.S. adults have a cellphone number that doesn't match the state where they actually live." *See* Pew Research Center, *Moving Without Changing Your Cellphone Number: A Predicament for Pollsters*, https://www.pewresearch.org/methods/2016/08/01/moving-without-changing-your-cellphone-number-a-predicament-for-pollsters/. *See also Implementation of the National Suicide Hotline Act of 2018*, WC Docket No. 18-336, Second Further Notice of Proposed Rulemaking, 39 FCC Rcd 4443, 4451-52, para. 14 (2024) (*988 Georouting Second Further Notice*) (citing to the Lifeline Administrator's estimate that 80% of calls placed to the 988 Lifeline are from wireless phones).

[17] *See 988 Georouting Third Report and Order*, 39 FCC Rcd at 11830-32, paras. 13-15 (detailing arguments by mental health and crisis counseling experts stressing the importance of connecting individuals in crisis with local resources, and highlighting that local routing connects individuals to counselors that are more familiar with cultural issues or local community stressors and improves the efficacy of life saving measures, enables individuals to connect with long term care, and lessens the need for emergency services). Vibrant has stated that a June 2024 National Alliance on Mental Illness (NAMI) poll found that "52% of individuals would be more likely to use the 988 Lifeline if connected with a local or in-state crisis contact center." Vibrant Emotional Health Reply, WC Docket No. 18-336, at 1 (rec. Apr. 18, 2025) (Vibrant PN Reply).

[18] Georouting refers to the technical solutions for directing calls based on a geographic location of the originating call without transmitting information about the handset's precise location. Georouting is distinct from geolocation, which involves the transmission of precise location information (e.g., street address) often used to dispatch emergencies services. *988 Georouting Third Report and Order*, 39 FCC Rcd at 11827, para. 7.

[19] *See generally id.*

[20] *Id.* at 11829-30, paras. 11-12. The Commission's rules require providers to aggregate the cell-based location data to a level that will not identify the location of the cell site or base station receiving the 988 call or otherwise identify the precise location of the handset. 47 CFR § 52.202(d) (defining "georouting data").

[21] *988 Georouting Third Report and Order*, 39 FCC Rcd at 11840-41, paras. 27-28.

to implement georouting solutions by January 13, 2025, and non-nationwide providers by December 14, 2026.[22]

9. *Georouting for 988 Text Messages*. While nationwide wireless providers—which account for the majority of calls to 988—have successfully implemented georouting for 988 voice calls, text messages remain subject to routing by area code.[23] For this reason, last year the Commission proposed to require wireless providers to implement georouting solutions for text messages to 988.[24] The Commission's proposed requirements built off its approach to georouting for 988 calls. The *988 Georouting Third Further Notice* sought comment on the Commission's proposed two-part requirement for covered text providers to develop the capability to transmit georouting data, and to provide such data for texts to 988, when available, to the Lifeline Administrator.[25] The Commission additionally sought comment on the implementation time frame needed to enable georouting of 988 text messages.[26] To further develop the record on privacy issues associated with these proposals, the Wireline Competition Bureau (Bureau) released a Public Notice in February 2025 that sought further comment on the privacy implications of georouting text-to-988.[27] The *988 Text Georouting Privacy Public Notice* additionally sought further comment on the status of voluntary efforts to identify and develop text-to-988 georouting solutions that were reported in response to the *988 Georouting Third Further Notice*.[28]

III. DISCUSSION

10. In this *Fourth Report and Order*, we take further steps to facilitate access to the 988 Lifeline's critical local support services by requiring covered text providers to develop and implement georouting solutions for 988 text messages. First, based on a review of the record in the *988 Georouting Third Further Notice*, we find that establishing georouting for 988 text messages is essential to ensure that text users are routed to geographically appropriate crisis centers and will provide important benefits to Lifeline users. Next, we define "georouting data" and other relevant terms for purposes of our rules, and adopt a two-part requirement to delineate the scope of covered text providers' obligations. Finally, in order to facilitate ongoing efforts to develop 988 text georouting capabilities, we adopt an implementation time frame of 18 months for nationwide providers, and 36 months for non-nationwide providers.

A. Text-to-988 Georouting Will Improve Access and Efficiency of the Lifeline

11. Today, in the absence of georouting, providers route 988 text messages to the Lifeline's centralized system.[29] After a text message reaches 988, the Lifeline Administrator is responsible for

[22] *See id.* at 11851-52, paras. 49-52; *Wireline Competition Bureau Announces Compliance and Comment Dates for the 988 Georouting Proceeding*, WC Docket No. 18-336, Public Notice, 39 FCC Rcd 12469 (WCB 2024) (*WCB 988 Georouting Compliance Dates Public Notice*).

[23] *WCB 988 Georouting Compliance Dates Public Notice*. *See 988 Georouting Third Report and Order*, 39 FCC Rcd at 11838, para. 25 (defining nationwide CMRS provider to mean "those providers whose service extends to a majority of the population and land area of the United States").

[24] *See generally 988 Georouting Third Further Notice*.

[25] *Id.* at 11863, para. 78.

[26] *Id.* at 11868-69, para. 88 (proposing to require that "covered text providers comply with the proposed text-to-988 georouting requirements by a uniform implementation deadline of six months from the effective date of final rules").

[27] *Wireline Competition Bureau Seeks Further Comment on Privacy Issues Related to Text-to-988 Georouting*, WC Docket No. 18-336, Public Notice, DA 25-148 (WCB Feb. 19, 2025) (*988 Text Georouting Privacy Public Notice*).

[28] *Id.* at 3; *see also* CTIA Comments at 7; CX360 Comments at 2; Vibrant Comments at 4-5; AT&T Reply at 3-4; CTIA Reply at 2; CX360 Reply at 1 (all describing voluntary efforts to develop an industry-based georouting solution for 988 text messages).

routing the text message to an individual crisis center and currently does so based on the area code associated with the text user's wireless device.[30] This inhibits the Lifeline's ability to provide access to more localized services when a text user's area code does not correspond to their geographic location.[31]

12. Based on our review of the record, we find that requiring providers to implement a georouting solution for 988 text messages is essential to improving access to the Lifeline's critical mental health crisis and suicide prevention services. The record overwhelmingly supports the conclusion that georouting for 988 text messages will help connect individuals with more geographically appropriate crisis centers that should have a better understanding of available local resources and unique community stressors.[32] As Reimagine Crisis Response explains, local crisis centers are better positioned to connect individuals "with local mental health care, resources, and support that can help . . . beyond the initial crisis."[33] According to the current Lifeline Administrator, many individuals that reach out to 988 need resources for follow-up care, including referrals to mental health resources within their current local communities.[34] Several commenters agree that georouting for 988 text messages will improve access to referral and follow-up services that may reduce the risk of future mental health and suicidal crises.[35]

13. Mental health and public safety commenters emphasize that georouting for 988 text

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[29] *See* 47 CFR § 52.201(a); *988 Georouting Third Report and Order*, 39 FCC Rcd at 11853, para. 53 (revising the Commission's existing 988 voice and texting rules to permit routing to the national suicide prevention and mental health crisis hotline system without need for translation to the toll free access number).

[30] *See* CX360 Comments at 10 (stating that CX360 routes 988 text messages "to a geographically appropriate crisis center based on the help seeker's area code"); Vibrant Comments at 2-3 (describing the Lifeline Administrator's role in managing the routing of 988 text messages); SAMHSA, Saving Lives in America: 988 Quality and Services Plan at 5 (2024), https://www.samhsa.gov/sites/default/files/saving-lives-american-988-quality-service-plan.pdf (SAMHSA 988 Quality and Services Plan) (noting that "texts to the 988 Lifeline are routed to the nearest 988 crisis contact center based on where the . . . phone number area code is registered").

[31] *See, e.g.*, Association for Behavioral Health and Wellness Comments at 2 (ABHW Comments) ("Since 988 texts are routed using cell phone numbers, this leads to text message misrouting."); Accessibility Organizations Comments at 3-4; LA County DMH Comments at 2-3; Steve Alanzo Comments at 1 (filed on behalf of the International Association of Fire Chiefs) (IAFC Comments).

[32] *See, e.g.*, ABHW Comments at 1 (stating that "georouting 988 texts are essential to providing lifesaving local support and resources"); American Foundation for Suicide Prevention Comments at 2 (AFSP Comments) (explaining that local counselors are "more likely to share a cultural connection to people reaching out for help"); CTIA Comments at 7 ("CTIA and its member companies will continue to support efforts to improve the 988 Lifeline's ability to connect people in mental health crisis with the most appropriate resources."); IAFC Comments at 1 (asserting that "local crisis centers will likely be more familiar with the local area's resources or community stressors"); *see also, e.g.*, Accessibility Organizations Comments at 2-3; Boulder Regional Emergency Telephone Service Authority Comments, WC Docket No. 18-336, at 2-3 (filed Apr. 3, 2025) (BRETSA PN Comments); CX360 Comments at 4; Intrado Life & Safety Comments at 1 (Intrado Comments); LA County DMH Comments at 1; NAMI Comments at 1-2; Reimagine Crisis Comments at 1-2; Trevor Project Comments at 2; Vibrant Comments at 5-6; AT&T Reply at 1; Comtech Reply at 2; Letter from Crisis Text Line to Jessica Rosenworcel, Chairwoman, FCC, WC Docket No. 18-336, at 1-2 (filed Nov. 20, 2024) (Crisis Text Line Nov. 20, 2024 *Ex Parte*).

[33] NAMI-Reimagine Crisis Comments, WC Docket No. 18-336, at 1-2 (filed Apr. 3, 2025) (Reimagine Crisis PN Comments).

[34] *See* Vibrant Comments at 6.

[35] *See, e.g.*, Intrado Comments at 1 (arguing that "georouting for both voice and text should be a basic expectation for 988 to provide the best possible care for callers/texters by connecting them with counselors who are trained in local resources and events and can provide local referrals"); *see also* Accessibility Organizations Comments at 4; LA County DMH Comments at 2; Vibrant Comments at 6; AT&T Reply at 4.

messages will improve access for youth and young adults.[36] Indeed, in response to the *988 Georouting Second Further Notice*, we received over 450 comments from American Foundation for Suicide Prevention (AFSP) advocates expressing support for requiring georouting for 988 text messages, all emphasizing the significant benefits for children and young adults.[37] As the current Lifeline Administrator explains, georouting for 988 text messages will "help connect young people with counselors who may have a deeper insight into the unique exacerbators within their local communities."[38] AFSP further notes that georouting is particularly important for "college-aged young adults [who] may be attending schools and universities . . . in areas that do not correspond with their cell phones' area codes."[39]

14. Many commenters also agree that georouting for 988 text messages will enhance access to local resources and follow-up care services for individuals with disabilities, including individuals who are deaf, hard of hearing, or have a speech disability.[40] As the Accessibility Organizations explain, text messaging is "a preferred or necessary mode of communication, due to barriers to making voice calls," for many individuals with disabilities.[41] The record further indicates that georouting for 988 text messages will provide benefits for other disproportionately impacted populations, including older men,[42] rural communities,[43] and individuals with low incomes[44] or safety concerns.[45]

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[36] AFSP Comments at 2-3 ("Georouting solutions to ensure . . . texts are sent to the closest contact center will support children and young adults nationwide."); *see also, e.g.*, ABHW Comments at 2; IAFC Comments at 1; NAMI Comments at 2; Reimagine Crisis Comments at 1-2; Trevor Project Comments at 4.

[37] *See* AFSP Comments, WC Docket No. 18-336, at 3 (rec. June 27, 2024) (AFSP June 27, 2024 Comments) ("Requiring georouting for texts will significantly benefit youth and young adults who are the majority of individuals reaching out to the 988 Lifeline via text."); *see also, e.g.*, Brian Clifton Comments (Express) (rec. June 27, 2024); Alexandra Walker Comments (Express) (rec. June 28, 2024) (all stating that "[r]equiring georouting for texts in addition to calls will significantly benefit children and young adults, as the majority of individuals reaching out to the 988 Lifeline via text are youth"). The express filings submitted in response to the *988 Georouting Second Further Notice* are available on the Commission's Electronic Comment Filing System (ECFS) in WC Docket No. 18-336. Initial comments on the *988 Georouting Second Further Notice* were due on or before June 28, 2024, and reply comments were due on or before July 29, 2024. *Wireline Competition Bureau Announces Comment and Reply Comment Dates for 988 Georouting Second Further Notice of Proposed Rulemaking*, WC Docket No. 18-336, Public Notice, 39 FCC Rcd 5725 (WCB 2024).

[38] Vibrant Comments at 2.

[39] AFSP Comments at 2-3.

[40] *See, e.g.*, Accessibility Organizations Comments at 4 ("For deaf, hard of hearing and speech disabled people, where regional services and familiarity with state-specific resources can significantly impact the quality of care, georouting ensures that at the local level."); AFSP Comments at 3 (asserting that georouting for texts helps ensure that all users can reach out to the 988 Lifeline, including persons with disabilities); NAMI Comments at 2 (arguing that text-to-988 georouting will "ensure that people with hearing and speech disabilities have a similar experience to help seekers who call 988 for assistance, connecting them to local services in their community"); Vibrant Comments at 2 (stating that text-to-988 georouting will "ensure that vulnerable groups are connected with counselors who can understand their specific cultural, social, and geographic contexts"); AT&T Reply at 1 (stating that text-to-988 georouting is "especially important to persons who are deaf, hard-of-hearing, or with a speech disability, and thus less inclined to *call* 988").

[41] Accessibility Organizations Comments at 4 (arguing that text-to-988 georouting "is particularly important for communities where texting is a preferred or necessary mode of communication, due to barriers to making voice calls, such as for deaf, hard of hearing or speech disabled people").

[42] *See* Vibrant Comments at 2 (stating that "other disproportionately impacted populations, such as older men and those in rural areas, would greatly benefit from engaging with local crisis contact centers that are familiar with the area, community environment, and available resources").

[43] *See, e.g.*, Accessibility Organizations Comments at 5 (arguing that text-to-988 georouting is "particularly critical for high-risk populations who rely on text-based communication, such as individuals in rural areas"); AFSP Comments at 3 (asserting that georouting for 988 texts would improve access to the Lifeline by those in rural areas

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15. We also find georouting for 988 text messages will help ensure that Americans in crisis have access to help, regardless of whether they call or text the Lifeline. As the National Alliance on Mental Illness (NAMI) asserts, implementing georouting for voice calls but not for text messages may cause confusion and undermine trust in the 988 Lifeline.[46] Additionally, as several commenters emphasize, achieving routing parity with voice calls will help to minimize inconsistencies in service quality that might otherwise discourage individuals from seeking help, further increasing trust in the 988 Lifeline.[47]

B. Definitions

16. As proposed in the *988 Georouting Third Further Notice*, for the purposes of the rules we adopt today, we incorporate the definitions of the terms "covered 988 text message" and "covered text provider," as adopted in the *Text-to-988 Second Report and Order*.[48] We similarly rely on the definitions of "Commercial Mobile Radio Service (CMRS)" and "georouting data" adopted by the Commission in the *988 Georouting Third Report and Order*.[49] No commenter opposed this approach.[50] We find that relying on the Commission's existing definitions will ensure technological neutrality and regulatory consistency across our rules with respect to 988 georouting.

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with otherwise limited access to mental health services); Vibrant Comments at 2 ("Text messaging is crucial in rural communities where poor cellular signals can hinder voice calls but still allow for text communication."); Washington State Department of Health, WC Docket No. 18-336, at 3 (rec. June 28, 2024) (Washington DOH June 28, 2024 Comments).

[44] LA County DMH Comments at 1 ("Text-to-988 is an essential entry point for some of the County's highest need populations to access crisis mental health services, including youth, people of color, and low-income households.").

[45] *See* Accessibility Organizations Comments at 5; LA County DMH Comments at 1; Washington State DOH June 28, 2024 Comments at 3.

[46] NAMI Comments, WC Docket No. 18-336, at 4 (rec. June 28, 2024) (NAMI June 28, 2024 Comments) ("If georouting is implemented for calls but not text, there is likely to be confusion among people contacting 988 for help, which creates further distrust among potential help-seekers.").

[47] *See, e.g.*, Accessibility Organizations Comments at 3 ("This step is critical for ensuring parity between text-based and voice-based access to the 988 Lifeline."); Letter from Michael McMenamin, Counsel, Winning Strategies Washington, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336, at 1 (filed May 5, 2025) (NAMI May 5, 2025 *Ex Parte*) ("Establishing trust in the 988 Lifeline is essential to ensuring that people in crisis are not discouraged from using the service when they need it most."); *see also* AFSP Comments at 2; CX360 Comments at 4; LA County DMH Comments at 2-3; NAMI Comments at 1-2; Reimagine Crisis Comments at 1-2; Vibrant Comments at 5-6; AT&T Reply at 4 (all supporting the importance of achieving parity between 988 calls and text messages).

[48] 47 CFR § 52.201(c); *988 Georouting Third Further Notice*, 39 FCC Rcd at 11860, para. 71; *Text-to-988 Second Report and Order*, 36 FCC Rcd at 16910-11, 16914, paras. 16, 22.

[49] 47 CFR § 52.202(d); *see also 988 Georouting Third Report and Order*, 39 FCC Rcd at 11834, para. 18. To preserve consistency across the requirements for georouting 988 calls and georouting text-to-988, we likewise use the definition of "Lifeline Administrator" adopted by the *988 Georouting Third Report and Order*.

[50] Although supportive of the Commission's existing definitions for these terms, the Accessibility Organizations urge the Commission to account for the accessibility needs of individuals who are deaf or hard of hearing, or have a speech or other disability that impacts communication in crafting rules for 988 text georouting. Accessibility Organizations Comments at 6. We find that georouting text-to-988 will have a significant impact on connecting individuals, including those who are deaf or hard of hearing, or have a speech or other disability that impacts communication, to local resources and improve the accessibility of lifesaving resources. We therefore adopt our proposal in the *Further Notice* to incorporate the definitions adopted by the Commission in the *Text-to-988 Second Report and Order* and *988 Georouting Third Report and Order* with our 988 text georouting rules.

17. *Covered 988 Text Message*. We apply our 988 text georouting requirements to "covered 988 text messages" as that term is defined in the *Text-to-988 Second Report and Order*,[51] thereby limiting our georouting rules to "988 text messages"[52] that are in an Short Message Service (SMS) format.[53] The record overwhelmingly supports limiting our requirements to SMS messages at this stage, in order to conform with the existing technical capabilities of the Lifeline, which can currently only receive SMS texts.[54] While Intrado Life & Safety (Intrado)[55] argues that the rules should obligate georouting of the text portion of Multimedia Message Service (MMS), we find that limiting our georouting rules to messages sent in SMS format will enable the 988 Lifeline to leverage current technology while developing georouting solutions that could adapt to messaging protocols such as MMS and Rich Communications Service (RCS) if necessary in the future.[56] In the *Text-to-988 Second Report and Order*, the Commission delegated to the Bureau the authority to make future determinations to require covered text providers to support additional text formats, in the event that the Lifeline developed the capability to receive such messages.[57] We further direct the Bureau to determine through its ongoing consultation process with SAMHSA and the VA whether the 988 Lifeline can accept georouting data with any newly identified text formats. In the event that the 988 Lifeline becomes capable of accepting any additional text formats, the Bureau shall seek comment on whether to require providers to transmit georouting data for such text formats in its annual public notice.[58]

18. *Covered Text Providers*. We apply our 988 text georouting requirements to "Covered

[51] *Text-to-988 Second Report and Order*, 36 FCC Rcd at 16914, para. 22.

[52] 47 CFR § 52.201(c) (defining "988 text message" as "(i) . . . a message consisting of text, images, sounds, or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number, N11 service code, or 988; (ii) includes and is not limited to a SMS message and a multimedia message service (MMS) message; and (iii) does not include—(A) a real-time, two-way voice or video communication; or (B) a message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in paragraph (b) [of section 52.201 of the Commission's rules]").

[53] *Id.* (defining a "[c]overed 988 text message" as "a 988 text message in SMS format and any other format that the Wireline Competition Bureau has determined must be supported by covered text providers").

[54] *See, e.g.*, Accessibility Organizations Comments at 4; CTIA Comments at 6; CX360 Comments at 9-10; NAMI Comments at 2; AT&T Reply at 9; CTIA Reply at 8; CX360 Reply at 9; Voice on the Net Coalition Reply at 3 (VON Reply).

[55] In this *Fourth Report and Order*, we use "Intrado" to refer to the entity previously referred to in this proceeding as "Intrado Life & Safety." For a full discussion of the Intrado organization, see *988 Georouting Second Further Notice*, 39 FCC Rcd at 4449, para. 10 & n.45.

[56] *See* Intrado Reply at 3, n.6; *see also* AT&T Reply at 9 (arguing that "[s]upport for other messaging formats is not justified because they are either not offered by Lifeline crisis centers, like [MMS], and/or they are still evolving, like [RCS]"); Vibrant PN Reply at 3 (agreeing that "any solution must consider the future evolution of text messaging, with the anticipated coexistence of [SMS], MMS and RCS" and that text-to-988 georouting solutions that are "not entirely dependent on SMS-based protocols" are in development).

[57] *See Text-to-988 Second Report and Order*, 36 FCC Rcd at 16914, 16916, paras. 22 & 25. In connection with this delegated authority, the Commission directed the Bureau to consult with SAMHSA and the VA on whether any text formats other than SMS are compatible with the 988 Lifeline. *Id.*

[58] We emphasize that this delegated authority is limited in scope. The Bureau may incorporate additional text formats into the Commission's rules if, and only if, the Lifeline becomes able to receive such messages, in which case it must provide notice and an opportunity for comment before adopting any new requirements. *See Text-to-988 Second Report and Order*, 36 FCC Rcd at 16914, 16916, paras. 22 & 25; *WCB 988 Text Formats Public Notice*. The Bureau is also required to "identify all implementation deadlines with certainty (i.e., by a specified calendar date)" and in doing so, must "assess factors such as technical and financial challenges with respect to implementation, the status of the Lifeline, and the public interest." *Text-to-988 Second Report and Order*, 36 FCC Rcd at 16917, para. 25.

Text Providers," as defined in the *Text-to-988 Second Report and Order*.[59] Covered text providers include "all [Commercial Mobile Radio Service (CMRS)] providers, as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones."[60] As noted above, our text georouting requirements are limited to 988 text messages sent in SMS format and therefore do not apply to over-the-top providers.[61]

19. *Georouting Data*. For the purposes of these rules, we define "georouting data" to mean location data generated from cell-based location technology that is aggregated to a level that will not identify the location of the cell site or base station receiving the 988 text message or otherwise identify the precise location of the handset.[62] We note that this definition, which is consistent with that adopted in the *988 Georouting Third Report and Order*,[63] precludes the transmission of more precise location data.[64] The *988 Georouting Third Report and Order* found that this approach would "best identify a caller's location to enable routing of 988 calls to geographically appropriate crisis centers, while maintaining the privacy interests of callers" and "provid[ing] nationwide providers flexibility to deploy current georouting solutions developed with the SAMHSA and the Lifeline Administrator."[65] As explained below, we find

[59] *See Text-to-988 Second Report and Order*, 36 FCC Rcd at 16919, para. 30.

[60] 47 CFR § 52.201(c) ("Covered text provider" includes "all CMRS providers as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones."); *see also Text-to-988 Second Report and Order*, 36 FCC Rcd at 16919, para. 30; *988 Georouting Third Further Notice*, 39 FCC Rcd at 11860, para. 71.

[61] An over-the-top provider refers to services accessed through broadband connections obtained by the consumer, or through public or private Wi-Fi connections that may not access cellular networks. *See Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*; *Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153 and 10-255, Second Report and Order and Third Further Notice of Proposed Rulemaking, 29 FCC Rcd 9846, 9860, para. 28 & n.85 (2014). *See also* VON Reply at 3-4 (arguing that "it is technically infeasible to require any service provider, other than licensed wireless providers, to get location information from their users, when they are not providing the network infrastructure, and then expect that they can route 988 texts based on that location"); *988 Georouting Third Further Notice*, 39 FCC Rcd at 11863, para. 76 & n.294.

[62] *See infra* Appx. A; *988 Georouting Third Report and Order*, 39 FCC Rcd at 11834, para. 18. CX360 Comments at 5-6 (CX360 calls for the Commission to adopt a definition for georouting data in line with the definition adopted in the *988 Georouting Third Report and Order* to provide the same flexibility to satisfy georouting requirements and use technically feasible options for meeting the requirements to the extent they are compatible with the systems used by the 988 Lifeline.). Vibrant initially raised concern that adopting this definition of georouting data for text-to-988 was too broad, however, it later indicated agreement with the proposed approach and "recommend[ed] that any proposed georouting solution should utilize cell tower data, obtained from a carrier, to determine the geographic origin of 988 Lifeline text messages." *See* Vibrant Comments at 3-4; Vibrant Comments, WC Docket No. 18-336, at 5 (filed Apr. 3, 2025) (Vibrant PN Comments); Letter from Cara McNulty, Chief Executive Officer, Vibrant Emotional Health, to Jessica Rosenworcel, Former Chairwoman, FCC, WC Docket No. 18-336, at 3-4 (filed Jan. 16, 2025) (Vibrant Jan. 16, 2025 *Ex Parte*).

[63] The definition of georouting data adopted in this *Fourth Report and Order* is the same as that used for our georouting rules for 988 voice calls, apart from its application to "covered 988 text message[s]," as opposed to "988 call[s]." *See infra* Appx. A; 47 CFR § 52.202(d).

[64] *988 Georouting Third Report and Order and Further Notice*, 39 FCC Rcd at 11834-35, paras. 18-20 (defining "georouting data" for voice-to-988 georouting rules); *id.* at 11863, para. 77 (proposing to adopt the same definition for text-to-988 georouting rules).

[65] *Id.* at 11845-48, paras. 36-41.

that these considerations apply equally with respect to our text-to-988 georouting rules.[66]

20. *Commercial Mobile Radio Service*. We also adopt our proposal to revise section 52.201(b) of the Commission's rules to read "Commercial Mobile Radio Service" instead of "Commercial Mobile Radio Services."[67] This correction is necessary to align the rule with the Commission's intent, as stated in the *Text-to-988 Second Report and Order*, to adopt the well-established text-to-911 definition of "covered text provider."[68] We note that no commenter questioned our proposal.

C. Scope of Text-to-988 Georouting Requirement

21. In this *Fourth Report and Order*, we adopt general requirements designed to enhance the Lifeline's ability to connect text users to geographically appropriate crisis centers, while safeguarding the critical privacy interests of individuals seeking life-saving assistance. Specifically, we require covered text providers to: (1) develop the capability to transmit georouting data in a format that is compatible with the Lifeline's system to allow routing of covered 988 text messages by the Lifeline Administrator to the appropriate crisis center based on the geographic area where the handset is located at the time the text message is initiated; and (2) provide such georouting data for 988 text messages, when available, to the Lifeline Administrator. In adopting these rules, we support voluntary efforts to identify and develop industry-based georouting solutions for 988 text messages by providing a flexible, technology-neutral framework for our requirements.

1. Capability to Provide Georouting Data

22. Consistent with the *988 Georouting Third Further Notice*,[69] we first require covered text providers to develop the capability to transmit georouting data for 988 text messages in a format that is compatible with the Lifeline's routing platform.[70] We find that this requirement is necessary to ensure that 988 text users receive the benefits of georouting,[71] regardless of the covered text providers' network configurations. As with the other requirements we adopt today, we give covered text providers the flexibility to use technically feasible options that are best suited to their networks, provided that the georouting solutions are compatible with the Lifeline's system.[72] We make clear that our rules create an

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[66] Some commenters assert that georouting based on the location of the tower in which the contact was initiated does not provide sufficient granularity to dispatch emergency services. *See, e.g.*, BRETSA PN Comments at 3. As discussed in greater detail below, we find that georouting based on aggregated, cell-based location information best balances the benefits of location-based routing with the privacy interests of 988 users. *See infra* Section III.C.1.

[67] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11863, para. 77 & n.295.

[68] *Text-to-988 Second Report and Order*, 36 FCC Rcd at 16919, paras. 30-31 (adopting the text-to-911 definition of "covered text provider" for text-to-988). Compare 47 CFR § 52.201(b) (currently defining "CMRS" for text-to-988 purposes as "Commercial Mobile Radio Service*s*"), with 47 CFR § 9.3 (defining "CMRS" for 911 purposes as "Commercial Mobile Radio Service") (emphasis added).

[69] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11865, para. 81.

[70] *See infra* Appx. A (new 47 CFR § 52.203(a)(1)).

[71] *Supra* Section III.A.

[72] *See, e.g.*, CCA Comments at 4 (noting that "the Commission recognized the importance of a flexible framework for calls to 988" and arguing that "[a] similar approach for texts to 988 would be equally appropriate, particularly given the ongoing technological development in this area"); CX360 Comments at 5-6 (noting that the Commission allowed providers to use technically feasible options that were compatible with the systems used by the Lifeline for voice-to-988 georouting and supporting "the same flexibility for georouting text-to-988"); Letter from Angela Y. Kung, Mintz, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336 at 1 (filed Mar. 21, 2025) (filed on behalf CX360) (CX360 Mar. 21, 2025 *Ex Parte*) (urging "the Commission to take a flexible regulatory approach to text-to-988 georouting that mirrors . . . voice-to-988 regulations"); *id.* at 10 (arguing that any "text-to-988 georouting regulation adopted by the Commission should . . . [r]equire compatibility with existing 988 infrastructure").

ongoing obligation for covered text providers to ensure that georouting data remains compatible with the Lifeline's system, and we encourage stakeholders to collaborate in developing and testing such solutions.

23. The record strongly supports requiring any text-to-988 georouting solutions to be compatible with the Lifeline's system and infrastructure.[73] For example, CTIA argues that we should "continue to rely on technologies that are consistent with covered text providers' and the Lifeline's system[] to facilitate prompt and seamless implementation of new capabilities, including georouting."[74] The Accessibility Organizations add that this approach "ensures uniformity, reducing the chances of technical mismatches or delays in delivering critical support."[75] We therefore agree with the Lifeline Administrator and T-Mobile that "the best georouting solution will be one that can integrate with the 988 Lifeline's current routing network."[76]

24. We recognize that our federal partners may choose to expand the Lifeline's system to support a broader range of compatible text-to-988 georouting solutions. Accordingly, and similar to the Commission's approach for voice-to-988 georouting,[77] we direct the Bureau to routinely consult with SAMHSA regarding the format of text-to-988 georouting data that is compatible with the 988 Lifeline's system. We further direct the Bureau to monitor the development of text-to-988 georouting solutions and, if necessary, propose and seek comment on implementation parameters for covered text providers for any compatible text-to-988 georouting data that is substantially modified from the requirements adopted herein.

25. *Aggregation of Cell-Based Location Data.* As numerous commenters observe, the privacy interests of 988 text users are paramount.[78] For this reason, we require covered text providers to aggregate location data generated from cell-based technology to a level that will not identify the location of the cell site or base station receiving the 988 text or otherwise identify the precise location of the handset.[79] As with the Commission's approach for voice-to-988 georouting, in adopting this requirement,

[73] *See, e.g.*, Accessibility Organizations Comments at 8; CCA Comments at 4; CTIA Comments at 5; CX360 Comments at 9; Vibrant Comments at 5; T-Mobile Comments, WC Docket No. 18-336, at 4 (filed Apr. 3, 2025) (T-Mobile PN Comments); AT&T Reply at 7; *but see* CPAC Foundation's Center for Regulatory Freedom Reply at 2 (CPAC Reply) (opposing the requirement and arguing "that every covered text provider in the U.S. will be required to engage in approximate geolocation reporting to a federal government agency, even if they are currently unable to do so"). As we have explained, we are adopting a rule that does not mandate geolocation reporting and that defines georouting data as"[l]ocation data generated from cell-based location technology that is aggregated to a level that will not identify the location of the cell site or base station receiving the covered 988 text message or otherwise identify the precise location of the handset." *Supra* para. 19.

[74] CTIA Comments at 6.

[75] Accessibility Organizations Comments at 8.

[76] *See* T-Mobile PN Comments at 4; Vibrant Jan. 16, 2025 *Ex Parte* at 3.

[77] *988 Georouting Third Report and Order*, 39 FCC Rcd at 11841, para. 30.

[78] *See, e.g.*, AFSP Comments at 2 ("It is important that any georouting information system does not create obstacles to, or compromise the privacy of, any users[.]"); CX360 Comments at 7 (stating that "ensuring the privacy of help seekers who call or text 988 is essential for building and maintaining public trust in the 988 Lifeline"); NAMI Comments at 2-3; Trevor Project Comments at 4; Reimagine Crisis PN Comments at 2; *see also* AT&T Reply at 4-5; CPAC Reply at 2; CTIA Reply at 7; CX360 Reply at 2, 8; Intrado Reply at 1.

[79] *See* Appx. A (new 47 CFR § 52.203 (defining "georouting data")). The rules we adopt today protect privacy interests by prohibiting the transmission of more granular cell site data or the precise location of the text user, while allowing covered text providers flexibility in implementing technical solutions that use different granularity of data, such as wire center or Federal Information Processing Series (FIPS) code geographic boundaries.

we carefully balance the importance of maintaining user privacy with the need to expeditiously improve the routing of text messages to the Lifeline.[80]

26. The *988 Georouting Third Further Notice* and *988 Text Georouting Privacy Notice* sought comment to determine the necessary granularity of location data for text-to-988 georouting that protects the privacy expectations of text users, while still facilitating access to more localized services.[81] In response, commenters generally argued that covered text providers need flexibility to develop and implement text-to-988 georouting solutions.[82] To that end, rather than a prescriptive rule, we establish a general requirement that allows covered text providers flexibility to use technically feasible methods that are best suited to their networks to aggregate location data.[83]

27. Based on our review of the record, we find that aggregating location data to county-level or wire-center boundaries is sufficiently general to protect text users' privacy[84] while improving the routing of 988 text messages.[85] The record indicates that the industry-based text georouting solution currently under development by nationwide wireless providers, the current Lifeline Administrator, and its vendor utilizes county-level FIPS code boundaries based on cell tower information and does not introduce precise location information into the 988 data flow.[86] In its comments, the Lifeline Administrator states that the "solutions under consideration will use county-level data," which "minimizes user-specific data to simply connect a help seeker to the nearest crisis contact center based on cell phone tower data."[87] We anticipate that our broad definition of "georouting data" will give covered text providers flexibility to implement technical solutions that use different granularity of data, such as wire center or FIPS code boundaries provided that such data does not reveal the precise location of the handset.

28. We disagree with the Boulder Regional Emergency Telephone Service Authority's

[80] *988 Georouting Third Report and Order*, 39 FCC Rcd at 11846, paras. 37-38.

[81] *See id.* at 11866-68, paras. 84-85; *988 Text Georouting Privacy Public Notice* at 5-6.

[82] CTIA Comments at 5 ("[T]o the extent that the Commission considers adopting such regulations, the Commission should continue the flexible, technology-neutral approach that has enabled the successful implementation of 988."); *see also* Accessibility Organizations Comments at 4; CCA Comments at 3-4; CX360 Comments at 15-16; Vibrant Comments at 5; AT&T Reply at 2; CTIA Reply at 7-8.

[83] *See, e.g.*, CX360 Comments at 5-6 (urging the Commission to decline to specify a particular method of aggregating location data); AT&T Reply at 8 (stating that "any solution should be technology-neutral, giving providers, the Lifeline, and its vendors flexibility to develop and implement the solution that best meets their network designs and capabilities").

[84] *See, e.g.*, ABHW Comments, WC Docket No. 18-336, at 2 (filed Apr. 3, 2025) (ABHW PN Comments); CTIA Comments, WC Docket No. 18-336, at 2-3 (filed Apr. 3, 2025) (CTIA PN Comments) (arguing that the current industry-based georouting solution maintains "privacy by avoiding delivery of precise location information"); CX360 Comments at 6 (stating that "georouting based on county-level location data . . . is sufficiently *imprecise* to protect the identity and privacy interests of help seekers"); Vibrant PN Comments at 5 ("Regarding privacy considerations related to the granularity of location data for text-to-988 georouting solutions, the privacy and security consideration for text messaging and voice calls are nearly identical."); AT&T Reply at 9-10 (arguing that the geographic boundaries for routing 988 text messages should, to the extent possible, align with 988 calls and noting that "wire-center boundaries" meet that requirement).

[85] *See, e.g.*, CX360 Comments at 6 (stating that "county-level location data . . . is sufficiently granular to support effective georouting to the appropriate crisis center"); *see also* CX360 Reply at 12.

[86] *See* Vibrant PN Comments at 3-4; CX360, Inc. Comments, WC Docket No. 18-336, at 6 (filed Apr. 3, 2025) (CX360 PN Comments). The Federal Information Processing Series (FIPS) codes are maintained and assigned by the Census Bureau to identify geographic areas. *See* U.S. Census Bureau, American National Standards Institute (ANSI), FIPS, and Other Standardized Geographic Codes, U.S. Dep't of Com. (May 1, 2023), https://www.census.gov/library/reference/code-lists/ansi.html.

[87] Vibrant PN Comments at 3.

(BRETSA) contention that more precise location information should be transmitted with 988 text messages.[88] The record reflects significant support for georouting solutions that provide geographic routing information to the Lifeline without identifying a text user's precise location.[89] We are also persuaded by commenters that 988 text users have unique privacy expectations as compared to 911 users,[90] and find that any text-to-988 georouting solution must maintain text users' confidence that their precise location information will remain confidential when communicating with the Lifeline.[91] Additionally, as discussed below, we decline to take specific action at this time to extend text-to-988 georouting requirements to the Lifeline's specialized service lines.[92] We believe that this approach should alleviate the concern raised by the Electronic Privacy Information Center and Wildflower Alliance (EPIC-WA) that text users contacting the Lifeline's specialized service lines may be at a greater risk of being personally identified.[93]

29. Although we agree with the Conservative Political Action Conference Foundation's Center for Regulatory Freedom (CPAC) that maintaining the privacy of 988 callers and text users has been integral to the Lifeline's ability to serve as a "safe and dependable resource,"[94] the requirements we adopt today will not obligate covered text providers to engage in "approximate geolocation reporting" or undermine Americans' trust in the integrity of the Lifeline.[95] The rules we adopt today do not require covered text providers to transmit more precise geolocation data with 988 text messages, but rather aggregated location data, such as county-level information, that maintains text users' privacy by not identifying the precise location of the text users' handset.

30. We also disagree with those commenters that argue georouting data is not sufficiently granular to improve the routing of 988 text messages.[96] While some commenters identify alternatives to georouting that may connect text users with local resources,[97] we find that generating aggregated location

[88] *See* BRETSA PN Comments at 3 (arguing that "[g]eorouting 988 calls based upon the location of the tower over which a CMRS system received the call does not provide sufficient resolution"); *see also id.* at 4-6.

[89] *Supra* note 78 (comments supporting privacy).

[90] *See, e.g.*, NAMI Comments at 3 ("One of the unique and valued features of 988 is the option to remain anonymous, if desired."); CX360 PN Comments at 9 (stating that "the use of precise location data is *not* appropriate in the 988 context because help seekers' privacy expectations differ when contacting the 988 Lifeline"); Vibrant PN Reply at 3 ("When help seekers reach out to the 988 Lifeline, they expect a level of confidentiality that is not typically associated with 911 emergency services.").

[91] *See, e.g.*, NAMI Comments at 2-3 ("Establishing trust in the 988 Lifeline is essential to ensuring that people in crisis are not discouraged from using the service when they need it most."); Reimagine Crisis PN Comments at 2 (same); VON Reply at 4-5.

[92] *See infra* para. 48 (discussing specialized services).

[93] *See* EPIC-WA Comments, WC Docket No. 18-336, at 8 (filed Apr. 3, 2025) (EPIC-WA PN Comments) (arguing that "[c]ounty-level codes may provide adequate anonymity, unless there are additional methods by which texter data might be sorted"). While EPIC-WA provides a cautionary example of a texter in a small county "contacting a hotline focused on LGBTQ+ specific needs," we note that, as of July 17, 2025, the 988 Lifeline "no longer silo[s] LGB+ youth services" through a "Press 3 option." SAMHSA, *SAMHSA Statement on 988 Press 3 Option* (June 17, 2025), https://www.samhsa.gov/about/news-announcements/statements/2025/samhsa-statement-988-press-3-option.

[94] *See* CPAC Reply at 7 (stating that "the sanctity of privacy . . . has allowed the 988 Lifeline to remain a safe and dependable resource for individuals in mental health crisis").

[95] *See id.* at 2, 7.

[96] *See, e.g.*, BRETSA PN Comments at 3; CPAC Reply at 4.

[97] *See, e.g.*, Crisis Text Line Comments, WC Docket No. 18-336, at 3 (filed June 28, 2024) (Crisis Text Line June 28, 2024 Comments) (noting that text users can either consensually provide information about their area, or that responders can contact emergency services in the jurisdiction of the phone's area code to determine the location of users); CPAC Reply at 6 (arguing that text users "should be given the option of manually entering their zip code

(continued….)

information using cell-based technology will significantly improve the routing of 988 text messages and help connect text users to local resources in a timely manner while protecting user privacy.[98] We disagree with BRETSA's inference that the benefits of improved routing are limited to instances in which individuals require emergency services intervention.[99] As discussed above, georouting provides numerous benefits to individuals contacting 988, including those that do not require dispatch of emergency services.[100] Likewise, we acknowledge CPAC's contention that geolocation could alleviate routing errors more effectively than georouting data, as well as its concerns about "further regulations aimed at correcting misrouting."[101] As CPAC states, however, sharing a 988 text user's precise location data raises significant privacy concerns.[102] We agree, and therefore the definition of georouting data we adopt today precludes the transmission of more precise location data for 988 text messages.

2. Providing Georouting Data

31. We next adopt the Commission's proposal to require covered text providers to provide georouting data, when available, to the Lifeline Administrator, sufficient to allow routing of the message to the appropriate crisis center based on the geographic area where the handset is located at the time the covered 988 text message is initiated.[103] As discussed below, we find that this approach strikes the right balance between ensuring that covered text providers support georouting for 988 text messages and allowing sufficient flexibility to develop and implement solutions that maximize their network capabilities.

32. *Technical Considerations.* To address technical limitations raised by the record, we require covered text providers to provide georouting data for 988 text messages to the Lifeline Administrator only when such data is available.[104] We agree with CTIA and Intrado that limiting this requirement to providing georouting data "when available" is necessary to account for technical challenges and to enable covered text providers to optimize their current technology and networks.[105] For instance, several commenters raise concerns about the technical feasibility of transmitting georouting data

(Continued from previous page)
while on the phone with 988 Lifeline personnel"); *id.* at 7 (supporting an alternative approach to georouting solutions that focuses on providing local crisis centers with "resources necessary to allow them to welcome calls and texts directly").

[98] *See, e.g.*, ABHW Comments at 1 ("Establishing a mandate that ensures 988 texts are routed by location rather than area code will enable better access to critical local crisis counselors and resources."); Accessibility Organizations Comments at 3 ("Effective georouting enables text messages to be directed to the most appropriate crisis center, ensuring equitable and effective access to crisis services so that individuals in need can receive faster and more appropriate support."); Vibrant PN Comments at 4; Vibrant Jan. 16, 2025 *Ex Parte* at 4 ("Instituting georouting for text messages will ensure that individuals who reach out via text can access localized, timely support.").

[99] BRETSA PN Comments at 3-4.

[100] *See supra* Section III.A.

[101] *See* CPAC Reply at 4-6.

[102] *Id.* at 7 (arguing that geolocation "would completely remove the user's right to privacy, undermining the confidentiality that has made the 988 Lifeline so accessible and helpful for so many people").

[103] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11867, para. 85.

[104] *Id.*

[105] CTIA Comments at 7 (arguing that "[l]imiting any obligation to provide georouting data 'when available' accounts for technical limitations and will enable covered text providers the ability to promptly maximize their current technology and network configurations"); Intrado Reply at 9 (agreeing with CTIA); *see also* AT&T Reply at 9 (arguing that any rules "should require georouting data to be sent with 988 text messages only 'when available'").

with text messages originated when a text user is roaming.[106] While we acknowledge the public benefits of supporting georouting for all 988 text messages, we believe that limiting the requirement to providing georouting data "when available" strikes the appropriate balance between facilitating access to the Lifeline's resources and allowing providers the flexibility to address technical challenges.

33. The record indicates that, in the event that georouting data is unavailable, the Lifeline will route text messages based on the area code of the user's device.[107] We agree with CX360 that, while "area code-based routing is imperfect," this "alternative routing" process will help ensure that text users receive assistance even if the closest crisis center cannot be identified or reached.[108] Additionally, we find that this approach provides parity with the Commission's rules for voice-to-988 georouting,[109] which helps minimize confusion for both providers and individuals texting the 988 Lifeline.[110] We also believe that this approach alleviates record concern about scenarios where covered text providers are incapable of providing georouting data.[111]

34. *Supporting Industry Efforts to Implement Text-to-988 Georouting.* The rules we adopt today provide a flexible, technology-neutral framework that enables covered text providers to make industry-based determinations on implementing georouting solutions for 988 text messages.[112] The record reflects that nationwide wireless providers, the current Lifeline Administrator, and its vendors are actively collaborating to develop georouting solutions for 988 text messages.[113] As the Lifeline Administrator notes, this process will help "identify the necessary routing requirements for text messaging and explore solutions that protect the privacy of help-seekers."[114] And, as CTIA observes, aligning our requirements

[106] *See* CTIA Comments at 6-7 (arguing that "similar to texts to 911 and wireless 988 voice calls, covered text providers may not be able to provide location information for text messages to 988 that originate while roaming"); CX360 Comments at 9, n.24 (stating that "roaming may impact the ability for CX360's system to georoute texts to 988"); *see also* CTIA Reply at 8; Intrado Reply at 9.

[107] CX360 Comments at 9 & n.24 (explaining that "in instances where an individual's location data is not available because the individual is roaming, CX360 has a backup solution that relies on the user's area code").

[108] *Id.* at 11; *see also 988 Georouting Second Further Notice*, 39 FCC Rcd at 4456, para. 21 (stating that it is paramount to connect individuals "with critical, life-saving help even if the closest crisis center cannot be identified or reached"). We believe that the Lifeline's default routing mechanism also alleviates record concern about incorporating "fallback mechanisms or alternative data sources" in our definition of georouting data. *See* Accessibility Organizations Comments at 7.

[109] *988 Georouting Third Report and Order*, 39 FCC Rcd at 11848-49, paras. 42-43.

[110] *See supra* note 47 (commenters supporting the importance of parity).

[111] *See* CPAC Reply at 3 (arguing that the Commission is "unable to detail how georouting for covered 988 text messages will be implemented, especially if the covered text provider is incapable of providing georouting data").

[112] CTIA Comments at 7-8 (urging the Commission to "continue its successful approach of aligning its requirements with the consensus-based solutions identified by wireless providers and the Lifeline in order to ensure that 988 enhancements can promptly benefit as many people in crisis as possible"); *see also, e.g.*, Vibrant Comments at 6 (stating that "a uniform standard developed in partnership with SAMHSA and the Administrator would enable the 988 Lifeline to better serve individuals in crisis"); AT&T Reply at 7 (agreeing with CTIA); CX360 Reply at 1 (arguing that the Commission should allow efforts to develop an industry-based approach "to continue without the constraints of regulatory mandates").

[113] *See* CTIA Comments at 3 ("CTIA and its member companies are working diligently with the Lifeline Administrator towards identifying and developing solutions that can provide georouting data for text-to-988."); *see also, e.g.*, CX360 Comments at 2-3; AT&T Reply at 1-2; CTIA Reply at 3; T-Mobile PN Comments at 3; Vibrant PN Comments at 3-4.

[114] Vibrant PN Comments at 4.

with industry-based solutions developed by stakeholders and the Lifeline Administrator is integral to the successful, timely implementation and ongoing improvement of the 988 Lifeline.[115]

35. We find that a flexible approach to 988 text georouting is essential to support further innovation, as urged by many commenters in this proceeding. As several commenters observe, allowing providers flexibility to use technically feasible options that are compatible with the Lifeline's system is "appropriate, particularly given the ongoing technological development in this area."[116] The Competitive Carriers Association (CCA) adds that a technology-neutral framework "offers providers the flexibility to adopt the solutions that work best for their networks and promote[s] the improvement of those solutions over time."[117] We also share concerns that setting prescriptive requirements may compel providers to rely on underdeveloped solutions and potentially discourage further innovation to improve georouting for 988 text messages.[118] As such, we decline at this time to adopt more prescriptive requirements for how covered text providers must develop the capability and provide georouting data to the Lifeline.[119]

36. We also agree with CCA that allowing "robust industry-led development of a standardized and scalable approach to georouting data for text messages" will better serve non-nationwide providers.[120] The compliance deadlines we adopt below provide ample time for both nationwide and non-nationwide providers to implement and develop a georouting solution for 988 text messages, thereby minimizing compliance burdens.[121] We strongly encourage non-nationwide covered text providers to collaborate with SAMHSA and the Lifeline Administrator in developing and testing georouting solutions for 988 text messages.[122]

37. We conclude, however, that purely voluntary implementation undermines our goal of ensuring that the clear public benefits of georouting for 988 text messages are realized in a timely manner. For example, some wireless providers and industry commenters argue that text-to-988 georouting requirements are unnecessary at this time because national systems, rather than local crisis centers, handle most 988 text messages due to infrastructure limitations.[123] We disagree. The record demonstrates that a

[115] CTIA Comments at 5.

[116] CCA Comments at 4; CX360 Reply at 5 & n.12; *see also* Vibrant PN Reply at 3 (supporting the same conclusion).

[117] CCA Comments at 4.

[118] *See, e.g.*, CCA Comments at 3 (arguing that mandating georouting for 988 text messages prematurely "risk[s] impeding ongoing innovation by locking providers into underdeveloped solutions"); CX360 Comments at 8 (stating that "[t]he public interest would not be served if service providers are rushed to implement solutions that are inadequate"); Intrado Comments at 3 (arguing that any text-to-988 georouting rules "should remain as technology neutral as possible to afford flexibility for a range and evolution of technical solutions"); CX360 Reply at 4 (asserting that "imposing text-to-988 georouting regulations . . . prior to the completion of the ongoing collaborative efforts to develop an appropriate solution, could stifle innovation in the future"). To further facilitate efforts to make an industry-based determination, as discussed below, we provide a longer compliance period for both nationwide and non-nationwide providers than proposed in the *988 Georouting Third Further Notice*. *See infra* Section III.D, Implementation Time Frame.

[119] CX360 Comments at 4 (arguing that "prescriptive regulatory mandates are not the appropriate means to achieve" the goal of "parity for voice calls and text messages to 988"); *id.* at 15-16 (urging the Commission to "afford 988 service providers the flexibility to continue developing text-to-988 georouting solutions without prescriptive rules so that the 988 Lifeline can be even more useful to help seekers"); AT&T Reply at 5-6 (agreeing with CX360); CX360 Reply at 3 ("Several commenters agree that adopting prescriptive regulatory mandates for text-to-988 georouting is unnecessary or at least premature at this time.").

[120] CCA Comments at 3; *see also* CX360 Reply at 4 (agreeing with CCA).

[121] *See infra* Section III.D, Implementation Time Frame.

[122] *See* RWA Comments at 2 (arguing that "988 georouting solutions remain untested for small rural non-nationwide CMRS providers").

significant number of local crisis centers are currently able to receive texts to 988.[124] Moreover, the Lifeline Administrator indicates that this number is likely to grow in the future as more local crisis centers add text-to-988 capability.[125] In any event, text-to-988 capability does not need to be universally available among the Lifeline's more than 200 local crisis centers in order to realize the significant benefits of georouting for 988 text messages, including improved access to local resources and counselors who may better understand unique community stressors.[126] Notably, the current Lifeline Administrator does not dispute the need for us to adopt an affirmative requirement at this time.[127] We therefore find that the benefits of georouting 988 text messages to those local crisis centers that are capable of receiving such messages easily support the commonsense, non-prescriptive requirements we adopt today.[128]

38. We also decline to adopt the Rural Wireless Association's (RWA) suggestion to allow small rural non-nationwide providers to implement georouting solutions for 988 text messages on a voluntary basis.[129] While we acknowledge that non-nationwide providers may face operational limitations when implementing georouting solutions for 988 text messages, we offer flexibility and additional compliance time to non-nationwide providers to minimize such burdens.[130] Additionally, several commenters emphasize the importance of implementing georouting solutions for 988 text messages to improve access to the Lifeline's critical intervention services for rural Americans.[131] We find the benefits of ensuring that all Americans have improved access to the Lifeline's lifesaving resources support applying our requirements to all covered text providers, including small rural providers. Our approach also promotes parity between 988 calls and texts, ensuring consistent and predictable level of service across communication modes while reducing potential confusion for individuals in distress.[132]

39. We are unpersuaded by CTIA's argument that we should not extend georouting requirements to 988 text messages based on the Commission's actions in the *911 LBR Report and*

(Continued from previous page)

[123] *See, e.g.*, Comtech Reply at 3 (arguing that "further technological innovation and standardization is necessary," due in part to "the low level of Lifeline crisis centers capable of receiving text-to-988"); CTIA Reply at 4-5 (arguing that "not all crisis centers . . . support text messaging capabilities" and that "adopting rules to mandate georouting for text-to-988 is not necessary and would be premature"); VON Reply at 1-2 (supporting the same conclusion); *see also* Crisis Text Line June 28, 2024 Comments at 2; CTIA Reply, WC Docket No. 18-336, at 11 (rec. July 29, 2024) (CTIA July 29, 2024 Reply).

[124] *See* Vibrant Comments at 3 (noting that "[t]here are approximately 77 local crisis contact centers currently in the network that provide support to local help seekers through text messaging").

[125] *See id.*

[126] *See supra* note 32 (record support for benefits of local resources/counselors).

[127] *See* Vibrant Comments at 6; Vibrant PN Reply at 1, 5.

[128] *See* Vibrant Comments at 3 ("Vibrant believes that [the] growing number of local crisis contact centers that are able to respond to local texts is sufficient to begin the georouting of text messages."); AT&T Reply at 9-10 (arguing that "georouting for 988 text messages should align as closely as possible to how 988 calls are routed such that eventually they are routed consistently and thus deliver a predictable level of service relative to 988 calls").

[129] RWA Comments at 1.

[130] *See infra* Section III.D, Implementation Time Frame.

[131] *See supra* note 43 (comments supporting the importance of georouting for rural Americans).

[132] *See, e.g.*, Accessibility Organizations Comments at 3 ("Implementing georouting for [text] messages reinforces the Lifeline's commitment to equitable access for all individuals in crisis, regardless of the communication method they use."); NAMI June 28, 2024 Comments at 4 ("If georouting is implemented for calls but not text, there is likely to be confusion among people contacting 988 for help, which creates further distrust among potential help-seekers.").

Order.[133] Although the record in this proceeding indicates that georouting solutions for 988 text messages may require some network and infrastructure changes,[134] it does not raise the same concerns found in the context of 911 location-based routing about extensively retrofitting legacy SMS networks.[135] The industry-based text-to-988 georouting solution endorsed by CX360 also supports the conclusion that industry stakeholders have already developed some standards for implementing text-to-988 georouting solutions.[136] Further, georouting solutions for 988 text messages and location-based routing for 911 require different granularity of location data, and different entities perform the routing functions. Specifically, 911 location-based routing uses precise location data on the user's device to route 911 calls to the appropriate destination,[137] whereas georouting solutions for 988 text messages use less granular aggregated location data, such as county-level FIPS codes or wire center boundaries.[138] Moreover, in the context of 911, providers determine the routing destination based on the precise location information of a device,[139] whereas the Lifeline Administrator retains responsibility for routing 988 text messages to individual crisis centers using the georouting data provided by the covered text providers.[140] We therefore find that the technical differences between the routing methodologies and the record received in this proceeding distinguish 911 location-based routing requirements from georouting for 988 text messages.

40. We also disagree with those commenters that argue it is premature for the Commission to consider adopting text-to-988 georouting requirements.[141] We believe that enabling georouting for 988 text messages to improve service for text users should not be unduly delayed, and that the Commission's affirmative and timely decision to require implementation (with flexible, technology-neutral parameters)

[133] CTIA July 29, 2024 Reply at 11; *see also* CTIA Comments at 6 & n.13. In the *911 LBR Report and Order*, the Commission declined to extend location-based routing (LBR) requirements to 911 SMS text messages, both because the industry had not yet developed standards for implementing location-based routing on SMS networks and to avoid requiring providers to retrofit legacy SMS networks. *Location-Based Routing for Wireless 911 Calls*, PS Docket No. 18-64, 39 FCC Rcd 527, 556, para. 56 (2024) (*911 LBR Report and Order*). The Commission also noted that a number of Public Safety Answering Points (PSAPs) were incapable of receiving texts and that the volume of 911 text messages was far smaller than the volume of 911 voice calls. *Id.* at 559, para. 61.

[134] *See, e.g.*, Vibrant Jan. 16, 2025 *Ex Parte* at 3 (stating that "flexibility is needed as providers develop georouting solutions that work within their varying networks").

[135] *911 LBR Report and Order*, 39 FCC Rcd at 559, para. 61. *See, e.g.*, CTIA Comments at 2 (arguing that "technology-neutral and flexible regulations . . . enable providers and the Lifeline to maximize current technology and network configurations"); *id.* at 7 (noting that "[l]imiting any obligation to provide georouting data 'when available' accounts for technical limitations and will enable covered text providers the ability to promptly maximize their current technology and network configurations").

[136] CX360 PN Comments at 5 (arguing that "CX360's most recent iteration of its text-to-988 georouting solution has gained broad consensus"); *see also, e.g.*, CTIA Comments at 2 (stating that "wireless providers are steadfastly working with the Lifeline to evaluate technological approaches and identify a consensus path to provide the Lifeline with georouting data for text-to-988"); T-Mobile PN Comments at 3 (noting that T-Mobile is "working with other stakeholders to develop a solution that can convey FIPS-based location information with text messages to 988 via an Application Programming Interface").

[137] 47 CFR § 9.3 ("Location-based routing").

[138] *Supra* Section III.C.1 (discussing aggregation).

[139] *911 LBR Report and Order*, 39 FCC Rcd at 593, para. 3 ("With location-based routing as implemented under the Commission's rules, CMRS providers will use precise location information to route wireless 911 voice calls and [real time text (RTT)] communications to 911 to the appropriate [PSAP].").

[140] *Infra* para. 47 (discussing the importance of centralized routing).

[141] *See, e.g.*, CCA Comments at 1-3, 5; CTIA Comments at 3-7; CX360 Comments at 2-3; RWA Comments at 5-6; AT&T Reply at 4, 7-8; CTIA Reply at 3-5; CX360 Reply at 1, 3; VON Reply at 1, 3.

will minimize confusion for both providers and individuals texting 988.[142] Adopting rules will also provide clarity and regulatory certainty for covered text providers, encouraging progress in developing and implementing text-to-988 georouting solutions. Given the clear public interest benefits of supporting georouting for 988 text messages, we find that deployment and implementation of georouting solutions for 988 text messages should not be optional.

41. *Technological Feasibility.* We find that implementing georouting for 988 text messages is technologically feasible for nationwide and non-nationwide covered text providers. In the *988 Georouting Third Further Notice*, the Commission sought comment on technical challenges that may arise in providing georouting data with covered 988 text messages, noting that there was disagreement in the record regarding the difficulty of implementing text-to-988 georouting solutions.[143] While we recognize that there are technical differences between georouting solutions for 988 calls and text messages,[144] the record indicates that at least one technically feasible approach exists today for text-to-988 georouting.[145] Therefore, although the work to develop these solutions is ongoing, we find that deploying georouting solutions for 988 text messages is feasible for both nationwide and non-nationwide covered text providers within the compliance time frames we adopt in this *Fourth Report and Order*.

42. As discussed above, the nationwide wireless providers, the current Lifeline Administrator, and other industry stakeholders are actively collaborating to develop an industry-based georouting solution for 988 text messages that maintains text users' privacy.[146] For instance, under the approach endorsed by CX360, covered text providers route covered text messages to the Lifeline as required under the Commission's existing rules without georouting data.[147] The Lifeline's interactive voice response (IVR) system[148] requests georouting data from the providers via a "secure, industry-standard application programming interface" only when the 988 text user does not request specialized services.[149] To protect privacy, the covered text providers aggregate location data using county-level FIPS code boundaries,[150] which is similar to the aggregation process used by some wireless providers for voice-to-988 georouting solutions.[151] The record indicates that nationwide providers are already offering and supporting the use of network application programming interfaces.[152] Moreover, while the "discovery

[142] *Supra* para. 15 (discussing record support for parity).

[143] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11866, para. 83.

[144] *See, e.g.*, Vibrant Comments at 5 ("[W]e anticipate data reference systems to differ for voice and text on the operator side."); *id.* (stating that "it is essential that the proposed georouting mandate allows for flexibility due to operators' varying capabilities"); AT&T Reply at 2 ("Technical solutions adopted to support georouting for 988 calls will likely not translate directly to 988 text messages, which requires a separate effort."); CTIA Reply at 4 (arguing that "[t]he record also makes clear that there are 'fundamental differences' in the routing process for voice calls and text messag[es] that require further evaluation"); *see also* CCA Comments at 1-3; CTIA Comments at 3-4; CX360 Comments at 2; Comtech Reply at 4, n.11; CPAC Reply at 3; CX360 Reply at 16.

[145] *See, e.g.*, CX360 PN Comments at 6-8.

[146] *Supra* Section II.

[147] *See* 47 CFR § 52.201.

[148] The Lifeline's IVR system allows 988 callers and text-users to select specialized service lines, such as the Veterans Crisis Line. *See* CTIA PN Comments at 4; CX360 Reply at 7.

[149] CX360 PN Comments at 5-7.

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

[151] *See 988 Georouting Third Report and Order*, 39 FCC Rcd at 11846-47, para. 39.

[152] CX360 Reply, WC Docket No. 18-336, at 8-9 & n.37 (filed Apr. 18, 2025) (CX360 PN Reply); *see also* T-Mobile PN Comments at 3 (stating that T-Mobile is "working with other stakeholders to develop a solution that can convey FIPS-based location information with text messages to 988 via an Application Programming Interface").

phase" to develop an industry-based georouting solution is ongoing, the Lifeline Administrator "anticipates that it is technologically feasible for both nationwide and non-nationwide CMRS providers to identify georouting solutions that work best with their existing networks."[153]

43. We are not persuaded by the arguments advanced by Intrado that the solution endorsed by CX360 raises privacy concerns due to the Lifeline querying for location data.[154] Intrado argues that text-to-988 georouting solutions must avoid designs that allow the Lifeline to query providers for location information to protect text users' privacy, adding that "wireless providers should remain in full control of user location information with a push of only coarse location."[155] As CX360 states, however, under its proposed approach, the Lifeline's system would only have access to FIPS codes from wireless providers.[156] AT&T adds that the Lifeline Administrator prefers solutions that provide georouting data only with a user's initial text message in a single conversation series, and that such solutions will likely require the Lifeline to query providers for georouting data.[157] We also note that there is support in the record for including georouting data with the text user's initial message to protect privacy by avoiding the transmission of precise location information to downstream parties.[158] Moreover, we require covered text providers to aggregate location data in order to maintain the privacy interests of 988 text users.[159] We thus reject Intrado's inference that, under the approach suggested by CX360, the "Lifeline Administrator could have access to the location for every device on the carrier's network."[160]

44. *Text-to-911-Based Georouting Solutions.* We decline, at this time, to expand the scope of our requirements to georouting solutions that utilize Text Control Centers (TCC) as intermediaries between covered text providers and the Lifeline, as proposed by some commenters.[161] As the

[153] Vibrant Comments at 6 ("While Vibrant has not yet conducted a discovery phase, we do anticipate that it is technologically feasible for both nationwide and non-nationwide CMRS providers to identify georouting solutions that work best with their existing networks.").

[154] Intrado Comments, WC Docket No. 18-336, at 4-5 (filed Apr. 3, 2025) (Intrado PN Comments) (arguing that "to arrive at a solution that protects user privacy, the critical factor is avoiding a solution design that allows the Lifeline to query/pull mobile location information").

[155] *Id.*

[156] CX360 PN Comments at 6-7 (explaining that "the 988 Lifeline's IVR would use a secure, industry-standard application programming interface to request and receive the FIPS code from the wireless carrier" and that "the 988 Lifeline's IVR would only have access to coarse location data from FIPS codes").

[157] AT&T Reply at 10; *but see* Intrado PN Comments at 6 (arguing that a Text Control Center (TCC) "has the capability to restrict insertion of coarse location to only the first message").

[158] *See, e.g.*, CX360 Comments at 7 (urging the Commission to "ensure that the data is incorporated as soon as possible into text data flows" and arguing that "[d]oing so would allow carriers and other downstream parties to avoid having to mask more precise location data"); CX360 PN Comments at 9.

[159] *Supra* Section III.C.1 (discussing aggregation).

[160] Intrado Comments at 5-6 (arguing that "without the TCC performing [queries for location], the Lifeline Administrator could have access to the location for every device on the carrier's network").

[161] *See, e.g.*, *id.* at 8-9; Comtech Reply at 2-3. A Text Control Center (TCC) is a controlling functional element specified in a relevant standard for text-to-911. ATIS and Telecommunications Industry Association (TIA), Joint ATIS/TIA Native SMS/MMS Text to 9-1-1 Requirements and Architecture Specification – Release 2 at section 7.2.1 (May 2015), https://webstore.ansi.org/standards/atis/std110 (ATIS/TIA J-STD-110.v002). The TCC has the responsibility to "(1) convert various protocols and act as a gateway; (2) request location that may be used for routing; (3) request routing instructions; and (4) initiate a dialogue with the [Public Safety Answering Point (PSAP)] through the appropriate interworking function of the TCC. When the TCC receives an initial text message, it obtains location from the [location server]. It then uses that location to obtain routing instructions from the [routing server]. Then, the TCC converts the text message to an appropriate protocol and initiates a dialogue with the PSAP (via the emergency services network) through the appropriate interworking function of the TCC." *Id.*

Commission emphasized in the *988 Georouting Third Further Notice*, SAMHSA, the agency with oversight of the Lifeline Administrator, must ultimately determine the routing data that it will deem acceptable for the Lifeline's system to process.[162] In its comments, the current Lifeline Administrator strongly advises against georouting solutions that leverage text-to-911 infrastructure due to concerns about required modifications to the Lifeline's network and unknown costs and implementation time.[163]

45. While several commenters argue that text-to-911-based georouting solutions could provide benefits for text-to-988 georouting,[164] we are convinced by the record that adopting such proposals at this time would be contrary to our goal of ensuring that georouting is available for 988 text messages without delay. For example, AT&T and CX360 argue that georouting solutions that utilize TCCs introduce an unnecessary "point of failure"[165] and require modifications of the Lifeline's system.[166] The record also raises concerns that using a system designed for 911 in the context of 988 may have a chilling effect due to differing privacy expectations.[167] Several commenters also argue that georouting solutions based on text-to-911 infrastructure may compromise privacy due to access to, and potential inadvertent disclosure of, precise location information.[168] Based on our review of the record, and given the concerns raised by commenters regarding implementation delays and the potential chilling effects associated with using geolocation data in the context of 988,[169] we find that expanding our requirements to allow text-to-911-based georouting solutions is unwarranted at this time. Nevertheless, we encourage all industry stakeholders and the Lifeline Administrator to actively collaborate on the development and

[162] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11867-68, para. 85.

[163] Vibrant PN Comments at 4 ("Due to the limitations of text-to-911 infrastructure and the need for network modifications, we strongly advise against using a georouting solution that directly depends on this system.").

[164] *See, e.g.*, Comtech Reply at 2-3; Intrado Reply at 2-3.

[165] AT&T Reply at 3 (stating that "the proposal to use a [TCC] to receive and send georouting data to the Lifeline with the 988 text message would introduce an unnecessary point of failure"); CX360 PN Comments at 12 (agreeing with AT&T). *But see* Intrado PN Comments at 6 (arguing that "TCCs . . . are carrier grade, georedundant, and fault tolerant with a proven 'five nines' track record of availability").

[166] AT&T Reply at 10 (discussing text-to-911-based georouting solutions and stating that "significant development work would be needed to modify that design to accommodate the Lifeline's needs"); CX360 Reply at 12 (urging the Commission to "reject proposed solutions modeled on text-to-911 georouting that would require redesigning the 988 Lifeline"); Intrado Comments at 6-7 (acknowledging that "the Lifeline and its aggregator would need to modify their systems to decode" a new proprietary parameter within the SMPP message to implement a text-to-911-based georouting solution).

[167] Vibrant PN Reply at 3 ("[T]he georouting solutions under consideration should be designed separately from the text-to-911 infrastructure to preserve the unique privacy expectations of the 988 Lifeline."); *see also* CX360 PN Comments at 9.

[168] *See, e.g.*, CX360 PN Comments at 10 (expressing concern a "TCC may receive *precise* location data from wireless carriers for . . . text messages"); *id.* at 12 (stating that "if a TCC fails to convert precise location information into FIPS codes, the precise location data of a person seeking help from the 988 Lifeline could be inadvertently transmitted throughout the 988 Lifeline network"); EPIC-WA PN Comments at 8 (arguing that Intrado's proposed "dither option for obscuring location data . . . runs the risk of the stripping not occurring").

[169] CX360 PN Comments at 3 (expressing concern that Intrado's proposed text-to-988 georouting solutions could deter help-seekers from using the Lifeline); Vibrant PN Reply at 3 ("[T]he georouting solutions under consideration should be designed separately from the text-to-911 infrastructure to preserve the unique privacy expectations of the 988 Lifeline."); *see also* Accessibility Organizations Comments at 8; LA County DMH Comments at 3; NAMI Comments at 3-4; Reimagine Crisis Comments at 2; NAMI May 5, 2025 *Ex Parte* at 2 (all emphasizing the need to expeditiously implement georouting solutions for 988 text messages).

improvement of georouting solutions that protect privacy and are compatible with the Lifeline's system.[170]

46. *Direct Routing.* We also decline to adopt proposals that would bypass the Lifeline's initial direct and centralized routing platform.[171] CPAC recommends an alternative approach to georouting solutions that focuses on providing local crisis centers with "resources necessary to allow them to welcome calls and texts directly," arguing that this would improve the routing of 988 contacts while prioritizing confidentiality.[172] The Commission previously concluded that the Lifeline's centralized routing process provides numerous benefits, including faster implementation, reduced routing costs, and improved service.[173] In the *988 Georouting Third Further Notice*, the Commission also declined to seek comment on text-to-988 georouting solutions that would bypass the Lifeline's centralized routing platform.[174]

47. The record reflects significant support for retaining the Lifeline's existing centralized routing structure.[175] In particular, we are persuaded by commenters that the centralized routing system plays a critical role in managing the capacity of crisis centers, routing text messages to the national back-up center, and minimizing technical burdens placed on crisis centers.[176] As the Lifeline Administrator states, the centralized structure facilitates network monitoring to resolve "any potential issues that arise" and helps ensure that text messages are "routed efficiently to the appropriate crisis contact center."[177] CX360 adds that this structure allows the "Lifeline Administrator to balance text volumes within a certain geographic area to minimize response times," helping to connect text users "to the resources they need . . . if a crisis center is particularly busy."[178] CTIA and CX360 similarly agree that proposals to bypass the Lifeline's centralized routing system "should remain outside the scope of this proceeding."[179] Based on our review of the record, and consistent with the Commission's proposal and previous conclusions, we find that the benefits of maintaining the Lifeline's centralized routing system greatly exceed the costs of localized routing at this time.

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[170] Intrado Comments at 2, n.5 (urging the "Lifeline Administrator and carriers to include the TCC operators" in their collaborative efforts to develop a consensus-based text-to-988 georouting solution).

[171] *See* CPAC Reply at 7.

[172] *See id.*

[173] *See 988 First Report and Order*, 35 FCC Rcd at 7395, para. 42; *988 Georouting Third Report and Order*, 39 FCC Rcd at 11842-43, paras. 32-33.

[174] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11865-66, para. 82.

[175] *See, e.g.*, CTIA PN Comments at 3-4 ("Georouting solutions for text-to-988 will also need to support the centralized routing of 988 texts to the Lifeline."); CX360 Comments at 9 ("[T[he centralized routing structure of the 988 Lifeline . . . should be maintained."); AT&T Reply at 2 (stating that "any rules . . . should support centralized routing of 988 text messages by the Lifeline, which is critical to successful routing"); CTIA Reply at 6 ("[T]he record confirms that georouting solutions must retain the central role of the national Lifeline."); CX360 Reply at 2 (expressing support for georouting solutions that "preserve the centralized structure of the 988 Lifeline").

[176] *See, e.g.*, CTIA PN Comments at 4 ("The Lifeline's ability to route text messages to geographically appropriate local crisis centers while retaining the ability to route 988 calls and texts to the national crisis centers in a backup capacity or to specialized sub-networks . . . is both a legal and practical requirement."); Vibrant Comments at 1-2 (describing the Lifeline's process for balancing text volume); CX360 Comments at 9 (stating that "centralized routing allow[s] the 988 Lifeline Administrator to work more directly with SAMHSA to manage the 988 Lifeline and ensure calls are properly handled"); *id.* (asserting that centralized routing "will support the nationwide rollout of text-to-988 georouting once solutions are implemented"); *see also* AT&T Reply at 8-9; CTIA Reply at 6.

[177] Vibrant PN Comments at 4-5.

[178] CX360 Comments at 11.

[179] CTIA Comments at 6 (agreeing that proposals to bypass "the initial direct and centralized routing system of the Lifeline should remain outside the scope for this proceeding"); CX360 Reply at 6 (same).

48. *Specialized Service Lines*. We decline to take specific action to apply our text-to-988 georouting requirements to the Lifeline's specialized service lines. Currently, when an individual texts 988 they are provided options to redirect to specialized service lines, for example, veterans and service members are redirected to text "838255" to reach the Veterans Crisis Line.[180] The record indicates that individual crisis centers have varying capacities to provide specialized services, which complicates the Lifeline's ability to consistently connect text users with an appropriate local crisis center that handles specialized services.[181] Moreover, we believe that our federal partners at SAMHSA and the VA are best positioned to evaluate the benefits and challenges of using georouting data for specialized service lines.

D. Implementation Time Frame

49. In order to support industry efforts to develop efficient and effective text georouting solutions for the Lifeline, we grant nationwide covered text providers a period of 18 months, and non-nationwide covered text providers a period of 36 months, following the effective date of this *Fourth Report and Order* in which to comply with the rules we adopt today. We find that this compliance window appropriately balances the need to expeditiously implement 988 text georouting with the burdens on providers of developing the necessary routing systems. In the *988 Georouting Third Further Notice*, the Commission proposed a uniform implementation deadline of six months from the effective date of the rules.[182] In response, a broad cross-section of stakeholders submitted arguments that additional time would be needed to sufficiently identify and implement georouting solutions for text-to-988.[183] Commenters emphasized that efforts to identify georouting solutions for text-to-988 compatible with the Lifeline's centralized routing system are in the early stages of development and encourage the Commission to allow for its discovery phase, which could take approximately six to 12 months, to develop without regulatory impediment.[184] The Lifeline Administrator also expects to "leverage its established relationship with industry stakeholders to expedite the georouting process for text messages."[185] We anticipate that the flexible and technology-neutral landscape that our rules provide will allow industry stakeholders sufficient time to complete their collaborative efforts to identify an industry-

[180] *See* SAMHSA, *988 Frequently Asked Questions*, *What happens when I text 988?*, https://www.samhsa.gov/mental-health/988/faqs (last visited June 30, 2025). Individuals may also text "AYUDA" to connect with a Spanish-speaking crisis counselor. *Id.*

[181] *See, e.g.*, NAMI Comments at 3 (stating that "specialized services are not currently available through every call center within the 988 Lifeline network, and Veterans Crisis Line calls and texts are answered by the [VA]").

[182] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11868-69, para. 88.

[183] *See, e.g.*, Vibrant Comments at 4 (stating that "Vibrant must assess the current landscape of text message providers in collaboration with stakeholders" to identify solutions and "develop[], validat[e], and verif[y] a proof of concept"); AT&T Reply at 11-13 (arguing that "six months is simply not enough time to perform all the work needed to implement georouting for text messages" and suggesting that "a timeline of 18 months from the effective date of the new rules would better reflect reality").

[184] CTIA Comments at 5-6 ("Georouting solutions for text-to-988 are still in early stages of evaluation and development, and the Commission should ensure that any regulations it considers do not impede wireless providers and the Lifeline's ability to follow this successful playbook and begin providing georouting data with texts to 988 to as many people in crisis as soon as possible."). *See also* CCA Comments at 5-6; CX360 Comments at 2-3; AT&T Reply at 5-6; CTIA Reply at 8-9. The record indicates that the Lifeline Administrator plans to conduct a "discovery" pilot with its vendor and nationwide wireless providers in 2025 to identify, develop, and test text-to-988 georouting solutions, and that it expects the process to take approximately six to 12 months. Vibrant Comments at 4-5. As such, we disagree with the assertion by the Crisis Text Line that we should not adopt rules requiring text-to-988 georouting because "the length of time required to develop [such] a georouting solution is [] unknown." Crisis Text Line June 28, 2024 Comments at 3.

[185] Vibrant Comments at 5.

based consensus technical solution for text-to-988 georouting.[186]

50. We therefore agree with those commenters who argue that a longer compliance period than that proposed in the *988 Georouting Third Further Notice* is warranted.[187] In particular, we note that, at the time the Commission adopted the *988 Georouting Third Report and Order*, the nationwide providers were nearing the end of their collaboration with the Lifeline Administrator to develop and test voice georouting solutions. The *988 Georouting Third Report and Order's* expedited implementation time frame for nationwide providers reflected this fact.[188] Here, however, the development of technical solutions for text-to-988 georouting remains in its early stages.[189] We recognize the critical need for time and resources to develop and test solutions, and to account for on-going collaboration amongst the Lifeline Administrator, SAMHSA, providers, and 988 Lifeline vendors. The rules we adopt today allow for this process to proceed while at the same time providing certainty that providers should keep working toward a specific completion date. We therefore grant an extended compliance time frame of 18 months for nationwide providers to reflect the time necessary to complete the discovery phase and subsequently implement its findings.

51. Additionally, commenters called for additional time for non-nationwide providers to account for the fact that the *988 Georouting Third Report and Order* grants those providers until December 2026 to implement georouting for voice calls to 988. For instance, RWA and Intrado emphasize the burden that imposing overlapping compliance deadlines would have on small and rural service providers and recommend the Commission impose a 36-month compliance time frame for non-nationwide providers.[190] We agree with these commenters that the georouting text-to-988 requirement deadline should not be earlier than the deadline for voice-to-988 georouting.[191] To account for non-nationwide providers' on-going efforts to comply with our voice-to-988 georouting implementation requirement, we require non-nationwide providers to comply with our 988 text georouting requirements within 36 months following the effective date of this *Fourth Report and Order*, which, as RWA explains, should allow non-nationwide providers a sufficient compliance period.[192] Based on the record, we are

[186] *See* CTIA Comments at 4 (urging the Commission to "allow wireless providers and the Lifeline to complete their collaborative efforts to identify consensus-based technical solutions before considering any regulatory obligations or timelines for implementation"); CX360 Comments at 5 (urging the Commission to "allow industry to continue exploring . . . options and permit industry to develop an appropriate solution based on the specific needs of the 988 Lifeline and help seekers"); *see also* AT&T Reply at 6; Comtech Reply at 4.

[187] *See, e.g.*, CTIA Comments at 5-7; AT&T Reply at 11; Vibrant Comments at 4-5.

[188] *See, e.g.*, AT&T Reply at 11 ("While wireless providers implemented georouting for 988 *calls* within a six-month timeline, that effort was, as discussed above, the culmination of many months of collaboration. We are not afforded that amount of preliminary work here.").

[189] *See* CX360 Comments at 7-8; Vibrant Comments at 4-5; Vibrant PN Comments at 4; CX360 Reply at 15-17.

[190] RWA Comments at 3 ("The FCC is currently requiring small rural non-nationwide CMRS providers to implement georouting for all 988 calls by December 14, 2026, and requiring small rural non-nationwide CMRS providers to implement location-based routing for all wireless 911 voice calls and real-time text communications to 911 nationwide by May 13, 2026. Having multiple implementation deadlines for routing of 988 and 911 calls and text messages is likely to create confusion among affected CMRS providers and thus create unnecessary burdens for such providers."); *id.* at 4-5 (advocating for the Commission to provide non-nationwide providers with 36 months to comply with text georouting requirements); Intrado Reply at 7-8 (asserting that georouting for text-to-988 implementation requirements "should not be earlier than the deadline for georouting 988 voice calls").

[191] Non-nationwide providers must comply with the *988 Georouting Third Report and Order* by December 14, 2026. *WCB 988 Georouting Compliance Dates Public Notice*.

[192] RWA Comments at 4-5 ("Allowing small rural non-nationwide CMRS providers additional time for compliance will afford such CMRS providers sufficient time to absorb the capital and maintenance costs required to implement a 988 georouting solution. Thus, if the FCC adopts the proposed mandate, it should provide small rural non-

(continued….)

confident that our extended compliance deadline will provide sufficient time for non-nationwide service providers to implement 988 text georouting solutions.[193]

52. We recognize that the effectiveness of text-to-988 georouting benefits from public awareness. To support this, we encourage all stakeholders involved in the delivery and operation of 988 text georouting to engage in outreach that informs the public about the availability and purpose of georouting solutions. Additionally, we direct the Consumer and Governmental Affairs Bureau, in coordination with the Bureau and our federal partners at SAMHSA and the VA, to develop and publish a consumer-facing guide promoting awareness around 988 and access to local crisis services, and what consumers should expect when utilizing text messaging to reach the 988 Lifeline.

E. Additional Proposals

53. In response to the *988 Georouting Third Further Notice* and *988 Text Georouting Privacy Public Notice* commenters raise a number of other issues related to georouting for 988 texts, including proposals related to privacy and data protection protocols, user consent, direct video calling (DVC), 911-988 interoperability, and cost recovery for service providers. As discussed below, we decline to adopt these proposals in this *Fourth Report and Order*.

54. *Privacy and Data Protection Protocols.* We decline to adopt specific data privacy and cybersecurity requirements with respect to our text-to-988 rules in this *Fourth Report and Order*, beyond adopting rules requiring that georouting data is aggregated so that it cannot identify the precise location of the individual contacting the 988 Lifeline.[194] In the *988 Text Georouting Privacy Public Notice*, the Bureau noted that privacy and cybersecurity are critical elements in ensuring that individuals contacting the 988 Lifeline have confidence in the program and trust that their identity will remain anonymous.[195] The Bureau therefore sought comment on "any data handling protocols and policies that . . . should be in place to protect the privacy and confidentiality of 988 texters" and on whether to adopt any "additional privacy measures . . . to prevent unintended chilling effects as the Commission continues to enhance the 988 Lifeline through georouting capabilities[.]"[196]

55. The record in this proceeding, including that developed in response to the *988 Text Georouting Privacy Public Notice*, highlights the importance of safeguarding user privacy in developing georouting solutions for texts to 988.[197] As discussed above, we find that our approach to 988 text

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nationwide CMRS providers 36 months to comply with the proposed georouting mandate for 988 text messages. This additional time will result in better planning, testing, and smoother deployment.").

[193] CTIA Comments at 7 (arguing that given the nascent stage of development, a six-month deadline for georouting text-to-988 could lead to incongruous results for non-nationwide providers). We decline a request by CTIA that we "delegate authority to the Wireline Competition Bureau to waive or stay the implementation deadlines" we adopt in this item. *See* Letter from Christiaan Segura, Assistant Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336, at 2 (filed July 15, 2025) (stating that it is "hopeful that the 18-month timeline for nationwide providers [to implement text georouting solutions] will be sufficient" but requesting a provision under which the Bureau would monitor the development process and provide additional time for compliance, if warranted). As discussed above, we find that the 18- and 36-month deadlines we adopt today will provide ample time for nationwide and non-nationwide providers, respectively, to develop and deploy text-to-988 georouting solutions. Nevertheless, we note that providers may seek a waiver of these deadlines, if necessary, under the Commission's existing rules. *See* 47 CFR § 1.3 (providing that the Commission's rules may be waived for "good cause shown").

[194] *See supra* Section III.B & C.

[195] *988 Text Georouting Privacy Public Notice* at 6.

[196] *Id.*

[197] *See, e.g.*, Reimagine Crisis PN Comments at 2 ("Ensuring that 988 can continue to offer confidential services to everyone is critical because . . . nearly two-thirds (63%) of American adults are more likely to contact 988 if they
(continued….)

georouting, which relies on coarse location data rather than the precise location of the user's handset, provides an essential, built-in privacy protection for 988 users.[198] We find that this approach obviates the need for additional data protection requirements, which may provide less reliable privacy protection, or require regulating the conduct of entities outside of the Commission's jurisdiction.[199]

56. As several commenters observe, our approach to 988 text georouting mirrors that successfully deployed by the Commission regarding georouting for 988 voice calls.[200] By requiring covered text providers to aggregate location data to a level that does not identify the location of the cell site or base station receiving the 988 text or otherwise identify the precise location of the handset, we ensure that the Lifeline does not receive sensitive location data that may reveal a user's precise location.[201] This "privacy by design" architecture provides significant benefits compared with a system in which more sensitive user data is transmitted by providers to downstream entities that may have varying data security protocols and privacy protections.[202]

57. We also decline to require an informed consent mechanism for georouting text-to-988. While comments submitted by CPAC and EPIC-WA argue that informed consent is necessary and vital to the success of the 988 Lifeline, we conclude that the parameters of our rules effectively minimize the level of personal information transmitted with 988 text messages.[203] Nevertheless, we acknowledge the critical importance of enabling 988 text users to provide meaningful consent and therefore strongly

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believe their call will be anonymous. Establishing trust in the 988 Lifeline is essential to ensuring that people in crisis are not discouraged from using the service when they need it most."); Vibrant Jan. 16, 2025 *Ex Parte* at 2 ("We agree with several other organizations that any georouting solution for text messages must preserve the confidentiality of the user's location and use only the data necessary for proper routing."). *See also* EPIC-WA PN Comments 7-8; CPAC Foundation's Center for Regulatory Freedom Reply, WC Docket No. 18-336, at 3-4 (filed Apr. 18, 2025) (CPAC PN Reply).

[198] *See supra* Section III.C.1 (discussing aggregation); *see also* BRETSA PN Comments at 5-6 (noting that "*routing* 988 calls or texts based upon the caller's location [would not] appear to violate a caller's privacy" and that "[d]ue to funding requirements, 988 Call Centers must serve a minimum population and corresponding area, and routing of calls should not involve human intervention").

[199] *See* EPIC-WA PN Comments at 8-9 (observing that "the more entities that have access to data, the greater the risk of that data being misused" and arguing "the opportunities to obtain unauthorized access to that data are significantly reduced by [ensuring that] data collection and sharing can be restricted and aggregated earlier in the process"); *see also* CX360 PN Comments at 4; CX360 PN Reply at 5-6.

[200] *See* Vibrant Jan 16, 2025 *Ex Parte* at 2 ("We acknowledge these concerns regarding access to help seekers' physical location. However, similar to the georouting solution for voice calls, we do not anticipate that the georouting solution for text messages will involve access to a user's exact physical location. Instead, Vibrant is likely to employ a georouting solution that directs text messages to the closest crisis center with capacity, based on broader geographic data. This solution will likely use similar or identical boundaries to those developed during the proof of concept for voice calls, which minimizes user-specific data. . . . As with voice calls, where they were previously routed by area code and now through georouting, crisis counselors do not have access to an individual's precise location.").

[201] *See id.*

[202] *See* ABHW PN Comments at 2 (arguing that "georouting solutions for text messages should only use [county]-level data, not an individual's precise location" which "will minimize user-specific data collection while connecting texters to their nearest 988 Lifeline crisis center"); BRETSA PN Comments at 5 ("988 caller privacy is ultimately more dependent upon the ethical conduct of the 988 counselors assisting the callers through one-on-one conversations, in which the caller may disclose identifying information as well as medical and mental health information."); EPIC-WA PN Comments at 8-9.

[203] CPAC Reply at 8 (arguing that the Commission should "prioritize the privacy and informed consent of citizens over total statistical accuracy in the coordination and deployment of crisis resources"); EPIC-WA PN Comments at 3-4 (emphasizing the importance of informed consent).

encourage SAMHSA and the Lifeline Administrator to ensure that text users can easily access disclosures about the Lifeline's use of georouting data. We agree that text users contacting the 988 Lifeline should have a high expectation of privacy. We also agree that texters should be made aware of the implications of contacting the Lifeline, particularly as it relates to the collection and use of georouting data.

58. However, we disagree that mandating an informed consent mechanism prior to engaging with the 988 Lifeline will have a net positive impact on individuals seeking help. On the contrary, we find that an informed consent mechanism may have a detrimental impact on the efficacy of the 988 Lifeline and may serve as a barrier to life saving resources.[204] Specifically, we are persuaded by arguments submitted by NAMI, a mental health subject matter expert, that the introduction of an express consent mechanism may be confusing to those in crisis, have unintended deterrent consequences, and undermine confidence in the 988 Lifeline.[205] On balance, we conclude that the benefits of georouting texts to 988 far outweigh the attendant privacy risks. As detailed above, our approach to georouting inherently safeguards individual privacy by precluding the transmission by service providers of precise location data.[206] We also note that our decision not to require a specific consent mechanism in connection with the rules we adopt today is consistent with the Commission's approach in adopting voice-to-988 georouting requirements.[207]

59. *Direct Video Calling*. We decline, at this time, to expand the present proceeding to include Direct Video Calling (DVC). Accessibility advocates submitted comments in support of georouting requirements for text-to-988 and advocated for similar requirements for DVC.[208] We agree with comments submitted by the Accessibility Organizations that georouting 988 text messages will ensure individuals who are deaf, hard of hearing, or with a speech disability have access to local resources and we conclude such requirements should be implemented without undue delay.[209] In addition to text-to-988, individuals who are deaf, hard of hearing, or have a speech disability may contact the 988 Lifeline

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[204] Erin McIntyre Comments at 1 (Express) (questioning the effectiveness of an informed mechanism for minors contacting the 988 Lifeline and whether minors could legally provide consent without guardian approval); CX360 PN Reply at 4-5 ("Although CX360 agrees with EPIC that individuals in crisis are unlikely to use valuable supportive resources if they are afraid that their privacy may be at risk, EPIC goes too far in suggesting that location information should only be provided if express prior consent from a help seeker is obtained. Not only would obtaining express prior consent from each individual help seeker be administratively challenging, but it could also raise concerns and claims related to whether meaningful consent can be provided by an individual experiencing a mental health crisis. Moreover, as CX360 previously explained, county-level FIPS codes, unlike precise location data, are sufficiently *imprecise* to preserve a help seeker's privacy, obviating the need for express prior consent to collect precise location data.").

[205] NAMI May 5, 2025 *Ex Parte* at 1 ("Regarding a potential opt-in provision for calls made to the 988 Lifeline by those in crisis may discourage trust that their request for help is not confidential. Primarily, there is a belief that the 988 call center is confidential and protects the privacy of those who seek help without requiring them to opt-in. A potential opt-in provision can be confusing and lead to apprehension about what they may be opting in to.").

[206] *See* BRETSA PN Comments at 5.

[207] *See 988 Georouting Third Report and Order*, 39 FCC Rcd at 11859, para. 68.

[208] Accessibility Organizations Comments at 10-11 (urging the Commission "to expand this proceeding to seek comment on, and adopt a requirement for georouting for 988 communications made via Direct Video Calling (DVC). With DVC, people who use American Sign Language (ASL) as their primary means of communication can make video calls over IP-based networks to communicate directly and in real-time with ASL-fluent call takers—in this instance, 988 responders who have been trained to handle the sensitive and urgent calls that come into their centers.").

[209] *See id.* at 3 ("This step is critical for ensuring parity between text-based and voice-based access to the 988 Lifeline. Effective georouting enables text messages to be directed to the most appropriate crisis center, ensuring equitable and effective access to crisis services so that individuals in need can receive faster and more appropriate support.").

through 988 Videophone by dialing 988 with a videophone number.[210] Expanding the scope of our rules to cover DVC may delay implementation of this capability by imposing additional burdens on the Lifeline Administrator and wireless providers as they continue to collaborate on georouting solutions for text-to-988, as well as non-nationwide providers continuing to work to implement georouting solutions for 988 calls. In order to avoid any resulting delays in the adoption of georouting solutions for voice calls and texts to 988, we decline at this time to expand the scope of this proceeding to include DVC.

60. *911-988 Interoperability.* We received comments from BRETSA urging us to consider issues pertaining to the interoperability between the 988 Lifeline and 911 services.[211] For example, BRETSA argues that integrating 911 and the 988 Lifeline's systems may be necessary to support the transfer of both emergency and non-emergency call and text messages.[212] As discussed above, we decline at this time to extend the scope of our requirements to georouting solutions that leverage text-to-911-based infrastructure and TCCs as intermediaries for routing purposes.[213] While we recognize the importance of effectively connecting individuals to both 911 and 988, we find that proposals specifically concerning 911-988 interoperability fall outside the scope of this proceeding and therefore we decline to address them further here.

61. *Cost Recovery.* We decline to adopt RWA's proposal that we establish "a funding mechanism that could at least partly subsidize the efforts of small rural non-nationwide CMRS providers."[214] RWA estimates that georouting solutions for 988 calls and text messages could increase monthly subscriber costs for small rural non-nationwide CMRS providers by $4.00 to $5.00 and asserts that one of its members reported receiving an estimate of $2,000 to $2,500 per month for implementation costs.[215] RWA also asserts that Universal Service Fund recipients "must keep their pricing comparable" to nationwide providers, and argues that passing implementation costs onto customers will cause competitive harm to small rural non-nationwide providers.[216] The Commission did not propose any cost recovery mechanisms in the *988 Georouting Second Further Notice* or the *988 Georouting Third Further Notice*.[217] Moreover, as explained below, we find that the benefits of the text-to-988 georouting requirements we adopt today outweigh the costs to covered text providers.[218] To reduce any costs and burdens on non-nationwide providers, we provide non-nationwide covered text providers 36 months to comply with our requirements, as specifically requested by RWA.[219] Additionally, we expect that our flexible, technology-neutral approach will minimize costs and burdens on non-nationwide providers, and we encourage them to collaborate with our federal partners at SAMHSA to identify georouting solutions best suited for their networks.

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[210] 988 Suicide & Crisis Lifeline, *Deaf, Hard of Hearing, Hearing Loss*, https://988lifeline.org/deaf-hard-of-hearing-hearing-loss/ (last visited June 30, 2025).

[211] *See* BRETSA PN Comments at 4-5.

[212] *Id.*

[213] *See supra* Section III.C.2 (discussing text-to-911-based georouting solutions).

[214] RWA Comments at 5.

[215] *Id.* at 3 & n.14.

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

[217] *See generally 988 Georouting Second Further Notice*, 39 FCC Rcd 4443; *988 Georouting Third Further Notice*, 39 FCC Rcd 11823.

[218] *See infra* Section III.G, Benefits and Costs.

[219] RWA Comments at 4-5.

F. Legal Authority

62. Consistent with our tentative conclusion in the *988 Georouting Third Further Notice*,[220] we find that Title III of the Act and the 21st Century Communications and Video Accessibility Act of 2010 (CVAA) provide authority to adopt the rules we promulgate today. We note that no commenter questioned this analysis.

63. As the United States Supreme Court has long recognized, Title III grants the Commission a "comprehensive mandate" regarding regulation of spectrum usage,[221] and courts have routinely found that Title III provides the Commission with "broad authority to manage spectrum . . . in the public interest."[222] We find that requiring CMRS providers to implement georouting for 988 text messages will likely accrue significant public interest benefits by connecting text users with more localized public safety and counseling resources that could save lives.[223] Therefore, we conclude that Title III provides sufficient authority for the text-to-988 georouting rules we adopt today with respect to CMRS providers.

64. We also find that the CVAA provides authority to require interconnected text providers to implement georouting for 988 text messages. The CVAA grants us authority to adopt "other regulations . . . as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible."[224] The Commission previously concluded in the *Text-to-988 Second Report and Order* that the 988 Lifeline constitutes an "emergency network" under the CVAA, and that text-to-988 provides access to emergency services for individuals with disabilities, including those with hearing or speech disabilities.[225] We find that georouting for 988 text messages will further improve access to the Lifeline for people with disabilities. As the Accessibility Organizations argue, text-to-988 georouting will "advance access to emergency services for people who are deaf, hard of hearing, and speech-disabled."[226] As explained above, the record demonstrates that implementing the text-to-988 georouting requirements adopted in this *Fourth Report and Order* will be both achievable and technically feasible for covered text providers.[227] We therefore conclude that the CVAA provides additional authority for the rules we adopt today, and the record reflects agreement with our analysis.[228]

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[220] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11869, para. 90 (citing *Text-to-988 Second Report and Order*, 36 FCC Rcd at 16933, para. 54 (citing 47 U.S.C. §§ 303(b), 303(r), 307, 309(a), 316(a)).

[221] *See Nat'l Broad Co. v. United States*, 319 U.S. 190, 219 (1943).

[222] *See, e.g.*, *Cellco Partnership v. FCC*, 700 F.3d 534, 537, 541 (D.C. Cir. 2012) (upholding the Commission's authority to rely on Title III provisions to impose data roaming rules and acknowledging that Title III provides the Commission "broad authority to manage spectrum . . . in the public interest").

[223] *Infra* Section III.G, Benefits and Costs.

[224] 47 U.S.C. § 615c(g).

[225] *Text-to-988 Second Report and Order*, 36 FCC Rcd at 16933-34, para. 55.

[226] Accessibility Organizations Comments at 15; *see also* NAMI Comments at 4 ("People with hearing and speech disabilities rely on text as a form of communication, making text messaging an essential part of emergency communication for this community.").

[227] *See supra* paras. 32-33 and 41-43 (addressing technical considerations and technical feasibility).

[228] *See* Accessibility Organizations Comments at 15 (agreeing that the Commission has authority under the CVAA "to adopt rules requiring covered text providers to deliver georouting data with 988 text messages"); CTIA Comments at 5 & n.9 ("The Commission's Title III and CVAA authorities likely provide sufficient authority for the proposed rules."); NAMI Comments at 4 (agreeing that the Commission has authority under "Title III of the Act and the [CVAA], to adopt rules requiring covered text providers to deliver georouting data with covered 988 text messages").

G. Benefits and Costs

65. We find that the benefits of text-to-988 georouting are far in excess of expected implementation costs. We estimate that the suicide mortality reduction benefits alone exceed the industry-wide implementation costs of one solution identified in the record by a factor of three. This estimate does not include the additional benefits of reduced hospitalizations and emergency room visits, and improved quality-of-life from the impact of our rules on a reduction in suicide attempts, nor the unquantifiable benefits of sparing families and communities from the trauma of losing their loved ones. Below we discuss the expected benefits and costs of our rules.

66. *Benefits.* In the *988 Georouting Third Further Notice*, we estimated that text-to-988 might generate a modest mortality-risk reduction of 0.28 youth suicides annually, for which Americans would collectively be willing to pay $3.5 million annually and a total of $16.5 million over five years.[229] The highly text-reliant youth population was chosen to illustrate a lower-bound estimate of text-to-988 georouting benefits, which are likely to increase substantially when mortality reductions for other demographic groups who may also text to 988 are considered. Upon review of the record and the full set of available data, we revise our estimated annual benefits from $3.5 million to $4.75 million.[230] This revision reflects both a downward adjustment based on record evidence indicating a lower likelihood of texts to 988 from youth under 17, and an upward adjustment resulting from the use of a complete year of

[229] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11871, para. 94.

[230] Because 988 was in effect for the entirety of calendar year 2023, we base our revised mortality-reduction benefits estimate on the full year of available suicide data. We update two assumptions for our benefits estimate. First, we reduce our estimate of the fraction of youth 17-and-under who might text instead of call 988 from 50% to 33%. *See infra* para. 68. Second, we increase the estimate of youth suicide victims to 1,604 based on the 2023 full-year data. CDC WISQARS database query, https://wisqars.cdc.gov/reports/?o=MORT&y1=2023&y2=2023&t=0&i=2&m=20810&g=00&me=0&s=0&r=0&ry=2&e=0&yp=65&a=custom&g1=0&g2=199&a1=0&a2=17&r1=INTENT&r2=NONE&r3=NONE&r4=NONE (last visited June 30, 2025) (query parameters data year = 2023, injury outcome = fatal, intent = self-harm, mechanism = all causes, geography = United States, sex = all sexes, and age = <1 to 17). Using the 14% misrouting rate, these assumptions imply that a total of 75 (=1,604×0.14×33%) youth suicides among those 17-and-under were vulnerable to misrouting. *See 988 Georouting Third Further Notice*, 39 FCC Rcd at 11870, para. 93 & n.344 (citing Crisis Text Line June 28, 2024 Comments at 2). Approximately 3%, or 2.25 (=.03×1,604×0.14×33%), of the youth who are vulnerable to misrouting could have benefited from a locally tailored intervention, which the comment record indicates are often either only available or more quickly available to those in distress when summoned by a local crisis counselor. *See id.* at 11871, para. 94; LA DMH Comments at 1; NAMI Comments at 1. In short, local interventions amount to time savings. Assuming proper georouting resulted in a 17% reduction in mortality attributable to a one-minute time savings from a faster-arriving, more effective emergency intervention, we estimate that superior local, emergency interventions could have reduced total suicide mortality by 0.38 (=0.17×0.03×1,604×0.14×33%) each year. *911 LBR Report and Order*, 39 FCC Rcd at 578, para. 118 (citing *Location-Based Routing for Wireless 911 Calls*, PS Docket No. 18-64, Notice of Proposed Rulemaking, 37 FCC Rcd 15183, 15206-07, para. 61 & n.161 (2022)); *see also* Elizabeth Ty Wilde, Do Emergency Medical System Response Times Matter for Health Outcomes?, 22(7) Health Econ. 790-806 (2013), http://www.ncbi.nlm.nih.gov/pubmed/22700368 (the study examined 73,706 emergency incidents during 2001 in the Salt Lake City area and study finds that the one-minute increase in response time caused mortality to increase 17% at 90 days past the initial incidence). While we do not attempt to place a value on human life, we note that the amount consumers are willing to pay to reduce mortality risk is approximately $12.5 million, using a methodology developed by the U.S. Department of Transportation (DOT) that we have relied on in past orders. *See, e.g.*, *911 LBR Report and Order*, 39 FCC Rcd at 578, para. 118 (citing the value of $12.5 million in 2022 based on U.S. DOT, *Departmental Guidance on Valuation of a Statistical Life in Economic Analysis* (Mar. 4, 2022), https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis (the valuation of a statistical life was updated to $13.7 million for base year 2024) (last updated May 28, 2025)). We estimate the annual mortality risk reduction for which society would be collectively willing to pay is $4.75 million (=0.38×$12.5 million). *See infra* note 236 (discussion of Bayesian estimation).

youth suicide mortality data. Our prior estimate was based on partial 2022 data and therefore underestimated the full-year annual benefits.[231]

67. CPAC offers two comments on the FCC's methodology for estimating the benefits of text-to-988 georouting. First, CPAC raises the possibility of benefits overestimation by cautioning that "SAMHSA reporting reveals that less than 2% of 988 Lifeline contacts require emergency intervention or connection to emergency services. Contrary to the FCC's assumption, [CPAC argues] SAMSHA data indicates that only a very small fraction of calls made to 988 are likely to result in suicide attempts."[232] We disagree with CPAC's characterization of our estimation. Contrary to its assertion, our analysis does not begin with the pool of youths entertaining suicidal thoughts, known as suicidal ideation, then fail to reduce that pool correctly to the 2% needing emergency intervention. Rather, we begin with the substantially smaller set of actual youth suicides—individuals who, by definition, would have required emergency intervention and are therefore properly included in SAMSHA's 2%—to derive our estimated reduction in suicide mortality. Accordingly, we reject CPAC's assertion that our approach overestimates benefits.

68. Second, CPAC correctly states that SMS text messaging accounts for only 17% of all 988 exchanges.[233] However, that fact alone does not preclude youth under 17 from relying heavily on text-to-988 traffic volume. Indeed, the AFSP-cited 2022 study found that "over [three-quarters] of texts to the Crisis Text Line in one 12-month period were initiated by individuals under the age of 25."[234] Moreover, data from Los Angeles County's local 988 call center show that youth under 25 make up 31% of all 988 contacts and 60% of all 988 text message contacts.[235] Using Bayes' Theorem, we estimate that the probability of a young person contacting the 988 Lifeline through text rather than call is between 33 and 41 percent.[236] Consequently, taking CPAC's argument into consideration, we adjust downward our previous estimate of the likelihood of a person under 17 contacting the 988 Lifeline through text from 50% to 33% so as to be conservative with our estimation of benefits.[237]

69. In another comment regarding our estimation methodology, which partly rests on the Crisis Text Line's claim that 3% of 988 contacts require a local emergency intervention,[238] the Crisis Text Line clarifies that it is not aware "of evidence to support the assumption that georouting for [text-to-988] would result in faster emergency service responses to suicidal contacts, or a decreased number of completed suicides" or "empirical evidence that connecting a texter with a counselor in their local area would be more likely to save their lives (or save more lives) than connecting them with counselors outside their area with access to their local resources and/or national resources."[239] Other commenters,

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[231] *Supra* note 230.

[232] CPAC Reply at 5.

[233] *Id.* at 4; *see also* SAMHSA, *988 Lifeline Performance Metrics*, https://www.samhsa.gov/mental-health/988/performance-metrics (last visited July 21, 2025) (noting that the Lifeline routed 2,902,182 text messages and 16,454,891 total contacts since the launch of 988 in July 2022).

[234] AFSP June 27, 2024 Comments at 3 (citing Anthony R. Pisani et al., *Individuals Who Text Crisis Text Line: Key Characteristics and Opportunities for Suicide Prevention. Suicide and Life-Threatening Behavior*, 52 Suicide Life Threat Behav., 567–582 (2022), https://doi.org/10.1111/sltb.12872).

[235] LA County DMH Comments at 2-3.

[236] P(text|Age<25)=(P(Age<25|text)*P(text))/P(Age<25) = (60%*17%)/31% or (75%*17%)/31% = 33% or 41%, depending on which statistic for P(Age<25|text) is used.

[237] While our 33% estimate is based on available data for youth under 25 rather than youth under 17, we believe this approach is conservative as it is likely that youth under 17 rely even more heavily on text messaging.

[238] Crisis Text Line June 28, 2024 Comments at 2.

[239] Crisis Text Line Nov. 20, 2024 *Ex Parte* at 1-2.

however, proffer evidence as to the mortality-reducing benefits of local interventions. Los Angeles County, the country's most populous county with nearly 10 million people,[240] succinctly captures the life-threatening risks of not accessing local interventions: "[f]irst, residents connected to an out-of-area call center may speak with an agent unfamiliar with local resources, such as Psychiatric [Urgent Care Centers'] clinic appointments. Second, even if the agent is familiar with the County's [specially trained] [Field Intervention Team] program [which could be deployed to the caller's location], the referral and response would be delayed since out-of-area call centers do not have a direct referral process. Third, the potential misrouting of calls can be damaging to our residents' confidence in 988."[241] NAMI polling found that "52% of individuals are more likely to contact 988 in a crisis if they are connected to a crisis counselor in their state/local area."[242] We therefore confirm our previous assessment that local georouting not only enhances public trust in 988, making those in distress more likely to call, but also increases the effectiveness of interventions.

70. Text-to-988 confers other quantifiable benefits for which we previously elected not to estimate a monetary value in the *988 Georouting Third Further Notice*. The largest is the savings in medical, lost-work, and lost-quality-of-life costs of suicide attempts. In 2023, the 82,787 hospitalizations[243] and 63,604 emergency department visits[244] necessitated by acts of self-harm committed by youth 17-and-under cost society a combined total of $7.95 billion in medical expenses, value of lost work, and diminished quality of life.[245] Although we cannot attribute a precise reduction in suicide attempts to text-to-988 georouting, even a modest one-in-one-thousand reduction in suicide attempts would yield annual, societal cost savings of $7.95 million attributable to text-to-988 georouting, which sums to a net present value of $36.4 million over five years.[246]

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[240] Cathy Le and George M. Hayward, *How Counties That Have Topped One Million Population Have Changed Over Time*, U.S. Census Bureau (Mar. 17, 2025), https://www.census.gov/library/stories/2025/03/million-person-counties.html (noting that Los Angeles County had a population of 9,757,179 in 2024 and was the nation's "most populous million-person county from 1970 to 2024").

[241] LA County DMH Comments at 2.

[242] NAMI Comments at 1.

[243] Centers for Disease Control and Prevention Web-based Injury Statistics Query and Reporting System (CDC WISQARS) database query, https://wisqars.cdc.gov/cost/?y=2023&o=HOSP&i=2&m=3000&g=00&s=0&u=TOTAL&u=AVG&t=COMBO&t=MED&t=LIFE&t=WORK&a=custom&g1=0&g2=199&a1=0&a2=17&r1=NONE&r2=NONE&r3=NONE&r4=NONE (last visited June 30, 2025).

[244] CDC WISQARS database query, https://wisqars.cdc.gov/cost/?y=2023&o=TAR&i=2&m=3000&g=00&s=0&u=TOTAL&u=AVG&t=COMBO&t=MED&t=LIFE&t=WORK&a=custom&g1=0&g2=199&a1=0&a2=24&r1=NONE&r2=INTENT&r3=NONE&r4=NONE (last visited June 30, 2025).

[245] $7.95 = $6.4 billion costs of hospitalizations + $1.55 costs of emergency room visits. CDC WISQARS, Cost of Injury, Hospitalizations, https://wisqars.cdc.gov/cost/?y=2023&o=HOSP&i=2&m=3000&g=00&s=0&u=TOTAL&u=AVG&t=COMBO&t=MED&t=LIFE&t=WORK&a=custom&g1=0&g2=199&a1=0&a2=17&r1=NONE&r2=NONE&r3=NONE&r4=NONE&c1=NONE&c2=NONE (last visited June 30, 2025); CDC WISQARS, Cost of Injury, Emergency Department Visits: Treated and Released, https://wisqars.cdc.gov/cost/?y=2023&o=TAR&i=2&m=3000&g=00&s=0&u=TOTAL&u=AVG&t=COMBO&t=MED&t=LIFE&t=WORK&a=custom&g1=0&g2=199&a1=0&a2=17&r1=NONE&r2=INTENT&r3=NONE&r4=NONE&c1=NONE&c2=NONE (last visited June 30, 2025).

[246] $7.95 million=$7,950,000,000/1,000. $7.95 million discounted over 5 years at 3% yields $36.4 million. Using a 3% discount rate that reflects the social rate of time preference. *See* OMB Circular A-4, 2003, https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4.

71. Finally, no discussion of the benefits of suicide reduction would be complete without mentioning the vast, unquantifiable benefit of sparing victims' families, friends, and communities the emotional devastation of losing their youngest members to suicide. Losing youth deprives communities of the future: In calendar year 2023 alone, the 1,604 suicides among youth 17-and-under resulted in a cumulative loss of 79,884 years of life expectancy prior to the age of 65,[247] typically the most productive years for work, childbearing, and social engagement—years whose absence is profoundly felt by their surviving families, friends, and communities.[248]

72. *Costs.* In the absence of conclusive cost data, the *988 Georouting Third Further Notice* sought to resolve competing claims about the cost and difficulty of implementing georouting solutions for text-to-988.[249] RWA responded that 988 georouting solutions, including calls and texts, could cost RWA member carriers $4-$5 per subscriber per month.[250] The support for that cost estimate is one RWA member, which reports receiving an estimate of $2,000-$2,500 per month to implement 988 georouting.[251] RWA's cost anecdote raises several issues. First, RWA commingles both voice-to-988 and text-to-988 georouting, obscuring the individual cost of each georouting capability. Accurately assessing the costs of each routing capability would require a disentangling of costs. Second, RWA's cost estimate may not represent RWA's typical member. The RWA member in question would have had only 500 subscribers for the 988 georouting solution to average $4-$5 per subscriber per month, placing this RWA member in RWA's smallest membership-size tier.[252] Larger carriers would enjoy the average-cost-reducing benefits of scale. Finally, RWA's cost estimate fails to demonstrate a prohibitive cost burden for wireless carriers overall, as certain vendors have indicated that a large share of the costs would be fixed implementation costs for facilities-based CMRS providers with a low marginal cost of georouting an individual text.[253] Number Resource Utilization/Forecast data indicate that there are 57 facilities-based wireless carriers in

[247] CDC WISQARS database query, https://wisqars.cdc.gov/reports/?o=MORT&y1=2023&y2=2023&t=0&i=2&m=20810&g=00&me=0&s=0&r=0&ry=2&e=0&yp=65&a=custom&g1=0&g2=199&a1=0&a2=17&r1=INTENT&r2=NONE&r3=NONE&r4=NONE (last visited June 30, 2025).

[248] Studies and data suggest that the years prior to age 45 are the most fruitful in many ways. Between 2021 and 2023, peak average fertility for American women occurred between the ages of 20 and 39. *See* March of Dimes, PeriStats Births, https://www.marchofdimes.org/peristats/data?reg=99&top=2&stop=2&lev=1&slev=1&obj=1 (last visited June 30, 2025). For men, mean paternal age is 30.9 years. *See* Yash S. Khandwala et al., The Age of Fathers in the USA Is Rising: An Analysis of 168,867,480 Births from 1972 to 2015, 32(10) Hum. Reprod. 2110-2116 (2017), https://academic.oup.com/humrep/article/32/10/2110/4096427?login=false. The literature on productivity suggests that work productivity peaks between ages 35 and 44. *See* Vegard Skirbekk, Age and Productivity Potential: A New Approach Based on Ability Levels and Industry-Wide Task Demand, in *Population, Aging, Human Capital Accumulation, and Productivity Growth* 191-207, 34 Population & Dev. Rev. (2008), JSTOR, https://www.jstor.org/stable/25434764?read-now=1&seq=1#page_scan_tab_contents. Psychologists tell us that social networks, one barometer of social engagement, plateau between the mid-20s and early 30s and continually decrease throughout adulthood and old age. *See* Cornelius Wrzus et al., Social Network Changes and Life Events Across the Lifespan: A Meta-Analysis, 139(1) Psychol. Bull. 532-80 (2013), https://psycnet.apa.org/fulltext/2012-13785-001.html.

[249] *988 Georouting Third Further Notice*, 39 FCC Rcd at 11872-73, para. 97.

[250] RWA Comments at 3.

[251] *Id.* at 3 & n.14.

[252] RWA, *Why Join RWA?*, https://ruralwireless.org/membership/ (last visited June 30, 2025).

[253] *See* CX360 Comments at 6; AT&T Reply at 8-9 (supporting continued reliance on the Lifeline's centralized routing structure such that any text-to-988 solution utilizes the existing infrastructure to the greatest extent possible); *see also* CTIA Comments at 2 (arguing that "technology-neutral and flexible regulations . . . enable providers and the Lifeline to maximize current technology and network configurations").

the United States.[254] Focusing on facilities-based wireless carriers that would incur the costs of any network upgrades provides a reasonable annual implementation cost estimate of one available solution for the entire wireless industry of $1.71 million (=$2,500×57×12). Even doubling this industry-wide estimate for a single solution would still result in implementation costs well below the expected benefits of our rules. In addition, the compliance deadlines of 18 months for nationwide providers and 36 months for non-nationwide providers following the effective date of this *Fourth Report and Order* will allow providers to manage implementation costs.

73. Providers are currently developing viable text-to-988 georouting solutions. For example, CX360 states that it "is already collaborating with the Lifeline Administrator, wireless carriers and other 988 stakeholders to develop and identify an appropriate text-to-988 georouting solution."[255] Many of these collaborations are voluntary.[256] Several commenters urge the Commission to refrain from prescribing the specific text-to-988 georouting solution or the timing of its adoption.[257] Permitting flexibility makes the adoption of cost-effective text-to-988 solutions more likely. Without prescribing any single text-to-988 georouting solution, we find no evidence in the record to suggest that the costs associated with implementing text-to-988 georouting solutions are likely to be prohibitive. Indeed, the industry-wide text-to-988 implementation costs of one solution identified in the record are far below the estimated benefits.

IV. PROCEDURAL MATTERS

74. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),[258] 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."[259] Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule and policy changes contained in this *Fourth Report and Order* on small entities. The FRFA is set forth in Appendix B.

75. *Paperwork Reduction Act.* This document does not contain new or substantively modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. §§ 3501-3521. 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, 44 U.S.C. § 3506(c)(4).

76. *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 *Fourth Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

77. *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 & Governmental Affairs Bureau at 202-418-0530 (voice).

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[254] Staff analysis of Numbering Resource Utilization and Forecast (NRUF) data. *See* 47 CFR § 52.15.

[255] CX360 Comments at 2-3; CX360 Reply at 9-10.

[256] CTIA Comments at 2; CTIA Reply at 9.

[257] AT&T Reply at 5-6; CTIA Reply at 5, 9; CX360 Reply at 3-4.

[258] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[259] *Id.* § 605(b).

78. *Additional Information*. For additional information on this proceeding, contact Merry Wulff, Wireline Competition Bureau, Competition Policy Division, at Merry.Wulff@fcc.gov or (202) 418-1084.

V. ORDERING CLAUSES

79. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4, 301, 303, 307, 309(a), 316, 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 301, 303, 307, 309(a), 316, 332, and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 47 U.S.C. § 615c, this *Fourth Report and Order* IS ADOPTED.[260]

80. IT IS FURTHER ORDERED that Part 52 of the Commission's rules IS AMENDED as set forth in Appendix A, and such rule amendment will become effective 30 days after publication in the Federal Register.

81. IT IS FURTHER ORDERED that the Commission's Office of the Secretary SHALL SEND a copy of this *Fourth Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

82. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance and Program Management, SHALL SEND a copy of this *Fourth Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[260] Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 20, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 68708 (Dec. 28, 1993).

APPENDIX A

Final Rules

The Federal Communications Commission amends part 52 of Title 47 of the Code of Federal Regulations as follows:

PART 52 □ NUMBERING

1. The authority citation for part 52 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 155, 201-205, 207-209, 218, 225-227, 251-252, 271, 303, 332, unless otherwise noted.

2. Amend § 52.201 by revising paragraph (b) to read as follows:

§ 52.201 Texting to the National Suicide Prevention and Mental Health Crisis Hotline

* * * * *

(b) *Access to SMS networks for 988 text messages*. To the extent that Commercial Mobile Radio Service (CMRS) providers offer Short Message Service (SMS), they shall allow access by any other covered text provider to the capabilities necessary for transmission of 988 text messages originating on such other covered text providers' application services.

* * * * *

3. Add § 52.203 to read as follows:

§ 52.203 Georouting of Text Messages to the National Suicide Prevention and Mental Health Crisis Hotline.

(a) *Georouting*. All covered text providers must:

(1) Have the capability to provide georouting data for covered 988 text messages to the Lifeline Administrator in a format that is compatible with the Lifeline's routing platform, to allow routing of the 988 text message by the Lifeline Administrator to the appropriate crisis center based on the geographic area where the handset is located at the time the 988 text is initiated.

(2) Provide georouting data, when available, for covered 988 text messages to the Lifeline Administrator sufficient to allow routing of the 988 text message by the Lifeline Administrator to the appropriate crisis center based on the geographic area where the handset is located at the time the 988 text message is initiated.

(b) *Definitions*. For the purposes of this section:

(1) *Covered 988 text message* has the same definition as found in § 52.201;

(2) *Covered text provider* has the same definition as found in § 52.201;

(3) *Georouting data* means location data generated from cell-based location technology that is aggregated to a level that will not identify the location of the cell site or base station receiving the 988 text message or otherwise identify the precise location of the handset.

(4) *Lifeline Administrator* has the same definition as found in § 52.202;

(5) *Nationwide CMRS provider* has the same definition as found in § 52.202; and

(6) *Non-nationwide CMRS provider* has the same definition as found in § 52.202.

(c) *Compliance*.

(1) Covered text providers that are nationwide CMRS providers shall provide georouting data for 988 text messages in accordance with paragraph (a) of this section by 18 months after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(2) All covered text providers, including non-nationwide CMRS providers, shall provide georouting data for 988 text messages in accordance with paragraph (a) of this section by 36 months after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

APPENDIX B

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Implementation of the National Suicide Hotline Improvement Act of 2018 Third Further Notice of Proposed Rulemaking* (*988 Georouting Third Further Notice*), released in October 2024.[2] The Commission sought written public comment on the proposals in the *988 Georouting Third Further Notice*, including comment on the IFRA. The comments received are addressed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Rules

2. In the *Fourth Report and Order*, we require covered text providers to develop and implement georouting solutions for 988 text messages. Based on our review of the record, we find that requiring providers to implement a georouting solution for 988 text messages is essential to improving access to the Lifeline's critical mental health crisis and suicide prevention services. The record overwhelming supports the conclusion that georouting for 988 text messages will help connect individuals with more geographically appropriate crisis centers that may have a better understanding of available local resources and unique community stressors.[4] Additionally, as several commenters emphasize, achieving routing parity with voice calls will help to minimize inconsistencies in service quality that may discourage individuals from seeking help, further increasing trust in the 988 Lifeline.[5]

3. In the *Fourth Report and Order*, we adopt a two-part requirement designed to enhance the Lifeline's ability to connect text users to geographically appropriate crisis centers, while safeguarding the critical privacy interests of individuals seeking life-saving assistance. To enable routing of covered 988 text messages by the Lifeline Administrator to the appropriate crisis center based on the geographic area where the handset is located at the time the text message is initiated, we require small and other covered text providers to: (1) develop the capability to transmit georouting data in a format that is compatible with the Lifeline's system; and (2) provide such georouting data for 988 text messages, when available, to the Lifeline Administrator. In adopting these rules, we support voluntary efforts to identify

[1] 5 U.S.C. §§ 601 *et seq*., as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

[2] *Implementation of the National Suicide Hotline Act of 2018*, WC Docket 18-336, Third Report and Order and Third Further Notice of Proposed Rulemaking, 39 FCC Rcd 11823, Appx. C (2024).

[3] 5 U.S.C. § 604.

[4] *See, e.g.*, Association for Behavioral Health and Wellness (ABHW) Comments at 1; CTIA Comments at 7; Steve Alanzo Comments at 1 (filed on behalf of the International Association of Fire Chiefs) (IAFC Comments); *see also, e.g.*, Accessibility Organizations Comments at 2-3; American Foundation for Suicide Prevention Comments at 1 (AFSP Comments); Boulder Emergency Telephone Service Authority (BRETSA) PN Comments at 2-3; CX 360 Comments at 4; Intrado Comments at 1; County of Los Angeles Department of Mental Health Comments (LA County DMH Comments) at 1; National Alliance on Mental Illness (NAMI) Comments at 1-2; Reimagine Crisis Comments at 1-2; Trevor Project Comments at 2; Vibrant Comments at 5-6; AT&T Reply at 1; Comtech Reply at 2; Letter from Crisis Text Line to Jessica Rosenworcel, Former Chairwoman, FCC, WC Docket No. 18-336, at 1-2 (filed Nov. 20, 2024).

[5] *See, e.g.*, Accessibility Organizations Comments at 3; Letter from Michael McMenamin, Counsel, Winning Strategies Washington, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336, at 1 (filed May 5, 2025) (NAMI May 5, 2025 *Ex Parte*); *see also* AFSP Comments at 2; CX360 Comments at 4; LA County DMH Comments at 3; NAMI Comments at 1-2; Reimagine Crisis Comments at 1-2; Vibrant Comments at 5-6; AT&T Reply at 6.

and develop industry-based georouting solutions for 988 text messages by providing a flexible, technology-neutral framework for our requirements. In order to facilitate ongoing efforts to develop 988 text georouting capabilities, while providing flexibility for smaller providers, we adopt an implementation time frame of 18 months for nationwide providers, and 36 months for non-nationwide providers.

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

4. Comments regarding the impact of the rules on small entities were filed by the Rural Wireless Association (RWA).[6] RWA expressed concerns that the Commission's proposed mandate to georoute 988 text messages would disproportionately increase costs for small rural non-nationwide Commercial Mobile Radio Service (CMRS) providers and advocated for the Commission to allow non-nationwide providers to implement georouting voluntarily.[7] RWA further suggested that, should the Commission decide to require providers to implement georouting for 988 text messages, the Commission should: "(1) provide small rural non-nationwide CMRS providers at least 36 months to comply with such mandate; and (2) allocate funds to subsidize small rural non-nationwide CMRS providers' efforts to comply with the mandate."[8] The *Fourth Report and Order* addresses RWA's comments by adopting a technology-neutral framework and providing non-nationwide providers with 36 months to comply with the georouting requirements, as specifically requested by RWA. As discussed in section F below, the Commission declines to adopt RWA's proposals to allow non-nationwide carriers to implement georouting on a voluntary basis or to subsidize efforts for small covered text providers to comply.

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,[9] the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and provide a detailed statement of any change made to the proposed rules as a result of those comments.[10] The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

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.[11] The RFA generally defines the term "small entity" as having the same meaning as under the Small Business Act.[12] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act."[13] A "small business concern" is one which: (1) is independently owned and

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[6] RWA Comments at 1-4.

[7] *Id.* at 2-4.

[8] *Id.* at 2.

[9] Small Business Jobs Act of 2010, Pub. L. No. 111-240, 124 Stat. 2504 (2010).

[10] 5 U.S.C. § 604 (a)(3).

[11] *Id.* § 604 (a)(4).

[12] *Id.* § 601(6).

[13] *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."

operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[14]

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 three broad groups of small entities that could be directly affected by our actions.[15] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, in general, a small business is an independent business having fewer than 500 employees.[16] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.[17] Next, "small organizations" are not-for-profit enterprises that are independently owned and operated and not dominant their field.[18] While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.[19] Finally, "small governmental jurisdictions" are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand.[20] Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.[21]

8. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.[22] 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.[23] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[24] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[25]

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[14] 15 U.S.C. § 632.

[15] 5 U.S.C. § 601(3)-(6).

[16] *See* SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

[17] *Id*.

[18] 5 U.S.C. § 601(4).

[19] *See* SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/.

[20] 5 U.S.C. § 601(5).

[21] *See* U.S. Census Bureau, 2022 Census of Governments –Organization, https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html, tables 1-11.

[22] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[23] *Id.*

[24] *Id.*

[25] 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, (continued….)

9. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[26] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[27] Of this number, 2,964 firms operated with fewer than 250 employees.[28] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 4,682 providers that reported they were engaged in the provision of fixed local services.[29] Of these providers, the Commission estimates that 4,276 providers have 1,500 or fewer employees.[30] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

10. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers[31] is the closest industry with an SBA small business size standard.[32] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[33] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[34] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[35] Of this number, 2,964 firms operated with fewer than 250 employees.[36] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, in 2023 there were 4,904 providers that reported they were fixed local exchange service providers.[37] Of these providers, the Commission estimates that 4,493 providers have 1,500 or fewer

(Continued from previous page)
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.

[26] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[27] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[28] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[29] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[30] *Id.*

[31] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[32] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[33] 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.

[34] *Id.*

[35] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[36] *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.

employees.[38] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

11. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers[39] is the closest industry with an SBA small business size standard.[40] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[41] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[42] Of this number, 2,964 firms operated with fewer than 250 employees.[43] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 1,175 providers that reported they were incumbent local exchange service providers.[44] Of these providers, the Commission estimates that 917 providers have 1,500 or fewer employees.[45] Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

12. *Competitive Local Exchange Carriers (CLECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.[46] Wired Telecommunications Carriers[47] 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.[48] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[49] Of this number, 2,964 firms operated with fewer than

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[37] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[38] *Id.*

[39] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[40] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[41] *Id.*

[42] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[43] *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.

[44] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[45] *Id.*

[46] 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.

[47] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[48] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[49] *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,

(continued….)

250 employees.[50] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 3,729 providers that reported they were competitive local service providers.[51] Of these providers, the Commission estimates that 3,576 providers have 1,500 or fewer employees.[52] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

13. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers[53] is the closest industry with a SBA small business size standard.[54] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[55] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[56] Of this number, 2,964 firms operated with fewer than 250 employees.[57] 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.[58] Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

14. *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.[59] 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.[60] Establishments in this industry resell telecommunications; they

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https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[50] *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.

[51] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[52] *Id.*

[53] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[54] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[55] *Id.*

[56] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[57] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[58] 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.

[59] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[60] *Id.*

do not operate transmission facilities and infrastructure.[61] Mobile virtual network operators (MVNOs) are included in this industry.[62] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[63] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[64] Of that number, 1,375 firms operated with fewer than 250 employees.[65] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 222 providers that reported they were engaged in the provision of local resale services.[66] Of these providers, the Commission estimates that 217providers have 1,500 or fewer employees.[67] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

15. *Toll Resellers*. Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers[68] 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.[69] Mobile virtual network operators (MVNOs) are included in this industry.[70] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[71] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[72] Of that number, 1,375 firms operated with fewer than 250 employees.[73] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 411 providers that reported they were engaged

[61] *Id*.

[62] *Id*.

[63] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[64] *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. At this time, the 2022 Economic Census data is not available.

[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.

[66] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[67] *Id.*

[68] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[69] *Id.*

[70] *Id*.

[71] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[72] *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. At this time, the 2022 Economic Census data is not available.

[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.

in the provision of toll services.[74] Of these providers, the Commission estimates that 398 providers have 1,500 or fewer employees.[75] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *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[76] is the closest industry with a SBA small business size standard.[77] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[78] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[79] Of this number, 2,964 firms operated with fewer than 250 employees.[80] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 74 providers that reported they were engaged in the provision of other toll services.[81] Of these providers, the Commission estimates that 71 providers have 1,500 or fewer employees.[82] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

17. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. Telecommunications Resellers[83] 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.[84] Mobile virtual network operators (MVNOs) are included in this industry.[85] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer

[74] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[75] *Id.*

[76] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[77] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[78] *Id.*

[79] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[80] *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.

[81] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[82] *Id.*

[83] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[84] *Id.*

[85] *Id*.

employees.[86] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[87] Of that number, 1,375 firms operated with fewer than 250 employees.[88] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 47 providers that reported they were engaged in the provision of prepaid card services.[89] Of these providers, the Commission estimates that 47 providers have 1,500 or fewer employees.[90] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

18. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[91] 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.[92] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[93] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[94] Of that number, 2,837 firms employed fewer than 250 employees.[95] Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, in 2023 there were 585 providers that reported they were engaged in the provision of wireless services.[96] Of these providers, the Commission estimates that 498 providers have 1,500 or fewer employees.[97] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

19. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of

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[86] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[87] *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. At this time, the 2022 Economic Census data is not available.

[88] *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.

[89] 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.

[90] *Id.*

[91] *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.

[92] *Id.*

[93] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[94] *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. At this time, the 2022 Economic Census data is not available.

[95] *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.

[96] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2024), https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf.

[97] *Id.*

programs on a subscription or fee basis.[98] The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources.[99] The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[100] The SBA small business size standard for this industry classifies firms with annual receipts less than $47 million as small.[101] Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year.[102] Of that number, 149 firms operated with revenue of less than $25 million a year and 44 firms operated with revenue of $25 million or more.[103] Based on this data, the Commission estimates that a majority of firms in this industry are small.

20. *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.[104] Based on industry data, there are about 420 cable companies in the U.S.[105] Of these, only seven have more than 400,000 subscribers.[106] In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.[107] Based on industry data, there are about 4,139 cable systems (headends) in the U.S.[108] Of these, about 639 have more than 15,000 subscribers.[109] Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

21. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as

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[98] *See* U.S. Census Bureau, *2017 NAICS Definition, "515210 Cable and Other Subscription Programming,"* https://www.census.gov/naics/?input=515210&year=2017&details=515210.

[99] *Id.*

[100] *Id.*

[101] *See* 13 CFR § 121.201, NAICS Code 515210 (as of 10/1/22, NAICS Code 516210).

[102] *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 515210, https://data.census.gov/cedsci/table?y=2017&n=515210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available. The US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies (see Cell Notes for this category).

[103] *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 all categories of revenue less than $500,000 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

[104] 47 CFR § 76.901(d).

[105] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[106] 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).

[107] 47 CFR § 76.901(c).

[108] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[109] S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022).

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."[110] 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.[111] Based on industry data, only six cable system operators have more than 498,000 subscribers.[112] Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[113] 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.

22. *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.[114] 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.[115] 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.[116] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[117] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[118] Of those firms, 1,039 had revenue of less than $25 million.[119] Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be

[110] 47 U.S.C. § 543(m)(2).

[111] *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).

[112] 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).

[113] 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).

[114] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[115] *Id.*

[116] *Id*.

[117] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[118] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[119] *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.

considered small.

23. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing*. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.[120] Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.[121] The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small.[122] U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.[123] Of this number, 624 firms had fewer than 250 employees.[124] Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

24. *Semiconductor and Related Device Manufacturing*. This industry comprises establishments primarily engaged in manufacturing semiconductors and related solid state devices.[125] Examples of products made by these establishments are integrated circuits, memory chips, microprocessors, diodes, transistors, solar cells and other optoelectronic devices.[126] The SBA small business size standard for this industry classifies entities having 1,250 or fewer employees as small.[127] U.S. Census Bureau data for 2017 show that there were 729 firms in this industry that operated for the entire year.[128] Of this total, 673 firms operated with fewer than 250 employees.[129] Thus under the SBA size standard, the majority of firms in this industry can be considered small.

25. *Software Publishers.* This industry comprises establishments primarily engaged in computer software publishing or publishing and reproduction.[130] Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing

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[120] *See* U.S. Census Bureau, *2017 NAICS Definition, "334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,*" https://www.census.gov/naics/?input=334220&year=2017&details=334220.

[121] *Id*.

[122] *See* 13 CFR § 121.201, NAICS Code 334220.

[123] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 334220, https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[124] *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.

[125] *See* U.S. Census Bureau, *2017 NAICS Definition, "334413 Semiconductor and Related Device Manufacturing,"* https://www.census.gov/naics/?input=334413&year=2017&details=334413.

[126] *Id.*

[127] *See* 13 CFR § 121.201, NAICS Code 334413.

[128] *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 334413, https://data.census.gov/cedsci/table?y=2017&n=334413&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[129] *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.

[130] *See* U.S. Census Bureau, *2017 NAICS Definition, "511210 Software Publishers,"* https://www.census.gov/naics/?input=511210&year=2017&details=511210.

documentation, assisting in installation, and providing support services to software purchasers.[131] These establishments may design, develop, and publish, or publish only.[132] The SBA small business size standard for this industry classifies businesses having annual receipts of $47 million or less as small.[133] U.S. Census Bureau data for 2017 indicate that 7,842 firms in this industry operated for the entire year.[134] Of this number 7,226 firms had revenue of less than $25 million.[135] Based on this data, we conclude that a majority of firms in this industry are small.

26. *Internet Service Providers (Non-Broadband).* Internet access service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications.[136] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[137] For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[138] Of those firms, 1,039 had revenue of less than $25 million.[139] Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

27. *Wired Broadband Internet Access Service Providers (Wired ISPs)*.[140] Providers of wired broadband Internet access service include various types of providers except dial-up Internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules.[141] Wired broadband Internet services fall in the Wired

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[131] *Id.*

[132] *Id.*

[133] *See* 13 CFR § 121.201, NAICS Code 511210 (as of 10/1/22 NAICS Code 513210).

[134] *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 511210, https://data.census.gov/cedsci/table?y=2017&n=511210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[135] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. 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.

[136] *See* U.S. Census Bureau, *2017 NAICS Definition, "517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[137] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[138] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[139] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

[140] Formerly included in the scope of the Internet Service Providers (Broadband), Wired Telecommunications Carriers and All Other Telecommunications small entity industry descriptions.

[141] *See* 47 CFR § 1.7001(a)(1).

Telecommunications Carriers industry.[142] The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small.[143] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[144] Of this number, 2,964 firms operated with fewer than 250 employees.[145]

28. Additionally, according to Commission data on Internet access services as of June 30, 2024, nationwide there were approximately 2,204 providers of connections over 200 kbps in at least one direction using various wireline technologies.[146] The Commission does not collect data on the number of employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2024 Communications Marketplace Report*,[147] we believe that the majority of wireline Internet access service providers can be considered small entities.

29. *Wireless Broadband Internet Access Service Providers (Wireless ISPs or WISPs)*.[148] Providers of wireless broadband Internet access service include fixed and mobile wireless providers. The Commission defines a WISP as "[a] company that provides end-users with wireless access to the Internet[.]"[149] Wireless service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules.[150] Neither the SBA nor the Commission have developed a size standard specifically applicable to Wireless Broadband Internet Access Service Providers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite).[151] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer

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[142] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[143] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[144] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[145] *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.

[146] *See* Federal Communications Commission, Internet Access Services: Status as of June 30, 2024 at 40, Fig. 41 *(IAS Status 2024)*, Industry Analysis Division, Office of Economics & Analytics (May 2025). As of June 30, 2022, FCC Form 477 classifies all fixed wired connections into three mutually exclusive technology categories: (1) Copper Wire, (2) Coaxial Cable (hybrid fiber-coaxial), and (3) Optical Carrier (fiber to the premises). The report can be accessed at https://www.fcc.gov/economics-analytics/industry-analysis-division/iad-data-statistical-reports.

[147] *See Communications Marketplace Report*, GN Docket No. 24-119, FCC 24-136 at 6, paras. 12-13-27, Figs. II.A.1-3. (2024) (*2024 Communications Marketplace Report*).

[148] Formerly included in the scope of the Internet Service Providers (Broadband), Wireless Telecommunications Carriers (except Satellite) and All Other Telecommunications small entity industry descriptions.

[149] Federal Communications Commission, Internet Access Services: Status as of June 30, 2019 at 27, Fig. 30 *(IAS Status 2019)*, Industry Analysis Division, Office of Economics & Analytics (March 2022). The report can be accessed at https://www.fcc.gov/economics-analytics/industry-analysis-division/iad-data-statistical-reports.

[150] *See* 47 CFR § 1.7001(a)(1).

[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.

employees.[152] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[153] Of that number, 2,837 firms employed fewer than 250 employees.[154]

30. Additionally, according to Commission data on Internet access services as of June 30, 2024, nationwide there were approximately 1,157 fixed wireless and 52 mobile wireless providers of connections over 200 kbps in at least one direction.[155] The Commission does not collect data on the number of employees for providers of these services, therefore, we are not able to estimate the number of providers that would qualify as small. However, based on data in the Commission's *2024 Communications Marketplace Report* on the small number of large mobile wireless nationwide and regional facilities-based providers, the dozens of small regional facilities-based providers and the number of wireless mobile virtual network providers in general,[156] as well as on terrestrial fixed wireless broadband providers in general,[157] we believe that the majority of wireless Internet access service providers can be considered small entities.

31. *All Other Information Services.* This industry comprises establishments primarily engaged in providing other information services (except news syndicates, libraries, archives, Internet publishing and broadcasting, and Web search portals).[158] The SBA small business size standard for this industry classifies firms with annual receipts of $47 million or less as small.[159] U.S. Census Bureau data for 2017 show that there were 704 firms in this industry that operated for the entire year.[160] Of those firms, 556 had revenue of less than $25 million.[161] Consequently, we estimate that the majority of firms in this industry are small entities.

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[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*, *Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[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 IAS Status 2024,* Fig. 41.

[156] *See Communications Marketplace Report*, GN Docket No. 24-119, FCC 24-136 at 45 paras. 56-58. (2024) (*2024 Communications Marketplace Report*).

[157] *Id.* at 11, para. 18.

[158] *See* U.S. Census Bureau, *2017 NAICS Definition, "519190 All Other Information Services,"* https://www.census.gov/naics/?input=519190&year=2017&details=519190.

[159] *See* 13 CFR § 121.201, NAICS Code 519190 (as of 10/1/22, NAICS Codes 519290).

[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 519190, https://data.census.gov/cedsci/table?y=2017&n=519190&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[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 of less than $100,000 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in this category). Therefore, the number of firms revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

E. Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

32. The RFA directs agencies to describe the economic impact of the adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.[162]

33. *The Fourth Report and Order* adopts rules that require small and other covered 988 text providers to implement georouting solutions for 988 text messages sent in Short Message Service (SMS) format. Specifically, the *Fourth Report and Order* requires providers to develop the capability to transmit georouting data in a format that is compatible with the Lifeline system and to provide such georouting data for 988 text messages, when available, to the Lifeline Administrator. Small and other providers must provide georouting data with 988 messages sufficient to allow routing of the 988 text message by the Lifeline Administrator to the appropriate crisis center based on the geographic area where the handset is located at the time the 988 text message is sent. The *Fourth Report and Order* adopts a definition of georouting data consistent with that used in the *Third Report and Order*, and requires wireless providers to aggregate location data generated from cell-based location technology to a level that will not identify the location of the cell site or base station receiving the 988 text message or otherwise identify the precise location of the handset.

34. In the *Third Further Notice*, the Commission sought comment on the costs and benefits of deploying georouting solutions for text-to-988. We found issues with the cost estimates for small carriers provided by RWA because the data is based on a single carrier and commingles voice-to-988 and text-to-988 georouting. Nonetheless, in the *Fourth Report and Order* we acknowledge the operational limitations of small providers and the added cost georouting may impose, and sought to minimize compliance burdens where practicable. The *Fourth Report and Order* therefore, adopts technology-neutral rules that allow providers the flexibility to leverage georouting solutions identified by the Lifeline Administrator and industry partners. Additionally, the *Fourth Report and Order* adopts an extended time frame for non-nationwide providers, which includes smaller entities, to allow for more time to identify and implement georouting solutions for text-to-988. Non-nationwide covered text providers will have 36 months from the effective date of the order to implement georouting solutions, while nationwide covered text providers must comply within 18 months. The Commission finds that the estimated mortality-reducing public safety benefits resulting from the requirements adopted in the *Fourth Report and Order* far outweigh the anticipated implementation costs.[163]

F. Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

35. 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."[164]

36. The *Fourth Report and Order* considers comments that argue georouting solutions disproportionately impact small rural non-nationwide providers. Specifically, RWA argues that any mandate to require georouting for 988 text messages will have a disproportionately negative impact on small rural non-nationwide providers and therefore proposes several solutions which include: (1)

[162] 5 U.S.C. § 604(a)(5).

[163] *Fourth Report and Order* Section III.G.

[164] 5 U.S.C. §604(a)(6).

voluntary implementation requirements, (2) cost mitigation, and (3) an implementation time frame of 36 months.[165] The Commission acknowledges that small rural non-nationwide providers face operational and financial limitations. Therefore, we adopt rules that are designed to give covered providers, which include small providers, the flexibility to determine the best georouting solution to comply with these rules based on the needs of the provider's network.

37. The Commission concludes that a wholly voluntary implementation of georouting solutions undercuts the Commission's objective to deploy the benefits of georouting for 988 text messages in a timely manner and therefore declines to rely on voluntary implementation for small entities. The record strongly demonstrates that georouting 988 text message will provide significant benefits to individuals with disabilities, disproportionately impacted populations, and rural communities. Therefore, given the clear public interest benefits, we find that deployment and implementation of georouting solutions for 988 text messages should not be optional.

38. Some commenters propose that 988 text messages be sent in other formats and with precise location information. We consider but decline to adopt proposals that would require georouting for Multimedia Message Service (MMS) in favor of enabling the 988 Lifeline to leverage current SMS technology while developing solutions that could adapt to other messaging protocols in the future.[166] The Commission also considers but declines to require that precise location information be transmitted with 988 text messages,[167] and finds that aggregating location data at county-level or wire center boundaries will better protect users' privacy. Likewise, we decline to adopt proposals that would bypass the Lifeline's routing platform or apply the text-to-988 georouting to the Lifeline's specialized service lines because the record reflects that individual crisis centers have varied capability in their ability to provide specialized services.[168]

39. Further, the Commission declines to adopt RWA's proposed cost recovery provisions that seek to mitigate implementation costs of georouting 988 text messages. We expect that our flexible, technology-neutral approach will minimize costs and burdens on non-nationwide providers, and we encourage them to collaborate with our federal partners at SAMHSA to identify georouting solutions best suited for their networks. After consideration we additionally decline to adopt a number of additional proposals that would require specific privacy and cybersecurity requirements and informed consent mechanisms because they would have the negative effect of discouraging users from contacting the 988 Lifeline.[169] We also decline to expand these rules to Direct Video Calling (DVC) because doing so may result in implementation delays for georouting solutions, and users who are who are deaf, hard of hearing, or with a speech disability will benefit from having access to local resources using text-to-988.[170] In adopting these rules, we support voluntary efforts to identify and develop industry-based georouting solutions for 988 text messages by providing a flexible, technology-neutral framework for our requirements.

40. To provide small rural non-nationwide providers with added flexibility, the Commission adopts an implementation timeline of 36 months for non-nationwide providers, as proposed by RWA.

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[165] RWA Comments at 1-2.

[166] Intrado Reply at 3, n.6

[167] BRETSA PN Comments at 3.

[168] *Fourth Report and Order* Section III.C.2; CPAC Foundation's Center for Regulatory Freedom (CPAC) Reply at 7.

[169] *Fourth Report and Order* Section III.E; CPAC Reply at 8; Electronic Privacy Information Center and Wildflower Alliance Comments, WC Docket No. 18-336, at 3-4 (filed Apr. 3, 2025) (emphasizing the importance of informed consent).

[170] Accessibility Organizations Comments at 10-11.

This exceeds the six-month timeline originally proposed in the *988 Georouting Third Further Notice* and is twice as long as the 18-month timeline for nationwide providers. We anticipate the longer implementation timeline will enable small providers sufficient time to absorb capital and maintenance costs that are required to develop and implement georouting solutions for 988 text messages.

G. Report to Congress

41. The Commission will send a copy of the *Fourth Report and Order*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act.[171] In addition, the Commission will send a copy of the *Fourth Report and Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Fourth Report and Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the Federal Register.[172]

[171] 5 U.S.C. § 801(a)(1)(A).

[172] *Id.* § 604(b).

STATEMENT OF
CHAIRMAN BRENDAN CARR

Re: *Implementation of the National Suicide Hotline Act of 2018*, Fourth Report and Order, WC Docket No. 18-336 (July 24, 2025).

Three years ago last week, 988 went live as the new number for the National Suicide and Crisis Lifeline. Since its launch, 988 has received 16.5 million contacts, including 11.1 million calls, 2.9 million texts, and 2.4 million chats.

I have had the opportunity to hear from frontline workers how 988 has helped to change the trajectory of peoples' lives. A few years ago, I visited a call center that answers over 100,000 calls to 988 every year. There, I met with Janet, one of the counselors, and her talented team of call takers. They emphasized that an easy to remember, three-digit code has significantly improved the ability for those in need to access the Lifeline's critical services.

But during that visit, Janet and her team flagged some challenges with the Lifeline, too. Specifically, they asked me to push the FCC to route calls based on the caller's location—not their area code. With mobile phones and number portability, the number that people call from may have an area code that doesn't match their actual geographic area. That means that someone calling the Lifeline living in one state could have their call or text routed to a help center in a completely different part of the country. This matters because local crisis centers are often better suited to help Lifeline users during the initial point of contact and with follow-up care in their communities.

In 2024, the Commission came together, and we started to fix this problem. We made sure that calls to 988 were routed based on the caller's location and not their area code. Today, we are taking the next step in this effort by extending georouting to text messages, further improving the effectiveness of 988.

I'm committed to making sure that this life-saving resource is there for anyone who needs it, including some populations, like young people and deaf or hard-of-hearing populations who primarily rely on text messaging.

As we make this change, we also want to ensure that people aren't worried about their privacy, which may discourage someone from reaching out to 988. With this in mind, the rules we adopt today require text providers to route calls based on aggregated data that does not identify the precise location of the initiating handset. I am confident the step we take today will save more lives, consistent with what we've seen from the prior enhancements to 988.

For their great work on this item, I'd like to thank Joseph Calascione, Stacy Jordan, Eugene Kiselev, Jodie May, Robert Martin, Zach Ross, Cara Voth, Rachel Wehr, and Merry Wulff.

STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Implementation of the National Suicide Hotline Act of 2018,* WC Docket No. 18-336, Fourth Report and Order (July 24, 2025)

I'm glad that we are continuing the bipartisan progress that's been made through multiple Administrations to develop, support, and enhance the 988 Suicide Prevention Hotline.

This is the type of bipartisan issue I had hoped this agency would focus its efforts on during the last few months. However, I do feel the need to take a quick moment to share my concerns regarding the Administration's decision to strip away support for LGBTQ+ youth for the 988 Suicide Prevention Hotline.

Just last week, on July 17, young LGBTQ+ Americans stopped receiving this specialized support. That's a shameful stain on the legacy of an otherwise successful effort to help more Americans in crisis.

But it didn't have to be that way. This program has worked. Since its inception, it has provided life-saving crisis care to an estimated 1.5 million LGBTQ+ youth across the United States.

We know that this form of specialized support is still very much needed, just as it is for veterans and other groups. While they may still receive assistance from the general line, that may not be enough to help save their lives. As we know, LGBTQ+ young people are more than four times as likely to attempt suicide than their peers. If a gay teen is calling from a community where they do not feel safe, guess who will answer that call? Someone from that same community that may or may not have the understanding or the tools to help them. We recognized that for certain groups, like veterans and Spanish speakers. This was an important distinction, and we decided to provide targeted support. It should be no different for LGBTQ+ youth.

In the past, the FCC played an integral role in creating 988 and supporting all its programs so it could reach as many people as possible, regardless of their gender identity, sexual orientation, or political beliefs.

You might remember that it was in fact this President, under his first term, who signed the bipartisan legislation that created 988 into law. And a Republican-led FCC kickstarted the process to get 988 off the ground, with the previous Democratic Administration overseeing the expansion of services for the hotline.

This has always been about saving lives. It has always been about people, not politics. But now, this Administration is picking between those who deserve support versus those who don't. It is choosing to make callous, heartless decisions about who may live and who may die. Because that will be the end result of this action: young people in crisis will lose their lives.

Sadly, the cruelty doesn't end there. While the fever dream that was DOGE has temporarily abated, we are still seeing repeated attempts to cut government in ways that are short-sighted and detrimental to the mission of government agencies.

The Department of Health and Human Services is one of those agencies slated to restructure and dismantle bodies like the Substance Abuse and Mental Health Services Administration (SAMHSA), which the FCC references roughly fifteen times in this order.

That means that, should this Administration be successful in dismantling yet another vital government agency and chasing away the talented people that work there, there may be no one left to help implement the geo-routing changes we seek in this order. For that reason, I worked with the Chair to include language that would clarify that, in the event that SAMHSA is reorganized or its responsibilities

transferred, any successor agency will be expected to carry out the same 988-related duties without interruption. And to be clear, I sincerely hope it never comes to that.

Despite HHS already letting go of many talented federal employees at SAMHSA, the agency still has a mission to improve the quality and accessibility of mental health and substance abuse treatment and to connect those in crisis with lifesaving care and local support services. That work must continue. We cannot turn a blind eye to this pressing need. So, I am glad we are being sensible in this case to expect the best but prepare for the worst.

And finally, I also want to thank the Chair for working with my office on additional changes that highlight the need to continue to educate the public about how we're improving access and resources of the 988 lifeline. Everyone knows I'm a big advocate of consumer outreach and public awareness. It's the reason why I choose to speak in Spanish about certain consumer-focused actions we take.

So, I am glad we are not letting that important piece of the puzzle fall through the cracks and that the Consumer and Government Affairs Bureau here at the FCC will continue its important work, letting the public know how this FCC is working for them.

Thank you again to the Chair and the Bureau for their work on this item. It has my support.

STATEMENT OF
COMMISSIONER OLIVIA TRUSTY

Re: *Implementation of the National Suicide Hotline Act of 2018*, Fourth Report and Order, WC Docket No. 18-336 (July 24, 2025).

Today's society is more mobile than ever. For a variety of reasons, a person's telephone area code may no longer reflect where they actually live. People move for work, family, or opportunity, and often keep the same phone number even as they settle into new communities.

That is why, when someone is experiencing a mental health crisis, they should not be limited by their area code when they text 988 for help.

I am pleased to see the Commission continue its implementation of the National Suicide Hotline Improvement Act. I especially want to thank Chairman Carr and the Wireline Competition Bureau for advancing this important item, which will ensure that text messages to 988, just like telephone calls, are routed based on a person's general location, helping connect more people to the local support they need, when they need it most.

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

In the Matter of	)	
	)	
Applications for Consent to the Transfer of Control of Paramount Global	)	MB Docket No. 24-275
	)	
	)	LMS File Nos. 0000252521, et al.

MEMORANDUM OPINION AND ORDER

Adopted: July 24, 2025 **Released: July 24, 2025**

By the Commission: Commissioner Gomez dissenting and issuing a statement.

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APPENDIX – Paramount/Skydance Transfer Applications

I. INTRODUCTION

1. By this *Memorandum Opinion and Order*, we grant applications (Applications) seeking consent to the transfer of control of Paramount Global (Paramount) from the current parties controlling Paramount's single majority shareholder, National Amusements, Inc. (NAI), to certain investors in Skydance Media, LLC (Skydance), or their affiliates (collectively, the Applicants).[1] We also grant the

[1] The Appendix provides a complete list of the Applications and the subject broadcast television station licenses. The Applications are on file with the Federal Communications Commission (FCC or Commission), which can be found in the Commission's Licensing and Management System (LMS). In addition, the Applicants separately have filed applications for consent to the transfer of control of the earth station, microwave, and land mobile facilities held by Paramount's licensee subsidiaries (Licensees).

request for a continuing satellite waiver of the Commission's Local Television Multiple Ownership Rule[2] in the Minneapolis Nielsen Designated Market Area (DMA). After carefully and thoroughly reviewing the record, we find that there are no material public interest harms arising from the transaction. We further find that certain transaction-related public interest benefits are likely to be realized, based on Skydance's promised injection of new capital, thereby bolstering the operations of the CBS owned-and-operated broadcast television stations, and its reaffirmed commitment to localism, viewpoint diversity, and fair, unbiased, and fact-based reporting.

II. BACKGROUND

A. Description of Transaction

2. The proposed transfer of control (Transaction) will be effectuated through a series of successive steps, as a result of which Paramount and Skydance will become affiliates of each other and wholly-owned subsidiaries of a new public holding company, New Pluto Global, Inc. (New Paramount). NAI, which will have 100% of the voting interests in New Paramount, will be acquired by Pinnacle Media Ventures, LLC, Pinnacle Media Ventures II, LLC, and Pinnacle Media Ventures III, LLC (collectively, Pinnacle Media), entities owned and controlled by members of the Ellison family,[3] and RB Tentpole LP, a fund vehicle controlled by RedBird Capital Partners (RedBird).[4] Specifically, upon closing, the Skydance Consortium will hold 100% of the equity and voting interests in NAI, with Pinnacle Media expected to hold approximately 77.5% of such interests and RedBird expected to hold the remaining approximately 22.5% of such interests.[5] David Ellison, New Paramount's Chairman and CEO, is the sole manager of, and holds 64.5% of the voting interests in, the Ellison Family entities that control Pinnacle Media and, thus, NAI and New Paramount.[6] The remaining 35.5% of these voting interests is held by Sayonara, LLC (Sayonara), which is ultimately controlled by Larry Ellison through a revocable voting trust.[7] David Ellison and Sayonara have the right to designate the Ellison Family directors of NAI and New Paramount, in accordance with these voting percentages.[8]

B. Transaction Review Process

3. The Media Bureau (Bureau) accepted the Applications for filing on September 6, 2024, released a public notice establishing a pleading cycle, and designated the proceeding as "permit-but-disclose" in accordance with the Commission's *ex parte* rules.[9] On October 29, 2024, prior to completion of the pleading cycle announced in the *Paramount First Public Notice*, the Applicants amended the Applications "to reflect David Ellison's role as sole manager of [the] entities through which the Ellison Family will own and control NAI and New Paramount" and to declare that "David Ellison will hold 100 percent of the Ellison Family's voting interests in NAI and New Paramount, in addition to serving as New

[2] 47 CFR § 73.3555(b) & Note 5.

[3] In the context of the Applications, the Ellison family refers to David Ellison, CEO of Skydance, and his father, Larry Ellison, Co-founder, Executive Chairman, and Chief Technology Officer of Oracle Corporation (Oracle) (together, the Ellison Family).

[4] We will refer to Pinnacle Media and RedBird, collectively, as the Skydance Consortium.

[5] Applications, Amended Comprehensive Exhibit at 1-3 and Exhibit A.

[6] Applications, Description of Second Amendment to Application.

[7] *Id.*

[8] *Id.*

[9] *Media Bureau Establishes Pleading Cycle for Applications to Transfer Control of Paramount Global and Permit-But-Disclose Ex Parte Status for the Proceeding*, MB Docket No. 24-275, Public Notice, 39 FCC Rcd 9766 (MB 2024) (*Paramount First Public Notice*); *see also* 47 CFR § 1.1206.

Paramount's Chairman and CEO."[10] This change in the proposed voting control of New Paramount constituted a major amendment.[11] Accordingly, on November 15, 2024, the Bureau issued a second public notice establishing an additional pleading cycle.[12]

4. On July 16, 2025, the Applicants filed a second, minor amendment to "reflect an update to David Ellison's controlling role as sole manager of . . . [the] entities through which the Ellison Family will indirectly own and control NAI and New Paramount upon the closing of the Transaction."[13] Specifically, the Applicants state that, by voting proxy, "David Ellison will grant to Sayonara a voting interest equal to approximately 35.5 percent in each of these entities," and each Pinnacle Media entity "will grant David Ellison 64.5 percent of its respective voting interest in NAI."[14] The Applicants further state that "Sayonara will not have any veto rights, or any special or outsized voting rights, in NAI or New Paramount as a result of these minority voting interests."[15]

1. First Pleading Cycle

5. Three pleadings were timely filed in the first pleading cycle.[16] Sean Kiggins, claiming to be the rightful heir and trustee of Paramount, petitions the Commission to deny the Applications.[17] The International Brotherhood of Teamsters Hollywood Local 399, Writers Guild of America West, Inc., and Writers Guild of America East (collectively, the Labor Unions) request that the Commission condition grant on the Applicants' maintaining minimum levels of Guild-created content and station-level employment for their members.[18] The Labor Unions assert that conditions are necessary because of perceived discrepancies between the Applicants' pre-filing promises of "synergies" arising from the Transaction and Paramount's recent workforce reductions.[19] They note that Skydance's presentation to Paramount's board suggests immediate post-closing job cuts.[20] One Ministries, Inc. (OMI) asks the

[10] Applications, Purpose of Amendment.

[11] 47 CFR § 73.3578(b) (stating that "any amendment which seeks a change in the ownership interest of the proposed assignee or transferee which would result in a change in control . . . shall be considered to be a major amendment").

[12] *Media Bureau Establishes New Pleading Cycle for Applications to Transfer Control of Paramount Global*, MB Docket No. 24-275, Public Notice, 39 FCC Rcd 12368 (MB 2024) (*Paramount Second Public Notice*); *see also* 47 U.S.C. § 309(d)(1).

[13] Applications, Description of Second Amendment to Application.

[14] *Id.*

[15] *Id.*

[16] In addition to the Applicants, only individuals or entities that file petitions to deny and meet the filing requirements become parties to a licensing or transaction proceeding. *See Entercom Sacramento Licenses, LLC*, Letter Order, 32 FCC Rcd 6880, 6883 (MB 2017); *Cloud Nine Broadcasting, Inc.*, Letter Order, 10 FCC Rcd 11555, 11556 (MB 1995) (*Cloud Nine*). Informal objectors can only become parties to the proceeding if there is no statutory opportunity to file a petition to deny. *Cloud Nine*, 10 FCC Rcd at 11556. We conclude that no filer in this proceeding properly established that it is a party in interest with standing to file a petition to deny the Transaction. *See infra* Section V.

[17] Petition to Deny of Sean Kiggins (filed Sept. 13, 2024) (Kiggins Objection). Mr. Kiggins also submitted a letter, styled as a comment, in which he apparently suggests that retransmission consent fees have been used to manipulate financial markets. Comment of Sean Kiggins (filed May 15, 2025).

[18] Comments of the International Brotherhood of Teamsters Hollywood Local 399, Writers Guild of America West, Inc., and Writers Guild of America East at 1, 5 (filed Oct. 7, 2024) (Labor Union Objection).

[19] *Id.* at 3.

[20] *Id.*, n.5 (citing Jill Goldsmith, *Skydance on Cost Cuts, Streaming Partnerships, and Big Breakup Fee if Another Buyer "Comes Out of the Woodwork" for Paramount*, Deadline (July 8, 2024), https://deadline.com/2024/07/skydance-paramount-merger-cuts-tech-streaming-tech-partnerships-breakup-fee-

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Commission to impose as a condition that the Applicants agree to voluntarily subject Paramount Plus to the must-carry rules that cover direct broadcast satellite (DBS) providers, in order to protect local independent stations against the monopolistic business practices of large media and technology corporations.[21]

6. The Applicants timely filed a response, asserting that none of the pleadings satisfied the requirements for a valid petition to deny or raised any substantive objections and that there is no legal or policy basis for the merger condition proposed by the Labor Unions.[22] Specifically, they contend that, while economic developments in the industry have caused most media companies to reduce the size of their workforce, the Labor Unions provide no basis for concluding the Transaction will reduce jobs at CBS stations.[23] The Applicants state that the Labor Unions also overlook the fact that the Transaction will produce public interest benefits, such as increased financial resources, improved technology, and enhanced management capabilities, that would actually lessen pressure to reduce jobs.[24] They urge the Commission to grant the Applications without conditions.[25]

7. OMI and the Labor Unions timely filed brief replies to the Applicants' Response. OMI emphasizes that a voluntary commitment by the Applicants to abide by the must-carry rules would not implicate the First Amendment or require congressional action.[26] The Labor Unions aver that the Applicants introduced the subject of post-Transaction labor matters and only argued against Commission action on such matters after the Labor Unions asked for details to support labor-friendly assertions.[27] They suggest that the Commission should further scrutinize the matter.[28]

8. On November 12, 2024, after the pleading cycle had ended, Gabelli Value 25 Fund Inc. and its affiliated funds, investment advisors, and investors (the Gabelli Entities), the largest Class A shareholder group in Paramount after controlling shareholder NAI, submitted a letter informing the Commission of their ongoing inquiry into the fairness of the merger to minority shareholders, specifically relating to the sale of NAI's controlling stake in Paramount.[29] The Gabelli Entities request that the Commission defer resolution of the Applications until they have completed their inquiry and determined

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1236003134/; Brian Steinberg, *Skydance Targets $2 Billion-Plus in Cuts After Paramount Merger*, Variety (July 8, 2024), https://variety.com/2024/tv/news/skydance-2-billion-cuts-paramount-merger-1236062244/).

[21] Letter from Keith J. Leitch, President and Engineer, One Ministries, Inc. to Marlene H. Dortch, Secretary, FCC, Docket No. 24-275 (filed Sept. 8, 2024) (OMI Objection).

[22] Response of Applicants to Comments at 2-3 (filed Oct. 22, 2024) (Applicants Response). The Applicants addressed the Kiggins Objection and the OMI Objection only in a footnote, asserting that Mr. Kiggins lacks standing and does not raise any transaction-related harms, while OMI ignores the need for congressional action to extend the must-carry rules to streaming platforms, as well as the First Amendment obstacles to such a requirement. *Id.* at 2, n. 3.

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

[24] *Id.* at 6.

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

[26] Letter from Keith J. Leitch, President and Engineer, One Ministries, Inc. to Marlene H. Dortch, Secretary, FCC, Docket No. 24-275 (filed Oct. 31, 2024).

[27] Reply of the International Brotherhood of Teamsters Hollywood Local 399, Writers Guild of America West, Inc., and Writers Guild of America East, Screen Actors Guild-American Federation of Television and Radio Artists, and Communications Workers of America at 1-2 (filed Nov. 1, 2024).

[28] *Id.* at 3.

[29] Letter from Vincent R. Cappucci, Counsel to Gabelli Value 25 Fund Inc., to David Brown, Deputy Chief, Video Division, Media Bureau, et al., MB Docket No. 24-275 at 1 (filed Nov. 12, 2024) (Gabelli Letter).

whether to initiate litigation.[30]

2. Second Pleading Cycle

9. Four organizations timely filed pleadings in the second cycle. The Center for American Rights (CAR), a non-profit, non-partisan, public-interest law firm that represents consumers of broadcast media, asks the Commission to condition its grant on specific commitments by New Paramount concerning Skydance's ties to the Chinese Communist Party, as well as ideological bias and the use of racial quotas in hiring at CBS owned-and-operated stations.[31] In particular, CAR alleges that one of Skydance's major investors is Tencent Holdings Ltd. (Tencent), a company reported to be aligned closely with the Chinese Communist Party, and that even if this investment does not technically violate foreign ownership limits, the Commission can still evaluate whether Skydance is subject to undue foreign influence.[32] CAR further criticizes CBS News for its treatment of Republican J.D. Vance during the 2024 Vice Presidential debate, and for its editing of an answer by then-Vice President Harris in an interview on an important topic of foreign policy during an episode of the news program "60 Minutes."[33] Finally, CAR suggests that CBS has engaged in racial discrimination by instituting quotas for minority representation in writers' rooms, casts, and development budgets.[34]

10. LiveVideo.AI Corp (LVA), an Internet technology company focused on online streaming, social networking, and artificial intelligence (AI),[35] claims to be both a former business partner of Paramount and a competitor to Skydance and Paramount.[36] It petitions the Commission to deny the Applications, asserting that it has been injured by a "rigged" sales process.[37] In addition, as a shareholder

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[30] *Id.* at 1-2.

[31] *See* Petition of The Center for American Rights to Condition Grant at 1 (filed Dec. 16, 2024) (CAR Objection).

[32] *Id.* at 2. CAR claims that the Chinese government is a direct investor in a Tencent subsidiary, with a "golden share" that entitles it to special rights and influence over the company. It also suggests that Skydance and Paramount, which co-produced Top Gun: Maverick, initially edited the movie to "prioritize[] the feelings of the Chinese Communist Party." *Id.* at 2-3 (citing Patrick Brzeski, *"Top Gun: Maverick" Trailer Sparks Controversy as Fans Notice Taiwanese Flag Missing From Tom Cruise's Jacket*, The Hollywood Reporter (July 22, 2019), https://www.hollywoodreporter.com/movies/movie-news/top-gun-maverick-trailer-sparks-controversy-tom-cruise-jacket-1225993/).

[33] *Id.* at 6-8. CAR also attached a copy of the consumer complaint it previously filed with the Commission requesting an investigation for "news distortion" in the airing of the "60 Minutes" interview. *See* Center for American Rights, Complaint (filed Oct. 16, 2024) (CAR Complaint); *see also FCC Establishes MB Docket No. 25-73 and Comment Cycle for News Distortion Complaint Involving CBS Broadcasting Inc., Licensee of WCBS, New York, NY*, MB Docket No. 25-73, Public Notice, DA 25-107 (MB Feb. 5, 2025) (News Distortion Proceeding).

[34] CAR Objection at 9-10 (citing Sarah Whitten, *CBS reality shows must now have 50% non-White casts, network says*, CNBC.com (Nov. 9, 2020), https://www.cnbc.com/2020/11/09/cbs-reality-shows-must-now-have-50percent-non-white-casts-network-says.html; Christie D'Zurilla, *CBS Announces Diversity Overhaul of Writers Rooms and Script-Development Program*, L.A. Times (July 13, 2020), https://www.latimes.com/entertainment-arts/tv/story/2020-07-13/cbs-racial-diversity-effort-writers-development-bipoc).

[35] Petition of LiveVideo.AI Corp to Deny Transfer of FCC Licenses at Decl. of Brad Greenspan (filed Dec. 16, 2024) (LVA Objection).

[36] *Id.* at 1-2.

[37] *Id.* at 1. LVA states that the details and facts supporting its allegation are contained in a federal court complaint. *Id.*; *see LiveVideo.AI Corp. v. Redstone et al.*, No. 1:24-cv-06290 (S.D.N.Y). LVA subsequently petitioned to amend its pleading based on filings in that case. Petition of LiveVideo.AI Corp to Amend Petition to Deny and Declaratory Relief at 1 (filed Dec. 20, 2024) (LVA Petition to Amend). Specifically, LVA alleges that NAI admitted it had defaulted in the federal litigation and agreed to stay the Commission proceeding as the Gabelli Entities request. *Id.* at 2-3. LVA has also filed numerous *ex parte* presentations, including motions requesting document production, enlargement of the issues, and a "re-opening" of the record. *See* Motion for Production of

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of Paramount, LVA joins the Gabelli Entities in questioning the fairness of the merger to minority shareholders.[38] LVA further maintains that NAI's settlement with the Office of the Attorney General of the State of New York[39] forced the desperate fire sale of Paramount to the only buyer that would agree to lend NAI the money it needed for early debt repayment before the closing of the Paramount deal.[40] Finally, LVA expresses its concern that certain personnel of the proposed New Paramount leadership team have been the subject of sexual harassment allegations.[41] LVA therefore contends that the Commission must conduct a character qualification hearing before granting the Applications.[42]

11. FUSE Media (FUSE), an independent video provider that operates a cable channel, a streaming service, and several free ad-supported streaming TV (FAST) channels, expresses concern about the Applicants' stated intent to leverage the technological resources and expertise of Oracle.[43] FUSE states that it has firsthand experience with Paramount's self-preferencing behavior on its PlutoTV streaming platform.[44] It asserts that the introduction of Oracle's AI capabilities would allow Paramount to further control both content acquisition and distribution on PlutoTV.[45] Referring to the Gabelli Letter, FUSE also questions whether capital that might have been otherwise available to strengthen the operations of Paramount was depleted to overpay a single shareholder.[46] FUSE urges the Commission to consider whether the Transaction as currently structured fosters the competition and viewpoint diversity that the public interest standard demands.[47]

12. The Gabelli Entities reiterate the concerns they raised in their prior letter regarding the Transaction and state that Paramount's proposed control by a sole manager only compounds those concerns.[48] They also note that David Ellison and Skydance have already been sued for aiding and

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Documents of LiveVideo.AI Corp (filed Jun. 23, 2025); Motion to Enlarge the Issues of LiveVideo.AI Corp (filed Jul. 3, 2025); Motion to Re-Open the Record of LiveVideo.AI Corp (filed Jul. 9, 2025). These motions relate either to unadjudicated allegations of violations of Federal Election Commission disclosure requirements, or to the now-settled lawsuit filed by President Donald J. Trump against Paramount and CBS News. These matters are unrelated to our review of the Transaction, and we deny the motions.

[38] LVA Objection at 2.

[39] *See* Press Release, N.Y. State Office of the Attorney General, *Attorney General James Secures $250,000 from Movie Theater Operator for Failing to Protect Employees' Information* (Nov. 15, 2024), https://ag.ny.gov/press-release/2024/attorney-general-james-secures-250000-movie-theater-operator-failing-protect.

[40] LVA Objection at 2-5.

[41] *Id.* at 5; *see also id.* at 7, n.5 (citing and quoting extensively Kim Masters, *Jeff Shell's past lingers over Paramount's future*, The Hollywood Reporter (Aug. 13, 2024), https://www.hollywoodreporter.com/business/business-news/jeff-shell-paramount-skydance-claim-1235973647/).

[42] *Id.*

[43] Comments of FUSE Media at 1 (filed Dec. 16, 2024) (FUSE Objection).

[44] *Id.* at 5. FUSE states that Paramount has used advertising units on FUSE's channel to promote its own channels aimed at the same demographic, placed its proprietary services more favorably on the electronic programming guide, and promoted its proprietary services more than–and sometimes to the exclusion of–FUSE's content. *Id.*

[45] *Id.* at 6. This could happen, FUSE claims, through Paramount using AI to analyze viewer habits and preferences with more precision; giving its own programming algorithmic precedence in recommendations; requiring higher payments for premium visibility; creating synthetic or semi-automated content based on performance data; and enforcing more rigorous compliance requirements for content metadata, format, and quality standards. *Id.* at 6-7.

[46] *Id.* at 8.

[47] *Id*. at 8-9.

[48] Comments of the Gabelli Entities to the Application to Transfer of Control of Licenses of Paramount Global, As Amended at 2 (filed Dec. 12, 2024) (Gabelli Objection).

abetting breach of fiduciary duties by Ms. Redstone and NAI, among others, in the Delaware Court of Chancery.[49] Further, while acknowledging that their allegations of financial improprieties may not typically be considered by the Commission in evaluating applications for change of control, the Gabelli Entities assert that they should be considered here because of the importance of CBS as one of the three legacy broadcast networks.[50] Finally, the Gabelli Entities renew their request that the Commission defer resolution of the Applications until there is a determination in other venues regarding whether the Applicants' conduct involved misconduct so egregious that the Commission should take the conduct into consideration.[51]

13. The Applicants timely filed an opposition, countering the pleadings of CAR and LVA and responding to the comments of FUSE.[52] They assert that CAR lacks standing, both because it is not a competitor in the broadcast marketplace and because it does not submit an affidavit from any individual represented by the organization affirming that he or she is a regular viewer of one of the stations.[53] Moreover, the Applicants note that the CAR Objection was not served on the Applicants or accompanied by a certificate of service.[54] Substantively, the Applicants contend that CAR makes no effort to show that its concerns about viewpoint diversity and alleged bias or manipulation are transaction-specific and that the imposition of any viewpoint-related conditions by the Commission would improperly supplant CBS's editorial discretion and amount to an attack on the First Amendment. As for CAR's conjecture about influence from Tencent or other Chinese interests, the Applicants stress that Tencent will hold nonvoting, publicly traded shares of New Paramount, and that such shareholders have no ability to influence the operation or management of New Paramount or the CBS stations.[55] Finally, the Applicants declare that CAR has failed to establish that Paramount relied on overt quotas, and, moreover, that the Commission has recognized that claims of employment discrimination fall outside of its purview under the Communications Act.[56]

14. The Applicants likewise challenge LVA's standing, asserting that LVA does not include any specific or credible factual allegations indicating how it competes with Skydance or Paramount.[57] Neither, the Applicants state, can LVA establish standing by its grievances as an unsuccessful bidder or by any of its other allegations, because it has not established that they could be redressed through denial of the Applications.[58] The Applicants further maintain that LVA's claim to viewer standing fails, since LVA does not identify any particular broadcast station or programming that it purports to view.[59]

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[49] *Id.* at 2, n.3 (citing *Baker v. Redstone, et al.*, C.A. No. 2024-0790 (Del. Ch.)).

[50] *Id.* at 3.

[51] *Id*. at 4 & n.5 (citing *Nattel, LLC, Petition to Deny Application of Puerto Rico Telephone Company, Inc.*, Order, 24 FCC Rcd 428 (WTB 2009)).

[52] Consolidated Opposition and Response to Comments of Applicants (filed Jan. 2, 2025) (Applicants Opposition). The Applicants address the Gabelli Objection in passing, contending that it identified no reason for the Commission to depart from its general practice of deferring "adjudication and resolution of such state law and contract-based assertions to the appropriate state or local fora.'" *Id.* at 7, n.28 (quoting *Applications of Softbank Corp., Starburst II, Inc., Sprint Nextel Corporation, and Clearwire Corporation for Consent To Transfer Control of Licenses and Authorizations et al.*, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642, 9669, para. 67 (2013)).

[53] Applicants Opposition at 5-6 and n.22.

[54] *Id.* at 6, n.27.

[55] *Id.* at 14.

[56] *Id.* at 15.

[57] *Id.* at 3.

[58] *Id.* at 4-5.

Substantively, the Applicants state that LVA's unfounded allegations of bid-rigging and sexual misconduct are devoid of any credible factual evidence and remain unadjudicated, such that the Commission should not consider them.[60]

15. Responding to FUSE's comments, the Applicants assert that FUSE's expressed concerns about the purported implications of the Transaction for the streaming video marketplace are speculative, unpersuasive, and not germane to the proceeding.[61] They state that FUSE fails to identify any credible evidence that its claims about various risks posed by Paramount's use of Oracle's AI capabilities are likely to occur.[62] Finally, the Applicants claim that any use of Oracle technology by New Paramount would be based on an arm's length commercial relationship between two entirely independent companies and that the insinuation of a special relationship between them is pure conjecture.[63]

16. CAR, LVA, and FUSE replied to the Applicants Opposition. CAR points to the fact that Tencent has been added by the U.S. Department of Defense (DoD) to its Section 1260H list of "Chinese military companies" operating in the United States.[64] It contends that the government's identification of one of Skydance's founding investors as a "Chinese military company" should refute the presumption that foreign ownership of less than 5% of a licensee's U.S. parent company is not contrary to the public interest.[65] CAR concludes that the Commission should engage in interagency consultation by asking the Committee on Foreign Investment in the United States (CFIUS) or other national security agencies to review the Transaction.[66] CAR also replies that the Commission can grant the Applications with conditions that respect both the First Amendment and the public interest standard, articulating four steps that New Paramount could take that would not require control by the Commission over the company's

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[59] *Id.* at 5.

[60] *Id.* at 7-8. The Applicants state that the U.S. District Court for the Southern District of New York already has issued a number of orders raising concerns regarding LVA's claims and litigation conduct, including a warning that LVA could face sanctions for pursuing frivolous claims and acknowledging that NAI has a meritorious defense. *Id.* at 4, n.12. They further suggest that LVA's CEO is a serial litigant who is known to abuse judicial process to air personal grievances and harass perceived enemies—conduct for which he has been sanctioned by a federal court that found him to be a "vexatious litigant." *Id.* (citing Order Granting Motion to Declare Plaintiff a Vexatious Litigant, *Greenspan v. IAC/InterActive Corp.*, No. 5:14-cv-04187-RMW (N.D. Cal. Sept. 30, 2016)).

[61] *Id.* at 15-16.

[62] *Id.* at 16.

[63] *Id.*

[64] Reply Brief of The Center for American Rights in Support of Petition to Condition Grant at 1-2 (filed Jan. 13, 2025) (CAR Reply) (citing Dept. of Defense, *DOD Releases List of Chinese Military Companies in Accordance with Section 1260H of the National Defense Authorization Act for Fiscal Year 2021* (Jan. 7, 2025), https://www.defense.gov/News/Releases/Release/Article/4023145/dod-releases-list-of-chinese-military-companies-in-accordance-with-section-1260/). The DoD maintains a list of "Chinese military companies" operating in the United States, as mandated by section 1260H of the National Defense Authorization Act (NDAA) for Fiscal Year 2021, and updates it annually. This list, also known as the "1260H List" or "CMC List," identifies entities that are either owned or controlled by, or act as an agent of, the People's Liberation Army (PLA) or the Chinese Communist Party's Central Military Commission, or are "military-civil fusion contributors." CAR acknowledges that while "the Commission does not normally consider new material raised in a reply brief, it may do so where there is a good reason." CAR Reply at 1, n.3. It states that good cause exists in this case, because the information was not available at the time its petition was originally filed, but it is highly probative of the issue under review because it is an official statement of the United States government. *Id.*

[65] CAR Reply at 2.

[66] *Id.*

editorial practices.[67] Finally, CAR contends that the Applicants have failed to contradict its presentation of CBS's recent history of race-based employment policies or commit to redress them.[68]

17. LVA replies that New Paramount never disclosed in its amended Form S-4 Registration Statement with the SEC the existence of the default judgment entered against it in LVA's federal litigation.[69] LVA contends, therefore, that the statement is knowingly false and fraudulent, an act of bad character that the FCC will have to review.[70] With respect to its allegations of sexual harassment by proposed members of the New Paramount leadership team, LVA further suggests that the Commission is in a position to remedy its previous decision not to designate for hearing CBS's basic character qualifications when its then-CEO was removed based on allegations of similar misconduct.[71]

18. FUSE disputes that its concerns are not germane to the Transaction, stating that the Commission has frequently addressed problems of vertical integration in programming production and distribution, including in broadcasting.[72] In support, FUSE points to conditions imposed by the Commission in other mergers to protect an emerging technology or market segment, including NBC/Comcast,[73] AOL/Time Warner,[74] and News Corp./DirecTV.[75] It maintains that the Transaction, which will bring together two content production companies into a single, already vertically integrated entity, deserves significant scrutiny and conditions protecting independent programming.[76] FUSE further alleges that New Paramount will have an increased incentive and ability to utilize their traditional media assets and access to cloud-computing and AI technologies to harm the independent programming market by favoring their own content on their proprietary streaming distribution platforms.[77]

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[67] *Id.* at 3-4. Specifically, CAR suggests that New Paramount could demonstrate a commitment to viewpoint diversity by drawing board members from different geographies, industries, backgrounds, and political persuasions; locating executive and editorial staff in cities besides New York and Los Angeles; creating a position for an independent, empowered, balanced ombudsman or a board with reliable funding, clear procedures for resolving consumer complaints, real power, and an ideologically diverse and balanced set of decision-makers; and committing to an ideologically diverse hiring pipeline. *Id.* at 4-6.

[68] *Id.* at 6.

[69] Reply of LiveVideo.AI Corp to Consolidated Opposition in Support of Petition to Deny at 2 (filed Jan. 14, 2025) (LVA Reply); *see* Amendment No. 1 to Form S-4 Registration Statement, New Pluto Global, Inc., https://www.sec.gov/Archives/edgar/data/2041610/000119312524279901/d813356ds4a.htm).

[70] LVA Reply at 2.

[71] *Id.* at 12 (citing *Entercom Communications*, Order on Reconsideration, 34 FCC Rcd 5441 (2019)).

[72] Reply Comments of FUSE Media at 1 (filed Jan. 13, 2025) (FUSE Reply).

[73] *Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4268-69, para. 78 (2011) (*Comcast-NBC Universal Order*) (prohibiting Comcast/NBC from any management involvement in Hulu, in order to protect the emerging online video distribution market).

[74] *Time Warner Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 6547, 6554 para. 18 (2001) (requiring AOL/Time Warner to provide interoperability in advance of releasing any advanced IM-based application that included streaming video, in order to protect the unregulated text-based messaging service).

[75] *General Motors Corporation and Hughes Electronics Corporation*, Memorandum Opinion and Order, 19 FCC Rcd 473 (2004) (imposing a non-discrimination condition with respect to News Corp. programming on the DirecTV platform, including program access-like rules).

[76] FUSE Reply at 2.

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

3. *Ex Parte* Presentations and Other Filings

19. *CAR*. CAR has submitted several *ex parte* presentations and other filings addressing the merits of the Transaction, two of which supplement the record in this proceeding by expanding upon concerns or proposals previously raised in its pleadings. On February 19, 2025, CAR introduced a letter from FCC Chairman Brendan Carr to executive leadership at Comcast and NBCUniversal, expressing his concern that they may be may be promoting invidious forms of DEI in a manner that does not comply with FCC regulations and opening an investigation.[78] CAR asserts that the specific concerns raised by the Chairman in his letter to NBCUniversal are present at Paramount, pointing to statements on Paramount's website regarding its commitment to DEI in content and the employee experience.[79] It further contends that the market is failing to protect consumers from DEI executives forcing content that does not match consumers' preferences.[80] CAR suggests this failure is caused by spectrum scarcity and companies prioritizing DEI over profits or consumer demand.[81] In summary, CAR states that the Commission must insist that New Paramount commit to specific, concrete steps to address its DEI practices.[82]

20. In addition, on May 1, 2025, CAR filed a supplemental brief, in which it discusses a report by Media Research Center (MRC) concerning negative media coverage of the Trump administration.[83] CAR asserts that the MRC report confirms that the news media generally, and CBS News in particular, is relentlessly slanted and biased.[84] It concludes that Commission action is necessary to condition the Transaction on an end to this blatant bias.[85]

21. *Project Rise Partners*. On March 5, 2025, Project Rise Partners (Project Rise), a partnership affiliated with independent programmers, submitted a letter to the Commission as an informal objection to the Transaction.[86] Project Rise states that it is interested in acquiring CBS and Paramount.[87] It urges the Commission to ask searching questions about and thoroughly investigate the serious public interest concerns raised by the Transaction.[88] Specifically, Project Rise maintains that Paramount appears

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[78] *Ex Parte* Supplemental Letter of The Center for American Rights (filed Feb. 19, 2025) (CAR Feb. 19 *Ex Parte* Letter) (attaching Letter from Brendan Carr, Chairman, FCC, to Brian Roberts, CEO, Comcast Corporation (Feb. 11, 2025); post of Brendan Carr on X (available at https://x.com/BrendanCarrFCC/status/1889752017150812321)).

[79] CAR Feb. 19 *Ex Parte* Letter at 1-2.

[80] *Id.* at 3.

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

[82] *Id.* at 4.

[83] Supplemental Brief of The Center for American Rights (filed May 1, 2025) (CAR Supplemental Brief) (citing Rich Noyes, *TV News Assaults 2nd Trump Admin With 92% Negative Coverage*, Media Research Center (Apr. 28, 2025), https://www.newsbusters.org/blogs/nb/rich-noyes/2025/04/28/tv-news-assaults-2nd-trump-admin-92-negative-coverage). CAR asserts that it has good cause to submit its supplemental brief, because the report became available after the filing period closed and only reinforces arguments it already presented in its pleadings. CAR Supplemental Brief at 1, n.1.

[84] CAR Supplemental Brief at 1-3.

[85] *Id.* at 3. CAR provided further examples of allegedly biased CBS News coverage in *ex parte* presentations. See Letter from Daniel Suhr, Counsel to Center for American Rights, to Brendan Carr, Chairman, FCC, MB Docket No. 24-275 (filed May 15, 2025); Letter from Daniel Suhr, Counsel to Center for American Rights, to Brendan Carr, Chairman, FCC, MB Docket No. 24-275 (filed Jun. 10, 2025).

[86] Letter from Pantelis Michalopoulos, Counsel to Project Rise Partners, to Marlene Dortch, Secretary, FCC, MB Docket No. 24-275, at 1 (filed Mar. 5, 2025) (Project Rise Objection).

[87] *Id.* at 2. Project Rise acknowledges that "the Commission does not have the authority to compare bids for a licensee" and affirms that it "is not requesting such a comparison." *Id.* at 3.

[88] These concerns include the risk of facilitating and perpetuating anticompetitive bundling practices; the threat to national security from Chinese influence over a major broadcast network; the incentive to increase consumer prices

(continued….)

to engage in bundling practices virtually identical to those criticized in a recently-settled case involving FuboTV and that Skydance has not announced any intention to curb this anticompetitive practice.[89] Project Rise also characterizes as a concerning lack of candor the fact that the Tencent investment was not disclosed in the Applications.[90] It asserts that the Commission should probe Tencent's involvement and that such review should include extensive consultation with the DoD, CFIUS, and the Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Sector.[91] Project Rise further contends that the Transaction, by increasing Skydance's accumulation of must-have programming, will give it increased leverage over the local affiliates of the CBS Network and incentivize it to raise rates in excess of those expected in a functioning marketplace.[92] In addition, Project Rise states that AI is unreliable and that, if Skydance embeds AI in its local newsrooms, the public risks being inundated with low-quality content masquerading as legitimate news reporting.[93] Finally, Project Rise insinuates that Skydance has already become actively involved in Paramount's management.[94]

22. Skydance responded, accusing Project Rise of leveling a series of baseless allegations and seeking to hijack the proceeding to buy time for litigation to proceed in the Delaware Court of Chancery, in an effort to force Paramount's Board to consider Project Rise's bid to acquire the company.[95] It further asserts that Project Rise's manufactured concerns about the public interest implications of the Transaction are spurious.[96] Skydance contends that there is no factual support for the claim that the Transaction presents a significant risk of anticompetitive tying, noting that it owns no cable networks or broadcast stations.[97] Skydance also rejects the suggestion that Tencent's investment would afford the Chinese government influence over New Paramount and compromise national security.[98] It states that Tencent will hold a purely passive interest of less than 5% of New Paramount's non-voting stock, which it could acquire on the Nasdaq without any regulatory impediment; that Tencent will have no managerial, informational, or other rights, and will not be permitted to increase its equity investment beyond the 5% limit.[99] Skydance further observes that Tencent was not listed in the Applications because

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through higher retransmission consent fees; and the integration of AI into news operations. *Id.* at 2-10. Project Rise requests that the Commission ask the Applicants questions on these topics and put in place a protective order to allow them to provide highly confidential information without risk of public disclosure in response. *Id.* at 2.

[89] *Id.* at 4 (citing *FuboTV Inc. v. Walt Disney Co.*, 745 F. Supp. 3d 109, 115 (S.D.N.Y. 2024) ("Among these complaints is the claim that the contracts force Fubo to carry (and pay for) unwanted non-sports networks that its customers rarely watch, as a condition of securing the rights to carry must-have sports channels. In the pay TV industry, this practice is called 'bundling.' . . . bundling has been a pervasive industry practice for decades[.]")).

[90] Project Rise Objection at 7.

[91] *Id.*

[92] *Id.* at 9.

[93] *Id.* at 10.

[94] *Id.* at 10-11 (citing Oliver Darcy, *Shell-Shocked at CBS*, Status (Mar. 3, 2025), https://www.status.news/p/paramount-cbs-60-minutes-lawsuit-settlement-talks).

[95] Letter from Matthew Brill, Counsel to Skydance Media, LLC, to Marlene Dortch, Secretary, FCC, MB Docket No. 24-275, at 1 (filed Mar. 10, 2025).

[96] *Id.* at 4.

[97] *Id.* at 5-6. Skydance argues that the *FuboTV* case concerned a proposed joint venture that allegedly created a cartel by combining the leading holders of sports rights in a new streaming service and that any unilateral conduct by Paramount in creating programming bundles of interest to its viewers plainly bears no resemblance to the allegations in that case. *Id.* at 6.

[98] *Id.* at 4.

[99] *Id.* at 5.

its interest is not attributable.[100] In addition, Skydance claims that its planned use of AI technology to improve efficiency is needed to confront the decline in broadcast and linear cable audiences and will strongly promote, not undermine, the public interest.[101] Finally, Skydance rejects the groundless innuendo that it has engaged in "gun-jumping," asserting that it is well aware of the restrictions imposed by the antitrust laws and the Commission's rules and has complied fully with them.[102]

23. Project Rise replied, reiterating its contention that the Transaction poses a risk to national security and questioning the description of Tencent as a passive investor when Skydance previously touted Tencent's investment as strategic.[103] Project Rise also asserts that Skydance sidesteps its concerns about the Transaction's potential to increase consumer prices and states that Skydance has provided no assurances regarding any measures it may implement to ensure that use of AI tools will not undermine the accuracy and reliability of the local and national news.[104] Project Rise further accuses Skydance of being dismissive and non-responsive concerning reports that the proposed president of New Paramount has already inappropriately pressured current CBS executives.[105]

24. *Other Filers*. Danny Amen Valentine Shabazz claims that Paramount owes him an unspecified amount for commercial and TV production and accuses it of showing racial bias toward African American investors under federal copyright law.[106] Mack Toys, Inc. (Mack Toys), a company specializing in toy putty, slime products, and mobile applications, alleges that Paramount has violated its public interest obligations through its restrictive enforcement of the "slime" trademark and that the Transaction would exacerbate these harms by consolidating its market power.[107] Paul Virgil Rea comments that CBS should be stripped of all of it licenses and asserts that both the network and its affiliates have been working against the public interest for more than a decade, have violated the public trust, and attempted to mislead the American public about important issues.[108] 2042 Media USA, LLC (2042 Media), an independent company that owns and operates pay TV networks, respectfully agrees with the points made by FUSE and contends that the Transaction will give Paramount the incentive and ability to foreclose competition in online streaming services.[109] It recommends that the Commission require New Paramount to set aside a fixed percentage of programming services on PlutoTV and other streaming platforms for independently owned content providers.[110] The CBS Television Network Affiliates Association requests that "conditions associated with any merger approval order should be designed to strengthen local stations' capacity to continue serving their communities with local news and

[100] *Id.* at 5, n.15.

[101] *Id.* at 7.

[102] *Id.*

[103] Letter from Pantelis Michalopoulos, Counsel to Project Rise Partners, to Marlene Dortch, Secretary, FCC, MB Docket No. 24-275, at 4 (filed Apr. 2, 2025) (Project Rise Apr. 2 *Ex Parte* Letter) (citing Press Release, *Skydance Media. Skydance Media Announces Strategic Investment by Tencent Holdings Limited* (Jan. 25, 2018) ("Tencent [is] making a strategic investment in Skydance Media. The investment is part of a broader strategic partnership, which provides a global platform for project-level collaboration.")).

[104] Project Rise Apr. 2 *Ex Parte* Letter at 5-7.

[105] *Id.* at 7-8.

[106] Petition to Deny of Danny Amen Valentine Shabazz at 2-3 (filed Dec. 20, 2024) (Shabazz Objection).

[107] Formal Complaint of Mack Toys, Inc. at 1-5 (filed Feb. 5, 2025) (Mack Toys Complaint).

[108] Comments of Paul Virgil Rea (filed Mar. 24, 2025).

[109] Comments of 2042 Media USA, LLC at 1 (filed May 22, 2025) (2042 Media Objection).

[110] *Id.* at 2.

information programming, and address issues related to CBS control over affiliate finances and "virtual MVPD" negotiations, exclusivity of programming, and affiliation renewal practices."[111]

III. STANDARD OF REVIEW AND PUBLIC INTEREST FRAMEWORK

25. Pursuant to section 310(d) of the Act,[112] we must determine whether the proposed transfer of control to Skydance of licenses and authorizations held and controlled by wholly-owned subsidiaries of Paramount will serve the public interest, convenience, and necessity. In making this determination, we first assess whether the proposed transaction complies with the specific provisions of the Act, other applicable statutes, and the Commission's rules.[113]

26. If the proposed transaction does not violate a statute or rule, we then consider whether the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[114] Our competitive analysis, which forms an important part of the public interest evaluation, is informed by, but not limited to, traditional antitrust principles.[115] The United States Department of Justice has independent authority to examine the competitive impacts of proposed mergers and transactions involving transfers of Commission licenses, but the Commission's competitive analysis under the public interest standard is somewhat broader, and often takes a more extensive view of potential and future competition and its impact on the relevant markets.[116] Notably, the

[111] Letter from Jason Rademacher, Counsel to the CBS Television Network Affiliates Association, to Marlene Dortch, Secretary, FCC, MB Docket No. 24-275 (filed Jul. 10, 2025). As our grant of the Transaction is not conditional, this request is moot.

[112] 47 U.S.C. § 310(d). Section 310(d) of the Act requires that we consider applications for transfer of Title III licenses under the same standard as if the proposed transferee were applying for licenses directly under section 308 of the Act, 47 U.S.C. § 308. *See, e.g.*, *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585, para. 8 (2017) (*CenturyLink-Level 3 Order*); *Application of Verizon Communications Inc. and Straight Path Communications, Inc. for Consent to Transfer Control of Local Multipoint Distribution Service, 39 GHz, Common Carrier Point-to-Point Microwave, and 3650-3700 MHz Service Licenses*, Memorandum Opinion and Order, 33 FCC Rcd 188, 189, para. 5 & n.11 (WTB 2018) (*Verizon-Straight Path Order*); *Applications of GCI Communication Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub, Inc., and Unicom, Inc. for Consent to Assign Licenses to the Alaska Wireless Network, LLC*, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd 10433, 10442, para. 23 & n.71 (2013) (*Alaska Wireless-GCI Order*).

[113] 47 U.S.C. § 310(d); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 8; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 5; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[114] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 5; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[115] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9585, para. 9; *Verizon-Straight Path Order*, 33 FCC Rcd at 190, para. 6; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10443, para. 25; *see also Northeast Utils. Serv. Co. v. FERC*, 993 F.2d 937, 947 (1st Cir. 1993) (public interest standard does not require agencies "to analyze proposed mergers under the same standards that the Department of Justice . . . must apply").

[116] *See, e.g.*, *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor to Sirius Satellite Radio Inc., Transferee*, MB Docket No. 07-57, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, 12365-66, para. 32 (2008); *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5674, para. 21 (2007) (*AT&T-BellSouth Order*); *Applications of Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, File Nos. 0002031766, et al.*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967, 13978, para. 22 (2005) (*Sprint-Nextel Order*); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations, File Nos. 0001656065, et al.; Applications of Subsidiaries of T-Mobile USA, Inc. and Subsidiaries of Cingular Wireless Corporation for Consent to Assignment and Long-Term De Facto Lease of Licenses, File Nos. 0001771442, 0001757186, and 0001757204; Applications of Triton PCS License Company, LLC, AT&T Wireless PCS, LLC, and Lafayette Communications Company, LLC for Consent to*

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Commission has determined it may impose and enforce transaction-related conditions to ensure that the public interest is served by the transaction.[117]

27. If we determine that a transaction raises no public interest harms or that any such harms have been ameliorated by the Commission-imposed conditions or by voluntary commitments, we next consider a transaction's public interest benefits. Applicants bear the burden of proving those benefits by a preponderance of the evidence.[118] As part of our public interest authority, we may impose conditions to ensure for the public the transaction-related benefits claimed by the Applicants.[119]

28. Finally, if we are able to find that transaction-related conditions are able to ameliorate any public interest harms and the transaction is in the public interest, we may approve the transaction as so conditioned or agreed.[120] In contrast, if we are unable to find that a proposed transaction even with such conditions serves the public interest or if the record presents a substantial and material question of fact, then we must designate the application for hearing.[121]

IV. QUALIFICATIONS OF APPLICANTS AND COMPLIANCE WITH COMMUNICATIONS ACT AND FCC RULES AND POLICIES

29. Section 310(d) of the Act requires that the Commission make a determination as to whether the Applicants have the requisite qualifications to hold Commission licenses.[122] Among the factors the Commission considers in its public interest review is whether the applicant for a license has the requisite "citizenship, character, financial, technical, and other qualifications."[123] Therefore, as a

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Assignment of Licenses, File Nos. 0001808915, 0001810164, 0001810683, and 50013CWAA04, WT Docket Nos. 04-70, 04-254, and 04-323, Memorandum Opinion and Order, 19 FCC Rcd 21522, 21545, para. 42 (2004) (*Cingular-AT&T Wireless Order*).

[117] *See, e.g.*, *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9141, para. 22 (2015) (*AT&T-DIRECTV Order*); *Comcast-NBC Universal Order*, 26 FCC Rcd at 4249, para. 25; *Application of EchoStar Communications Corp., (A Nevada Corp.), General Motors Corp., and Hughes Electronics Corp (Delaware Corps.) (Transferors) and EchoStar Communications Corp. (A Delaware Corp.) (Transferee)*, Hearing Designation Order, 17 FCC Rcd 20559, 20575, para. 27 (2002) (*EchoStar-DIRECTV HDO*); *see also Application of WorldCom, Inc. and MCI Commc'ns Corp. for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 18025, 18032, para. 10 (1998) (stating that the Commission may attach conditions to the transfers); *Applications of T-Mobile US, Inc., and Sprint Corp., for Consent to Transfer Control of Licenses and Authorizations, Applications of American H Block Wireless L.L.C., DBSD Corp., Gamma Acquisition L.L.C., and Manifest Wireless L.L.C. for Extension of Time*, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10596, para. 42 (2019) (*T-Mobile-Sprint Order*).

[118] 47 U.S.C. § 309(e); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 10; *Verizon-Straight Path Order*, 33 FCC Rcd at 190-91, para. 7; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10442, para. 23.

[119] *See, e.g.*, *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10443, para. 26; *Applications of AT&T Inc. and Centennial Communications Corp. for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements*, Memorandum Opinion and Order, 24 FCC Rcd 13915, 13929, para. 30 (2009).

[120] *See, e.g.*, *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586, para. 11; *Verizon-Straight Path Order*, 33 FCC Rcd at 191, para. 8.

[121] 47 U.S.C. § 309(e); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11; *Verizon-Straight Path Order*, 33 FCC Rcd at 191, para. 8; *Alaska Wireless-GCI Order*, 28 FCC Rcd at 10444, para. 27. Section 309(e)'s requirement applies only to those applications to which Title III of the Act applies. *ITT World Communications, Inc. v. FCC*, 595 F.2d 897, 901 (2d Cir. 1979); *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9586-87, para. 11 & n.37.

[122] 47 U.S.C. § 310(d).

[123] 47 U.S.C. §§ 308, 310(d); *see also T-Mobile-Sprint Order*, 34 FCC Rcd at 10596, para. 43; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 24; *Applications Filed by Qwest Communications International, Inc. and*
(continued….)

threshold matter, the Commission must determine whether the applicants to a proposed transaction meet the requisite qualification requirements to hold and transfer licenses under section 310(d) of the Act and the Commission's rules.[124]

30. Several filers allege misconduct by the Applicants that warrants either a character qualification hearing or deferral of our consideration of the Applications pending a judgment in civil court on the conduct of the merger process. As discussed below, we deny these requests and find that the Applicants possess the basic qualifications of licensees under the Act and our rules, regulations, and policies.[125] We also find that the Transaction will not violate any statutory provision or Commission rule and grant Skydance's request for a continuing satellite waiver of the Commission's Local Television Multiple Ownership Rule[126] in the Minneapolis DMA.

A. Applicants' Qualifications

31. In determining the "the nature of the conduct relevant to making the requisite character findings," the Commission has stated that it is "concerned with misconduct which violates the Communications Act or a Commission rule or policy, and with certain specified non-FCC misconduct which demonstrate the proclivity of an applicant to deal truthfully with the Commission and to comply with our rules and policies."[127] The Commission thus has found it "appropriate to focus generally on three types of adjudicated misconduct which are not specifically proscribed by the Act or our rules and policies."[128] Such non-FCC misconduct includes: (1) fraudulent statements to government agencies; (2) certain criminal convictions; and (3) violations of broadcast related anti-competitive and antitrust statutes.[129] The Commission, however, generally will not "take cognizance of non-FCC misconduct . . . unless it is adjudicated."[130] In short, "only a relatively focused inquiry of non-FCC misconduct will be considered . . . as bearing on character qualifications, and . . . such misconduct must have been adjudicated by an appropriate agency or court before Commission consideration will occur."[131] With

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CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control, WC Docket No. 10-110, Memorandum Opinion and Order, 26 FCC Rcd 4194, 4201, para. 11 (2011) (*CenturyLink-Qwest Order*); *AT&T-BellSouth Order,* 22 FCC Rcd at 5756, paras. 190-91 .

[124] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10596, para. 43; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 24; *CenturyLink-Qwest Order,* 26 FCC Rcd at 4201, para. 11; *AT&T-BellSouth Order,* 22 FCC Rcd at 5756, para. 191. The Commission generally does not reevaluate the qualifications of transferors unless issues related to basic qualifications have been sufficiently raised in petitions to warrant designation for hearing. *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10597, para. 45; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 25.

[125] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10597, para. 44; *AT&T-DIRECTV Order*, 30 FCC Rcd at 9142, para. 25.

[126] 47 CFR § 73.3555(b) and Note 5.

[127] *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 F.C.C.2d 1179, 1190-91, para. 23 (1986) (*1986 Character Policy Statement*) (subsequent history omitted).

[128] *Id.* at 1195, para. 34.

[129] *Id.* The Commission also will consider any conviction for misconduct constituting a felony. *Policy Regarding Character Qualifications in Broadcast Licensing*, Policy Statement and Order, 5 FCC Rcd 3252, para. 4 (1990) (*1990 Character Policy Statement*).

[130] *1986 Character Policy Statement* at 1205, para. 48. The Commission has stated that "where such matters remain pending in another forum we may, in appropriate cases, condition any grant of the application before us on the outcome of that proceeding." *1990 Character Policy Statement* at 3253, para. 7.

[131] *1986 Character Policy Statement* at 1208, para. 52.

respect to FCC-related misconduct, the Commission has stated that "the relevant character traits with which it is concerned are those of 'truthfulness' and 'reliability.'"[132]

32. *Allegations of Non-FCC Misconduct*. The Gabelli Entities and LVA allege improprieties by the Applicants concerning the merger process, contending that it was "rigged;"[133] that it "disenfranchises Class A holders who currently have voting rights;"[134] and that it provides "non-ratable benefits to NAI/Shari Redstone such as an excessive control premium, personal loans, and significant severance packages."[135] They also fault New Paramount's filings with the SEC, claiming that its Form S-4 Registration Statement for the Transaction does not provide adequate disclosures concerning the process leading up to board approval, the fairness of the consideration, or the facts relevant to enable stockholders to ascertain whether consideration that should be paid to them is being diverted to NAI.[136] Finally, the Gabelli Entities contend that Paramount's production of documents in response to its books and records demand under Delaware state law has provided "minimal transparency" into these matters.[137]

33. These allegations involving potential breaches of fiduciary duty by the Applicants remain unadjudicated, with litigation pending in both state and federal courts.[138] Accordingly, as the Gabelli Entities acknowledge, these allegations "may not typically be considered . . . in evaluating applications for change of control (even with respect to character qualifications)."[139] Neither do they support the request that we defer resolution of the Applications while civil litigation remains pending.[140] It is well-established that the Commission will not defer action on transfer applications pending state court litigation of private contractual matters.[141] Further, while the Commission has stated that it might consider unadjudicated non-FCC misconduct in "circumstances in which an applicant has engaged in . . . misconduct so egregious as to shock the conscience and evoke almost universal disapprobation,"[142] the alleged fiduciary improprieties here fall far short of that standard.[143] Finally, based on the nature of the

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[132] *Id.* at 1209, para. 55.

[133] LVA Objection at 1.

[134] Gabelli Letter at 2.

[135] Gabelli Objection at 2.

[136] *Id.*

[137] Gabelli Objection at 2-3.

[138] *See Baker v. Redstone, et al.*, C.A. No. 2024-0790 (Del. Ch.); *LiveVideo.AI Corp. v. Redstone et al.*, No. 1:24-cv-06290 (S.D.N.Y).

[139] Gabelli Objection at 3 & n.4 (citing David Ryder c/o Peter Tannenwald, Esq. Aaron P. Shainis, Esq., 24 FCC Rcd 10874, 10879 (2009) ("[T]he Commission refrains from making decisions based on mere allegations of misconduct, where those allegations are in the process of being adjudicated by another agency or court. The now-settled civil dispute…was best addressed by the state court and is not within the scope of this proceeding. The Commission has consistently declined to adjudicate allegations of breach of fiduciary duty, monetary harm, or similar disputes involving partnership and shareholder rights.").

[140] We do not find LVA's claim that NAI agreed to stay the Commission proceeding, as the Gabelli Entities request, to be a credible interpretation of the court documents that LVA submitted. LVA Petition to Amend at 2-3 & Exh. 1.

[141] *See, e.g.*, *Carnegie Broadcasting Co.*, Memorandum Opinion and Order, 5 F.C.C.2d 882, 884-85, paras. 10-11 (1966); *Transfer of Control of Axia NGNetworks USA, Inc.*, Order on Reconsideration, 31 FCC Rcd 12590, 12594, para. 11 (WCB 2016) (citing *Domestic Section 214 Application Filed for the Transfer of Control of Stanacard, LLC*, Public Notice, 27 FCC Rcd 2381, 2383 (WCB 2012) (rejecting arguments that a contract dispute over the ownership of company shares should delay a grant of the transfer application and stating that the Commission will not defer action on transfer applications pending state court litigation of private contractual matters)).

[142] *1986 Character Policy Statement* at 1205, n.60.

[143] *Compare Applications for Renewal of License of WUTB*, Letter Order, 28 FCC Rcd 6312 (MB 2013) (finding (continued….)

allegations, we do not find this to be an appropriate case for conditioning grant of the Applications on the outcome of the civil litigation.[144]

34. LVA also contends that a character qualification hearing is required because of past sexual harassment allegations against a proposed member of New Paramount's leadership team, asserting that the Commission "has a duty to ensure that those with a history of abusive behavior are not given positions of power over vulnerable employees."[145] LVA further argues that the Applicants have deliberately and deceptively concealed aspects of the employment background of the proposed president of New Paramount in various SEC filings related to the Transaction.[146] These allegations remain unadjudicated by an appropriate agency or court, and, in keeping with our established precedent, we will not take cognizance of them.

35. *Allegations of FCC-Related Misconduct*.[147] Project Rise accuses the Applicants of a lack of candor before the Commission for failing to disclose Tencent's investment in New Paramount in the Applications, including "the nature of the interest, the amount of the interest, or why it might qualify as passive."[148] It further claims that "[a]ny interests (or potential interests) held by the Chinese government and the Chinese Communist Party in a U.S. media conglomerate warrant full and complete disclosure and thorough investigation."[149]

36. This allegation misapplies applicable Commission disclosure requirements. Broadcast applicants are required only to disclose those officers, directors, and individuals or entities that have an attributable interest, which the Commission has defined as "partnership and direct ownership interests and any voting stock interest amounting to 5% or more of the outstanding voting stock of a corporate broadcast licensee."[150] Likewise, under the Commission's foreign ownership rules, applicants must request specific approval in a petition for declaratory ruling under section 310(b) only for those foreign investors that will have more than a 5% direct or indirect equity and/or voting interest in the controlling U.S. parent (and 10% in certain circumstances).[151] These disclosure thresholds do not change based on

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that child molestation and drug trafficking qualify under this test).

[144] In addition, we find that FUSE has failed to raise a substantial and material question of fact concerning the financial structure of the Transaction, as it merely opines that, if the assertions of the Gabelli Entities are accurate, grant of the Applications would be contrary to the Commission's charge to promote localism, viewpoint diversity, and the public interest generally. FUSE Objection at 8.

[145] LVA Objection at 5.

[146] *See* Supplemental Brief of LiveVideo.AI Corp (filed May 7, 2025) (observing that Mr. Shell's service as Chairman of the Broadcasting Board of Governors was not included in the biographies of designated board members).

[147] The News Distortion Proceeding remains open, and our action today does not pre-judge or in any way prejudice any actions we may take in that proceeding. We note that the matter has not been set for hearing and CAR has not alleged that CBS or its parent are unfit to hold Commission licenses. Rather, CAR requested that the Commission "[d]irect CBS to release the complete transcript of the Vice President's interview with 'Sixty Minutes'" and commit to viewpoint diversity. *See* CAR Comments at 5, 8. CBS/Skydance has done both. *See FCC Includes Additional Video Material in its Request for Comment on News Distortion Complaint Involving CBS Broadcasting Inc., Licensee of WCBS, New York, NY*, MB Docket No. 25-73, Public Notice, DA 25-113 (MB Feb. 7, 2025) (noting that CBS provided the transcript, as well as a video of the interview, in response to a request from the Commission's Enforcement Bureau); *infra* para. 59 (discussing Skydance's voluntary commitments, including to viewpoint diversity).

[148] Project Rise Objection at 7.

[149] *Id.*

[150] 47 CFR § 73.3555, Note 2a.

[151] 47 CFR § 1.5001(i).

the identity of the interest holder.[152] The Applicants have certified that the equity and financial interests in New Paramount not set forth in the Applications are non-attributable, and Project Rise provides no evidence suggesting that this certification or the Applicants' statements about the Tencent investment are false or that the Applicants intended to deceive the Commission. Accordingly, we find that the Applicants did not lack candor before the Commission.

37. Project Rise also implies that Skydance has become involved prematurely in Paramount's management, alluding to reports that the proposed president of New Paramount has inserted himself into the newsroom's decision making and has exerted pressure to settle a complaint filed against CBS.[153] By speculating about impermissible "gun-jumping," Project Rise alleges that Skydance has engaged in an unauthorized transfer of control, "assum[ing] *de facto* control without prior Commission approval,"[154] in contravention of section 310(d) of the Communications Act.[155] Skydance flatly denies the allegation, and, again, Project Rise provides no specific, factual evidence in support. Allegations based on news accounts alone are not sufficient to warrant further inquiry.[156] We therefore find that the record does not present a substantial and material question of fact as to whether Skydance has violated section 310(d) of the Act.

B. Compliance with the Communications Act and FCC Rules and Policies

38. *National Television Ownership Rule*. The National Television Ownership Rule prohibits a single entity from owning television stations that, in the aggregate, reach more than 39% of the total television households in the United States after taking into account the 50% discount applied to UHF stations (UHF Discount).[157] The Applicants submitted a national audience reach analysis for the Transaction.[158] It demonstrates that, following consummation of the Transaction, New Paramount will have a national audience reach of 24.28% (or 37.39% without giving effect to the UHF discount), in compliance with the National Television Ownership Rule.[159]

39. *Local Television Ownership Rule*. The Local Television Ownership Rule allows an entity to own two television stations licensed in the same DMA if: (1) the digital noise limited service contours 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 from ratings averaged over a 12-month period immediately preceding the date of application, as measured by Nielsen Media Research or by any comparable professional, accepted

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[152] *But see Protecting our Communications Networks by Promoting Transparency Regarding Foreign Adversary Control*, GN Docket No. 25-166, Notice of Proposed Rulemaking, FCC 25-28 (May 27, 2025) (*Foreign Adversary NPRM*).

[153] Project Rise Objection at 10-11 (citing Oliver Darcy, *Shell-Shocked at CBS*, Status (Mar. 3, 2025), https://www.status.news/p/paramount-cbs-60-minutes-lawsuit-settlement-talks).

[154] Project Rise Objection at 2.

[155] 47 U.S.C. § 310(d); *see also Birach Broadcasting Corporation*, Notice of Apparent Liability for Forfeiture and Order, 25 FCC Rcd 2643, 2645, para. 5 (EB 2010) ("In ascertaining whether a transfer or reversion of control has occurred, the Commission traditionally looks beyond the legal title to whether a new entity or individual has obtained the right to determine the basic operating policies of the station.").

[156] *See Application of Central Texas Broadcasting Company, Ltd.*, 64 R.R.2d 332, para. 12 (1987) ("Allegations based on newspaper articles fail the 'personal knowledge' requirement of Section 309(d) . . . .").

[157] 47 CFR § 73.3555(e). National audience reach means the total number of television households in the DMAs in which the relevant stations are located divided by the total national television households as measured by DMA data at the time of a grant, transfer, or assignment of a license. 47 CFR § 73.3555(e)(2)(i).

[158] Amended Comprehensive Exhibit at 14 & Exh. F.

[159] Amended Comprehensive Exhibit at 14 & n.13.

audience ratings service.[160] 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 shall 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).[161]

40. As the Skydance Consortium does not currently hold an attributable interest in any broadcast television station, the Transaction will not result in any new station combinations in any DMA. In ten DMAs, one or more of the Licensees currently hold(s) licenses for two full-power television stations (the TV Duopolies).[162] The Applicants provided market-by-market ratings performance analyses demonstrating that, in each of the TV Duopolies, one of the stations is not ranked among the top four in the market, in compliance with the Local Television Multiple Ownership Rule.[163]

41. *Continuing Satellite Waiver*. We also grant a waiver to permit KCCW-TV, Walker, Minnesota, to continue operating as a satellite of WCCO-TV, Minneapolis, Minnesota.[164] Under the streamlined standards the Commission established in 2019, we reauthorize satellite status upon assignment or transfer of control by demonstration of compliance with the criteria for grant of an original satellite authorization or, in the alternative, by submission of a copy of the most recent satellite authorization along with a statement certifying that there has been no material change to the circumstances underlying the authorization.[165] The Applicants state that KCCW-TV has operated as a satellite for decades and note the most recent transfer of control reauthorizing satellite status,[166] as well as the underlying order granting the waiver.[167] They also certify that the underlying circumstances upon which the Commission relied in granting and reauthorizing the current satellite station waiver for KCCW-TV have not changed materially.[168] We received no opposition to this request. Accordingly, we grant continued authority to operate KCCW-TV as a satellite of WCCO-TV.

V. STANDING

42. Under the Act, only a "party in interest" has standing to file a petition to deny.[169] In addition to containing the necessary factual allegations to support a *prima facie* case that grant of the application would be inconsistent with the public interest, convenience, and necessity, a petition to deny must contain specific allegations of fact demonstrating that the petitioner is a party in interest.[170] The

[160] 47 CFR § 73.3555(b)(1).

[161] *Id*.

[162] The ten DMAs are New York; Los Angeles; Philadelphia; Dallas-Ft. Worth; Boston (Manchester); San Francisco-Oakland-San Jose; Detroit; Miami-Ft. Lauderdale; Sacramento-Stockton-Modesto; and Pittsburgh.

[163] Amended Comprehensive Exhibit at 13-14 & Exh. E.

[164] 47 CFR § 73.3555, Note 5.

[165] *Streamlined Reauthorization Procedures for Assigned or Transferred Television Satellite Stations et al*., MB Docket Nos. 18-63 and 17-105, Report and Order, 34 FCC Rcd 1539 (2019).

[166] Amended Comprehensive Exhibit at 16, n.20 (referencing LMS File No. BTCCDT-20200910AAF, et al. (containing a request for the reauthorization of the satellite station waiver for KCCW-TV) and Broadcast Actions, Public Notice, Report No. 49856 (Nov. 2, 2020) (reflecting consent to the applications)).

[167] Amended Comprehensive Exhibit at 16 & n.21 (citing *Shareholders of CBS Corporation, (Transferor) and Viacom, Inc., (Transferee) for Transfer of Control of SBS Corporation and Certain Subsidiaries, Licenses of KCBS-TV, Los Angeles, CA, et al*., Memorandum Opinion and Order, 15 FCC Rcd 8230 (2000)).

[168] Amended Comprehensive Exhibit at 16.

[169] 47 U.S.C. § 309(d); 47 CFR § 73.3584.

[170] 47 U.S.C. § 309(d).

allegations of fact, except for those of which official notice may be taken, must be supported by an affidavit or declaration under penalty of perjury of someone with personal knowledge of the facts alleged.[171] In the broadcast regulatory context, standing is generally shown in one of three ways: (1) as a competitor in the market subject to signal interference; (2) as a competitor in the market subject to economic harm; or (3) as a resident of the station's service area or regular listener or viewer of the station.[172] An organization can establish standing on behalf of its members if it provides an affidavit or declaration "of one or more individuals entitled to standing indicating that the group represents local residents and that the petition is filed on their behalf."[173] In general, a petitioner in a transfer proceeding also must allege and prove that: (1) it has suffered or will suffer an injury in fact; (2) there is a causal link between the proposed transfer and the injury in fact; and (3) not granting the transfer would remedy or prevent the injury in fact.[174]

43. No filer in this proceeding properly established that it is a party in interest with standing to file a petition to deny the Transaction. The Labor Unions, OMI, the Gabelli Entities, FUSE, Project Rise, Mack Toys, Mr. Rea, and 2042 Media do not assert standing; rather, they explicitly submit their pleadings as informal objections, comments, or complaints.[175] Messrs. Kiggins and Shabazz, while filing their pleadings as petitions to deny, fail to include sufficient factual allegations to support a determination that grant of the Applications would be inconsistent with the public interest, convenience, and necessity. Neither do their pleadings include the required affidavit.[176] CAR, in effect, claims organizational standing, attaching a declaration signed under penalty of perjury by its president, declaring that its board and staff include several residents of the Chicago media market who are viewers of CBS television station WBBM-TV, Chicago, Illinois,[177] and asserting that these individual viewers will be harmed by grant of the Applications.[178] However, CAR concedes that it failed to serve its pleading on the Applicants, as required by statute.[179] Finally, we determine that LVA's various claims to standing—because of a generalized harm to competition; as a competitor of Paramount and Skydance; as a stockholder of Paramount Global; and as a former business partner of Paramount Global—fail from a lack of factual specificity and redressability.[180] In addition, its claim to viewer standing fails from the lack of an affidavit

[171] *Id*.

[172] *See, e.g.*, *Entercom License, LLC*, MB Docket No. 16-357, Hearing Designation Order, 31 FCC Rcd 12196, 12205, para. 22 (2016); *Connoisseur Media Licenses, LLC*, Letter Order, 30 FCC Rcd 6045, 6048, 6049 (MB 2015).

[173] *Liberman Television of Dallas License LLC, Debtor-in-Possession et al*., Order, 34 FCC Rcd 8543, 8547, para. 7 (MB 2019); *Cox Radio, Inc. & Summit Media, LLC*, Letter Order, 28 FCC Rcd 5674, 5676, para. 2, n.12 (MB 2013).

[174] *See, e.g.*, *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992); *MCI Communications Corp.*, Memorandum Opinion and Order, 12 FCC Rcd 7790 (1997) (*MCI Order*); *Saga Communications of North Carolina, LLC and Library Productions, a Limited Partnership, re: WOXL-FM*, Letter Order, 20 FCC Rcd 11987 (MB 2005).

[175] Although Mack Toys claims to establish "Article III" standing, it does not assert standing pursuant to section 309(d) of the Act. *See* Mack Toys Complaint at 29-38. In addition, the Mack Toys Complaint was filed after the petition to deny date established in the *Paramount Second Public Notice* had passed.

[176] 47 U.S.C. § 309(d). In addition, the Shabazz Objection was filed after the petition to deny date established in the *Paramount Second Public Notice* had passed.

[177] CAR Objection, Declaration of Daniel R. Suhr (Suhr Declaration).

[178] CAR Objection at 1, n.1.

[179] 47 U.S.C. § 309(d); CAR Reply at 7, n.12 ("In a footnote, the Opposition states that the Center failed to serve the petition on the Applicants. This is true; counsel regrets the error."). Because CAR's pleading is procedurally defective, we need not consider whether the Suhr Declaration would be sufficient to establish organizational standing.

[180] Even if we were to credit LVA's unsupported claims that it is a competitor of Paramount and Skydance or that the merger process was "rigged" against it, we may not consider whether it would be a preferable buyer. *See*

(continued….)

from a purported viewer of any CBS television station. Consistent with Commission practice, however, we will consider these pleadings as informal objections, pursuant to section 73.3587 of the Rules,[181] and address their arguments.[182]

VI. POTENTIAL PUBLIC INTEREST HARMS AND BENEFITS

44. In this section, we consider the potential harms and benefits arising from the Transaction. As discussed below, we find that the Transaction does not raise any material public interest harms. We further find that the Transaction is likely to result in some tangible benefits by allowing Skydance to address Paramount's current financial challenges, which, the Applicants maintain, will enhance the service of the CBS owned-and-operated broadcast television stations. We conclude that, on balance, the benefits outweigh any potential public interest harms.

A. Potential Public Interest Harms

45. *Anticompetitive Effects*. Several of the Informal Objectors allege that the Transaction would have anticompetitive effects,[183] such as raising retransmission consent fees,[184] facilitating and perpetuating "bundling practices,"[185] and increasing control over streaming platforms to the detriment of independent programmers.[186] They also suggest conditions we might impose to address these harms to competition, including a requirement that New Paramount voluntarily subject Paramount Plus to the must-carry rules that apply to DBS providers[187] or that it set aside a fixed percentage of programming services on PlutoTV and other streaming platforms for independently-owned content providers.[188]

46. Project Rise points to an increase in the growth rate of retransmission consent fees over the past 15 years and argues that the Transaction will do nothing to alleviate or even slow the "hyperinflation."[189] It also maintains that the Transaction will only incentivize Skydance to further raise rates by expanding its programming reach and distribution with the combined content libraries of the two entities and that this increasing accumulation of must-have programming will give Skydance powerful

(Continued from previous page)
Shareholders of Tribune Company, Transferors, and Sam Zell et al., Transferees, for Consent to the Transfer of Control of The Tribune Company, Memorandum Opinion and Order, 22 FCC Rcd 21266, 21272-73, para. 20, n.35 (2007); *see also* 47 U.S.C. § 310(d) ("[T]he Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.").

[181] 47 CFR § 73.3587.

[182] We will refer to all of the filers, collectively, as the Informal Objectors. In addition to lacking "party in interest" standing, Mr. Kiggins, Mr. Shabazz, the Gabelli Entities, LVA, and Mr. Rea all fail to provide "specific allegations of fact sufficient to show…that a grant of the [Applications] would be prima facie inconsistent with" the public interest, convenience, and necessity. 47 U.S.C. § 309(d)(1). Accordingly, we deny their informal objections.

[183] Mack Toys' allegation of Paramount's anticompetitive enforcement of its trademark on the word 'slime' fails to identify a transaction-related public interest harm. Accordingly, we deny its informal objection.

[184] Project Rise Objection at 8-9.

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

[186] FUSE Objection at 2-5; 2042 Media Objection at 1-2.

[187] OMI Objection at 1.

[188] Letter from David Goodfriend, Counsel to International Brotherhood of Teamsters Local 399 and FUSE Media, to Marlene Dortch, Secretary, FCC, MB Docket No. 24-275, at 2 (filed Feb. 11, 2025); 2042 Media Objection at 2.

[189] Project Rise Objection at 9.

leverage during retransmission consent negotiations.[190] Project Rise suggests that any resulting increase in retransmission consent fees would be a public interest harm.[191]

47. We find Project Rise's arguments to be speculative and unpersuasive and its apparent reliance on the *TEGNA HDO* to be misplaced. The assertion that Skydance will gain increased leverage against MVPDs through an expanded content library necessarily assumes that it will have such leverage and be able to exert it with respect to all CBS television stations. The Commission, however, "has never before found that a national market for negotiation of retransmission consent exists."[192] Moreover, the Commission has stated that it does not "believe that an increase in retransmission consent rates, by itself, is necessarily a public interest harm."[193] Rather, "such harm exists only where an increase is not the product of 'competitive marketplace considerations,'"[194] and Project Rise provides no evidence to suggest that the market in which Skydance would conduct its future retransmission consent negotiations would be noncompetitive. In addition, the *TEGNA HDO* articulated concerns related to the "unique structure" of the transactions, in which "the various assignments and/or transfers of control [were] closed sequentially in order to take advantage of after-acquired station clauses and maximize retransmission revenue."[195] Those concerns do not exist here, where the Skydance Consortium does not currently have an attributable interest in any broadcast station or cable network. Accordingly, we conclude that Project Rise fails to identify a transaction-related harm.

48. In addition, a number of Informal Objectors claim that the Transaction would give Skydance the incentive and ability to engage in practices that would harm independent programmers. Project Rise points to the "well-known" television industry practice of "bundling" programming in a way that creates "bloated pay television packages," forcing consumers "to pay for content that they do not want" and "suck[ing] the oxygen out of the greenhouse of independent programming as such content finds it nearly impossible to secure carriage."[196] It states that the Transaction "contains no safeguards against this anticompetitive practice" and urges the Commission to "investigate Skydance's plans for licensing the Paramount/CBS television networks, together with Skydance's own programming, in order to protect against illegal tying."[197] OMI contends that "[t]oday's streaming services like Paramount Plus function in the same manner as cable TV systems," yet "[b]ig corporations like . . . Paramount have excluded independent television stations from carriage on streaming services like Paramount Plus . . . that

[190] *Id*.

[191] Id. at 8 (citing *Consent to Transfer Control of Certain Subsidiaries of TEGNA Inc. to SGCI Holdings III LLC*, Hearing Designation Order, 38 FCC Rcd 1282, 1291 (MB 2023) (*TEGNA HDO*) (observing that "a public interest harm would be more likely if a rise in [retransmission] rates was *not* the result of a functioning retransmission consent marketplace or was the product of market power") (emphasis in original)).

[192] *Applications of Tribune Media Company, Nexstar Media Group, Inc. et al*, MB Docket No. 19-30, Memorandum Opinion and Order, 34 FCC Rcd 8436, 8452, para. 30 (2019) (*Nexstar-Tribune*). Similarly, the United States Department of Justice has found that the relevant market is the individual DMA. *See id*., 34 FCC Rcd at 8444, n.63 (citing *United States of America et al. v. Nexstar Media Group, Inc., et al.*, Complaint (Nexstar Complaint), Proposed Final Judgment (Nexstar Final Judgment), and Competitive Impact Statement, Case No. 19-cv-02295 (filed Jul. 31, 2019)).

[193] *Nexstar-Tribune*, 34 FCC Rcd at 8451, para. 29.

[194] *Id.* (citing *Implementation of the Satellite Home Viewer Improvement Act of 1999 Retransmission Consent Issues: Good Faith Negotiation and Exclusivity*, MB Docket No. 99-363, First Report and Order, 15 FCC Rcd 5445, 5469-70, paras. 56-58 (2000)).

[195] *TEGNA HDO*, 38 FCC Rcd at 1294, para. 32.

[196] Project Rise Objection at 3.

[197] *Id.*

exclusively carry just one local broadcast television station in each television market."[198] FUSE also expresses its concern that the Transaction "will worsen the competitive viability of FUSE and other independent programming sources" on emerging streaming platforms, such as Paramount's PlutoTV.[199] FUSE alleges that "post-transaction synergies" created by the "introduction of Oracle's AI capabilities" would "empower New Paramount to further curtail competition from independent programmers."[200]

49. We find no evidence in the record that would support a finding of a transaction-related harm. The supposed harms concern existing, "well-known" industry practices or pose broader regulatory policy questions that are industry-wide in nature, as OMI concedes in expressing its hope that subjecting Paramount Plus to the must-carry rules "may become a prototype" for other streaming platforms.[201] Such matters are best addressed through rulemaking proceedings rather than the transaction-review process.[202] We therefore decline to consider them here or impose the requested conditions.

50. *Localism and Jobs*. Citing the *TEGNA HDO*, the Labor Unions state that the Bureau has recognized that "jobs, journalists, and workers directly relate to localism and the public interest."[203] They assert that such reasoning "should inform the Commission here" and urge the Commission to condition the Transaction "on maintaining minimum levels of Guild-created content and station-level employment."[204]

51. Again, we find reliance on the *TEGNA HDO* to be inapt. The Bureau clearly stated that the "Commission has found that, as a general matter, labor matters are handled and enforced by federal agencies other than the Commission" and emphasized that it did not "depart from that precedent."[205] Rather, the Bureau concluded that a hearing was necessary to reconcile conflicting evidence on the record, specifically concerning several documents that had been provided to investors, lenders, or other third parties and that seemed to indicate intent to reduce station-level staff.[206] Here, the Labor Unions offer only their speculation that post-closing job cuts are likely to occur, based solely on press accounts of

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[198] Letter from Keith J. Leitch, President and Engineer, One Ministries, Inc. to Marlene H. Dortch, Secretary, FCC, Docket No. 24-275 (filed Nov. 15, 2024).

[199] FUSE Objection at 1. FUSE asserts that "Paramount behaves much like a big tech platform by providing distribution for independent programming vendors, while simultaneously abusing that distribution market power to favor its own proprietary content on the same platform." *Id*. at 2.

[200] *Id.* at 5-7.

[201] OMI Objection at 1.

[202] *General Motors Corp. and Hughes Elecs. Corp., Transferors and the News Corp. Ltd., Transferee, for Authority to Transfer Control*, MB Docket No. 03-124, Memorandum Opinion and Order, 19 FCC Rcd 473, 534, para. 131 (2004). We direct the Informal Objectors to the open Commission proceeding proposing to modernize the definition of an MVPD. *See Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services*, MB Docket No. 14-261, Notice of Proposed Rulemaking, 29 FCC Rcd 15995 (2014).

[203] Labor Unions Objection at 4.

[204] *Id.* at 4-5; *see also* Letter from David Goodfriend, Counsel to International Brotherhood of Teamsters Local 399 and FUSE Media, to Marlene Dortch, Secretary, FCC, MB Docket No. 24-275, at Attach. (filed May 5, 2025) (proposing specific language for a condition to maintain station-level staffing).

[205] *TEGNA HDO*, 38 FCC Rcd at 1296, para. 36 (citing *Comcast-NBC Universal Order* 26 FCC Rcd at 4329-30, para. 223-24 (2011) (declining to impose employment conditions that the Commission found were not related to the transaction and that are enforced by agencies other than the Commission)); *see also Applications of Univision Holdings, Inc. (Transferor) and Perenchio Television, Inc. (Transferee) for Transfer of Control of Univision Station Group, Inc. et al*., Memorandum Opinion and Order, 7 FCC Rcd 6672, 6683, para. 48, n.45 (1992) (stating that the Commission has "never suggested that a reduction in a station's staff is contrary to the public interest, if conducted in a nondiscriminatory manner"); 47 U.S.C. § 303.

[206] *TEGNA HDO*, 38 FCC Rcd at 1296-1300, paras. 38-44.

a presentation by Skydance to Paramount's board.[207] Thus, after review of the record, we find no evidence that would warrant the employment condition proposed by the Labor Unions or support a finding that such a condition would be transaction-related. As for the Labor Unions' request that we condition the Transaction on maintaining unspecified levels of "Guild-created content," we are foreclosed from doing so by the First Amendment and Section 326 of the Act.[208]

52. *National Security*. CAR and Project Rise allege that Tencent's minority ownership stake in Skydance raises significant national security concerns and request that we subject that interest to an extraordinary degree of review and coordination with other Federal agencies and organizations.[209] We decline to do so.

53. The Commission of course treats the 1260H list of Chinese Military Companies with utmost seriousness. While we note the only statutory consequences of being listed on the 1260H List are restrictions on DoD contracting that have no direct bearing on this transaction,[210] the Commission has nonetheless on its own initiative previously adopted and proposed numerous measures to counter the national security threat from Chinese Military Companies. For example, last year, the Commission excluded all entities listed as Chinese Military Companies from participating in the Commission's nascent IoT Labeling Program.[211] In May of this year, the Commission prohibited test labs, telecommunications certification bodies, and laboratory accreditation bodies from obtaining recognition for purposes of our equipment authorization process if they are owned by or subject to the direction or control of an entity on the 1260H List, among other determinations.[212]

54. The Commission has also recently proposed other actions to counter the threat from entities owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary country, including China.[213] However, under none of these actions would the FCC treat a passive ownership stake of less than 5%, without more (e.g. board seats, other indicia of Tencent or Chinese government control), as running afoul of our rules. Instead, when it comes to ownership without more, we generally apply a

[207] Labor Unions Objection at 3.

[208] U.S. Const. amend. I; 47 U.S.C. § 326.

[209] CAR Objection at 1-4; Project Rise Objection at 4-8. Project Rise also references that Skydance's plans to integrate AI into its news operations raises natural security risks. *Id*. at 9. Project Rise asserts that the proposed use of AI highlights another problem related to Skydance's partnership with Tencent in that it risks giving China an edge in AI development. *Id*. at 10.

[210] Effective June 30, 2026, DoD is prohibited from entering into, renewing, or extending contracts for goods, services, or technology with entities on the 1260H List or their affiliates. Contracts with companies controlled by these listed entities are also prohibited. Further, in 2027, DoD is prohibited from entering into, renewing, or extending a contract for the procurement of goods or services that include goods or services produced or developed by an entity, or controlled by an entity, on the Section 1260H List. The prohibitions do not extend to existing contracts or to contracts for goods, services, or technology that provide a service that connects to the facilities of a third party, including backhaul, roaming, or interconnection arrangements. *See* National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118–31, § 805, 137 Stat. 136, 316 (2023).

[211] *See Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Report and Order and Further Notice of Proposed Rulemaking, 39 FCC Rcd 2497, 2515-16, 2530-31, 2536, paras. 33, 60-61 & 74 (2024).

[212] *Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program*, ET Docket No. 24-136, Report and Order and Further Notice of Proposed Rulemaking, FCC 25-27, paras. 3, 30, 36 & 41 (May 27, 2025) (*Equipment Authorization Process Order and Further Notice*) (adding 47 CFR § 2.902, which lists entities on the 1260H List as "prohibited entities").

[213] *See Foreign Adversary NPRM* at para. 13; *Equipment Authorization Process Order and Further Notice* at para. 129.

10% threshold.[214] Therefore, while we would no doubt have concerns if Tencent owned a controlling stake in the company at issue here or was otherwise able to direct or influence Paramount's corporate policy or get access to confidential information, based on the record, we do not view Tencent's ownership stake as raising sufficient national security concerns to alter our conclusions or require a hearing.[215]

B. Potential Public Interest Benefits

55. We next review the potential public interest benefits. The Commission finds a claimed benefit to be cognizable only if it: is transaction-related, is verifiable, and is likely to flow through to consumers and not inure solely to the benefit of the company.[216] Here, we find that the record indicates that the Transaction will produce some public interest benefits, including enhancing the service of the CBS television network and its owned-and-operated local television broadcast stations and revitalizing Paramount to navigate challenging economic and marketplace conditions.[217]

56. The Applicants observe that, due to economic "headwinds" and a notable shift in the way Americans consume news, sports, and entertainment, Paramount's costs are increasing while its traditional sources of revenue are shrinking.[218] These challenges, they note, left Paramount with $14.6 billion in long-term debt at the end of 2023.[219] The Applicants state that the Skydance Consortium's injection of $1.5 billion of new capital into New Paramount will reduce the company's leverage and thereby bolster all aspects of its operations, including broadcast.[220] They assert that, with an improved balance sheet, New Paramount will be able to make strategic investments in newsgathering and reporting efforts, preserve and promote localism, and safeguard journalistic independence.[221] The Applicants also state that the infusion of capital will help ensure popular live sports and highly rated entertainment programming remain available to over-the-air viewers.[222] Finally, they affirm that the Transaction will allow New Paramount to transform its websites for the Stations, ensuring the availability of reliable, high-quality, non-paywalled local and national news to viewers in communities nationwide and further contributing to the sustainability of the company's local journalism in the modern media landscape.[223]

57. Furthermore, the Applicants state that these additional financial resources, as well as access to Skydance's creative assets, will permit New Paramount to emerge as a stronger and more vibrant competitor in that modern media landscape. Recapitalizing the company, they assert, will foster the growth of Paramount Plus and PlutoTV, the streaming platforms that make up a significant and

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[214] *See, e.g.*, 47 CFR §§ 2.903(c), 63.18(h), 1.2112(a); *Equipment Authorization Process Order and Further Notice* at para. 72; *Foreign Adversary NPRM* at para. 16.

[215] Of course, this is not a statement on the trustworthiness of Tencent itself.

[216] *See Applications Filed for the Transfer of Control of Authorizations Held by Frontier Communications Corporation, Debtor-in-Possession and Its Wholly Owned Subsidiaries et al.,* WC Docket No. 20-197 et al., Memorandum Opinion and Order and Declaratory Ruling, 36 FCC Rcd 291, 301, para. 25 (WCB/IB/WTB/OEA 2021) (*Frontier 2021 Order*); *T-Mobile-Sprint Order*, 34 FCC Rcd at 10671, para. 214; *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9604, para. 50 (citing *AT&T-BellSouth Order*, 22 FCC Rcd at 5761, para. 202); *AT&T-DIRECTV Order*, 30 FCC Rcd at 9237, paras. 273-74.

[217] Amended Comprehensive Exhibit at 4-8.

[218] *Id.* at 6.

[219] *Id.*

[220] *Id.* at 4.

[221] *Id.* at 4-5.

[222] *Id.* at 4.

[223] *Id.* at 7.

increasing share of Paramount's annual revenues.[224] They assert that revitalizing the technology underlying these streaming services will help to secure their continued success, and, in turn, help stabilize and support the viability of the company's broadcast services.[225] Specifically, the Applicants claim that unifying cloud providers will generate financial and operational efficiencies; improving recommendation engines will increase the quality and duration of viewer engagement; and optimizing "ad-tech" will expand the reach of advertisers' messages and improve their ability to measure the impact of their advertising spend.[226] They state that these combined technology initiatives will create an unparalleled user experience, with improved subscription- and advertising-based revenue-generation potential; as a result, the streaming platforms will enable New Paramount to secure the legacies of the CBS network, its affiliates, and the Stations into the future. While we cannot precisely quantify these expected benefits, we expect many of them to be realized, which will benefit Applicants' operations and thus advance the public interest.

58. We recognize Skydance's commitment to equal opportunity employment and nondiscrimination as strengthening its service in the public interest.[227] Skydance states that it does not have DEI programs in place today and will not establish such initiatives.[228] Skydance further confirms the elimination of DEI initiatives that had been in place at Paramount and summarizes both those changes and additional commitments it will make upon closing the Transaction, including to its leadership structure, training, corporate sponsorships, supplier selection, hiring, career development resources, and public and internal messaging.[229] We accept Skydance's commitment as firm and definite, and expect that these changes will prevent DEI discrimination in the post-transaction company, as consistent with the law and the public interest.[230]

59. We further recognize Skydance's commitment to ensuring that New Paramount's array of news and entertainment programming embodies a diversity of viewpoints across the political and ideological spectrum and that CBS's reporting is fair, unbiased, and fact-based.[231] Skydance also reaffirms its commitment to localism as a core component of the public interest standard, stating that it will work closely with its affiliated broadcast stations to ensure a productive partnership, including by considering technological improvements, investments in local news resources, and other measures that bolster local broadcasting.[232] Finally, to promote transparency and increased accountability, Skydance will have in place, for a period of at least two years, an ombudsman who reports to the President of New Paramount, and who will receive and evaluate any complaints of bias or other concerns involving CBS.[233]

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[224] *Id.* at 6.

[225] *Id.* at 7.

[226] *Id.*

[227] *See* Letter from Stephanie Kyoko McKinnon, General Counsel and Co-President of Business Operations, Skydance Media, to Hon. Brendan Carr, Chairman, FCC, MB Docket No. 24-275 (filed July 22, 2025).

[228] *Id.* at 1.

[229] *Id.* at 1-2.

[230] *Id.*

[231] *See* Letter from Stephanie Kyoko McKinnon, General Counsel and Co-President of Business Operations, Skydance Media, to Hon. Brendan Carr, Chairman, FCC, MB Docket No. 24-275 (filed July 22, 2025).

[232] *Id.* at 1-2.

[233] *Id.* at 2; *see also Comcast-NBC Universal Order*, 26 FCC Rcd at 4322, para. 204 (finding such a mechanism effective in preventing editorial bias in the operation of the NBC broadcast network).

VII. CONCLUSION

60. We have conducted a detailed review of the Applications and related filings in this proceeding, as well as a thorough analysis of the potential harms and benefits of the Transaction, including the firm and definite commitments of the Applicants to take certain actions, as set forth above. Based on our extensive consideration of the record, and subject to the commitments contained herein, we find that the Applicants are fully qualified and conclude that grant of the Applications will result in public interest benefits and serve the public interest, convenience, and necessity.

VIII. ORDERING CLAUSES

61. Accordingly, having reviewed the Applications and the record in this matter, **IT IS ORDERED**, pursuant to 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), that the Applications proposing to transfer control of Paramount Global from the current parties controlling Paramount's single majority shareholder, National Amusements, Inc., to certain investors in Skydance Media, LLC, or their affiliates, **ARE GRANTED**.

62. **IT IS FURTHER ORDERED**, pursuant to Sections 4(i) and (j), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 309, 310(d), that the pleadings and other requests for Commission action, addressed herein, filed by Sean Kiggins; International Brotherhood of Teamsters Hollywood Local 399, Writers Guild of America West, Inc., and Writers Guild of America East; One Ministries, Inc.; Gabelli Value 25 Fund Inc. and its affiliated funds, investment advisors, and investors; Center for American Rights; LiveVideo.AI Corp; FUSE Media; Project Rise Partners; Danny Amen Valentine Shabazz; Mack Toys, Inc.; Paul Virgil Rea; and 2042 Media USA, LLC, **ARE DENIED**.

63. **IT IS FURTHER ORDERED**, that the request for continued operation of KCCW-TV, Walker, Minnesota, as a satellite station of WCCO-TV, Minneapolis, Minnesota, pursuant to the "satellite exception" of Note 5 to section 73.3555 of the Commission's rules, 47 CFR § 73.3555, **IS GRANTED**.

64. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order **SHALL BE EFFECTIVE** upon release, in accordance with section 1.102 of the Commission's rules, 47 CFR § 1.102. Petitions for reconsideration under section 1.106 of the Commission's Rules, 47 CFR § 1.106, may be filed within thirty days of the release date of this Memorandum Opinion and Order.

65. **IT IS FURTHER ORDERED**, that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 24-275 **SHALL BE TERMINATED** and the docket closed.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX

Paramount/Skydance Transfer Applications

Call Sign	Community of License	Application File Nos.	Licensee	Facility ID
WUPA	Atlanta, GA	0000252521	Atlanta Television Station WUPA Inc.	6900
WCBS□TV	New York, NY	0000252522	CBS Broadcasting Inc.	9610
WBBM□TV	Chicago, IL	0000252523	CBS Broadcasting Inc.	9617
WWJ□TV	Detroit, MI	0000252524	CBS Broadcasting Inc.	72123
KDKA□TV	Pittsburgh, PA	0000252525	CBS Broadcasting Inc.	25454
KCBS□TV	Los Angeles, CA	0000252526	CBS Broadcasting Inc.	9628
KPIX□TV	San Francisco, CA	0000252527	CBS Broadcasting Inc.	25452
KCCW□TV	Walker, MN	0000252528	CBS Broadcasting Inc.	9640
WCCO□TV	Minneapolis, MN	0000252529	CBS Broadcasting Inc.	9629
KYW□TV	Philadelphia, PA	0000252530	CBS Broadcasting Inc.	25453
WLNY□TV	Riverhead, NY	0000252534	CBS LITV LLC	73206
WBXI□CD	Indianapolis, IN	0000252537	CBS Mass Media Corporation	70416
WTOG	St. Petersburg, FL	0000252541	CBS Operations Investments Inc.	74112
W26DP□D	Inverness, FL	0000252542	CBS Operations Investments Inc.	74116
W36FJ□D	Sebring, FL	0000252543	CBS Operations Investments Inc.	74113
KTVT	Fort Worth, TX	0000252549	CBS Stations Group of Texas LLC	23422
WBZ□TV	Boston, MA	0000252551	CBS Television Licenses LLC	25456
WJZ□TV	Baltimore, MD	0000252552	CBS Television Licenses LLC	25455
WSBK□TV	Boston, MA	0000252553	CBS Television Licenses LLC	73982
KCNC□TV	Denver, CO	0000252554	CBS Television Stations Inc.	47903
WFOR□TV	Miami, FL	0000252555	CBS Television Stations Inc.	47902
WKBD□TV	Detroit, MI	0000252556	Detroit Television Station WKBD Inc.	51570
KCAL□TV	Los Angeles, CA	0000252557	Los Angeles Television Station KCAL LLC	21422
WBFS□TV	Miami, FL	0000252560	Miami Television Station WBFS Inc.	12497
WPSG	Philadelphia, PA	0000252561	Philadelphia Television Station WPSG, Inc.	12499
WPKD□TV	Jeannette, PA	0000252562	Pittsburgh Television Station WPCW Inc.	69880
KMAX□TV	Sacramento, CA	0000252564	Sacramento Television Stations Inc.	51499
KOVR	Stockton, CA	0000252565	Sacramento Television Stations Inc.	56550
KPYX	San Francisco, CA	0000252566	San Francisco Television Stations Inc.	69619
KTXA	Fort Worth, TX	0000252567	Television Station KTXA Inc.	51517
KSTW	Tacoma, WA	0000252570	The CW Television Stations Inc.	23428

STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Applications for Consent to the Transfer of Control of Paramount Global,* MB Docket No. 24-275, LMS File Nos. 0000252521, et al., Memorandum, Opinion and Order (July 24, 2025)

I cannot support this order approving this transaction in light of the payout and other troubling concessions Paramount made to settle a baseless lawsuit.

After months of cowardly capitulation to this Administration, Paramount finally got what it wanted. Unfortunately, it is the American public who will ultimately pay the price for its actions.

In an unprecedented move, this once-independent FCC used its vast power to pressure Paramount to broker a private legal settlement and further erode press freedom. Once again, the agency is undermining legitimate efforts to combat discrimination and expand opportunity by overstepping its authority and intervening in employment matters reserved for other government entities with proper jurisdiction on these issues. Even more alarming, it is now imposing never-before-seen controls over newsroom decisions and editorial judgment, in direct violation of the First Amendment and the law.

After the FCC buried the outcome of backroom negotiations with other regulated entities, like Verizon and T-Mobile, I urged for us to bring the Paramount proceeding into the light. I've long believed the public has a right to know how Paramount's capitulation evidences an erosion of our First Amendment protections, and I'm pleased that FCC leadership ultimately agreed to my call for every Commissioner to vote on this transaction. Granting approval behind closed doors, under the cover of bureaucratic process, would have been an inappropriate way to shield this Administration's coordinated campaign to censor speech, control narratives, and silence dissent.

Despite this regrettable outcome, this Administration is not done with its assault on the First Amendment. In fact, it may only be beginning. The Paramount payout and this reckless approval have emboldened those who believe the government can—and should—abuse its power to extract financial and ideological concessions, demand favored treatment, and secure positive media coverage. It is a dark chapter in a long and growing record of abuse that threatens press freedom in this country. But such violations endure only when institutions choose capitulation over courage. It is time for companies, journalists, and citizens alike to stand up and speak out, because unchecked and unquestioned power has no rightful place in America.

For all these reasons, I dissent.