not result in significant changes to BLM policy and that Tribal Governments will not be unduly affected by this rule. This rulemaking has no bearing on trust lands, or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing this rule, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act, 44 U.S.C. 3516 note.

Executive Order 13211, Effects on the Nation's Energy Supply

This rule is a purely administrative regulatory action and has no implications under Executive Order 13211.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that this rule is administrative in content, effecting only procedural change affecting issuance of land patents. This rule does not impede facilitating cooperative conservation; takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

The BLM has determined that this regulation does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Executive Order 12866, Clarity of Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make this regulation easier to understand, including answers to questions such as the following:

1. Are the requirements in the final regulation clearly stated?
2. Does the final regulation contain technical language or jargon that interferes with its clarity?
3. Does the format of the final regulation (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would the regulation be easier to understand if it was divided into more (but shorter) sections?
5. Is the description of the final regulation in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the regulation? How could this description be more helpful in making the regulation easier to understand?

Please send any comments you have on the clarity of the regulation to the address specified above in the **ADDRESSES** section.

Authors

The principal author of this rule is Linda Resseguie of the BLM's Division of Lands and Realty, Washington Office, assisted by Jean Sonneman of the BLM's Division of Regulatory Affairs, Washington Office.

List of Subjects in 43 CFR Part 2740

Intergovernmental relations; Land Management Bureau; Public lands—sale; Recreation and recreation sites; Reporting and recordkeeping requirements.

Julie Jacobson,

Deputy Assistant Secretary, Land and Minerals Management.

■ Accordingly, for the reasons stated in the preamble and under the authority of the R&PP Act (43 U.S.C. 869 *et seq.*), the BLM amends part 2740 of Title 43 of the Code of Federal Regulations as set forth below:

PART 2740—RECREATION AND PUBLIC PURPOSES ACT

■ 1. The authority citation for part 2740 continues to read as follows:

Authority: 43 U.S.C. 869 *et seq.*, 43 U.S.C. 1701 *et seq.*, and 31 U.S.C. 9701.

■ 2. Amend § 2743.3 by revising the introductory text of paragraph (a) to read as follows:

§ 2743.3 Leased disposal sites.

(a) Upon request by or with the concurrence of the lessee, the authorized officer may issue a patent for those lands covered by a lease, or portion thereof, issued on or before November 9, 1988, that have been or will be used, as specified in the plan of development, for solid waste disposal or for any other purpose that the authorized officer determines may result in or include the disposal, placement, or release of any hazardous substance, subject to the following provisions:

* * * * *

[FR Doc. E8–19745 Filed 8–25–08; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 08–65; FCC 08–182]

Assessment and Collection of Regulatory Fees for Fiscal Year 2008

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we amend our Schedule of Regulatory Fees to collect $312,000,000 in regulatory fees for Fiscal Year (FY) 2008, pursuant to section 9 of the Communications Act of 1934, as amended (the Act). These fees are mandated by Congress and are collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities.

DATES: Effective September 25, 2008.

FOR FURTHER INFORMATION CONTACT: CORES Helpdesk at (877) 480–3201, option 4, or *ARINQUIRIES@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

1. In this Report and Order we conclude a proceeding to collect $312,000,000 in regulatory fees for Fiscal Year (''FY'') 2008, pursuant to section 9 of the Communications Act of 1934, as amended (the ''Act''). Section 9 regulatory fees are mandated by Congress and are collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities.[1] In this annual regulatory fee proceeding, we retain the established methods, policies, and procedures for collecting section 9 regulatory fees adopted by the Commission in prior years. Consistent with our established practice, we intend to collect these regulatory fees during a filing window in September 2008 in order to collect the required amount by the end of our fiscal year.

2. As a general matter, our annual regulatory fee rulemakings must be concluded in a short time frame to allow regulatees to make their payments for the relevant fiscal year that fund Commission operations. These yearly rulemaking proceedings are not conducive to exploring more general regulatory fee issues. We have not conducted an in-depth review of our regulatory fee methodology since 1994.[2] We, however, adopt a Further Notice of Proposed Rulemaking (''FNPRM'') to explore how we can comprehensively make the Commission's regulatory fee process more equitable.

II. Report and Order

3. On May 8, 2008, we released a Notice of Proposed Rulemaking and Order (''*FY 2008 NPRM*'') seeking comment on regulatory fee issues for FY 2008.[3] The section 9 regulatory fee proceeding is an annual rulemaking process to ensure the Commission collects the fee amount required by Congress each year. In the *FY 2008 NPRM*, we proposed to largely retain the section 9 regulatory fee methodology used in the prior fiscal year. We received nine comments and 12 reply comments.[4] We address the issues raised in our *FY 2008 NPRM* below.

A. Calculation of Revenue and Fee Requirements

4. In our FY 2008 regulatory fee assessment, we use the same section 9 regulatory fee assessment methodology adopted for FY 2007. Each fiscal year, the Commission proportionally allocates the total amount that must be collected via section 9 regulatory fees. The results of our FY 2008 regulatory fee assessment methodology (including a comparison to the prior year's results) are contained in Attachment B. To collect the $312,000,000 required by Congress, we adjust the FY 2007 amount upward by approximately 7.5 percent. Consistent with past practice, we then divide the FY 2008 amount by the number of payment units in each fee category to determine the unit fee.[5] As in prior years, for cases involving small fees, *e.g.*, licenses that are renewed over a multiyear term, we divide the resulting unit fee by the term of the license and then round these unit fees consistent with the requirements of section 9(b)(2) of the Act.

B. Additional Adjustments to Payment Units

5. In calculating the FY 2008 regulatory fees listed in Attachment C, we further adjusted the FY 2007 list of payment units (Attachment A) based upon licensee databases and industry and trade group projections. In some instances, Commission licensee databases were used; in other instances, actual prior year payment records and/or industry and trade association projections were used in determining the payment unit counts.[6] Where appropriate, we adjusted and rounded our final estimates to take into consideration events that may impact the number of units for which regulatees submit payment, such as waivers and exemptions that may be filed in FY 2008, and fluctuations in the number of licensees or station operators due to economic, technical, or other reasons. Therefore, our estimated FY 2008 payment units are based on FY 2007 actual payment units, but the number may have been rounded or adjusted slightly to account for these variables.

6. We consider additional factors in determining regulatory fees for AM and FM radio stations. These factors are facility attributes and the population served by the radio station. The calculation of the population served is determined by coupling current U.S. Census Bureau data with technical and engineering data, as detailed in Attachment D. Consequently, the population served, as well as the class and type of service (AM or FM), determines the regulatory fee amount to be paid.[7]

1. Commercial Mobile Radio (''CMRS'') Messaging Service

7. CMRS Messaging Service, which replaced the CMRS One-Way Paging fee category in 1997, includes all

[1] 47 U.S.C. 159(a).

[2] *See Implementation of Section 9 of the Communications Act*, Report and Order, 9 FCC Rcd 5333 (1994).

[3] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking and Order, 23 FCC Rcd 7987 (2008) (''*FY 2008 NPRM*'').

[4] *See* Appendix C for the list of commenters and abbreviated names.

[5] In many instances, the regulatory fee amount is a flat fee per licensee or regulatee. In some instances, the fee amount represents a per-unit fee (such as for International Bearer Circuits), a per-unit subscriber fee (such as for Cable, Commercial Mobile Radio Service (''CMRS'') Cellular/Mobile and CMRS Messaging), or a fee factor per revenue dollar (Interstate Telecommunications Service Provider (''ITSP'') fee). The payment unit is the measure upon which the fee is based, such as a licensee, regulatee, or subscriber fee.

[6] The databases we consulted include, but are not limited to, the Commission's Universal Licensing System (''ULS''), International Bureau Filing System (''IBFS''), Consolidated Database System (''CDBS'') and Cable Operations and Licensing System (''COALS''). We also consulted industry sources including, but not limited to, *Television & Cable Factbook* by Warren Publishing, Inc., and the *Broadcasting and Cable Yearbook* by Reed Elsevier, Inc., as well as reports generated within the Commission such as the Wireline Competition Bureau's *Trends in Telephone Service* and the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast* and *Annual CMRS Competition Report.*

[7] In addition, beginning in FY 2005, we established a procedure by which we set regulatory fees for AM and FM radio and VHF and UHF television Construction Permits each year at an amount no higher than the lowest regulatory fee in that respective service category. For example, the regulatory fee for a Construction Permit for an AM radio station will never be more than the regulatory fee for an AM Class C radio station serving a population of less than 25,000.

narrowband services.[8] In the *FY 2008 NPRM*, we proposed maintaining the messaging service regulatory fee at $0.08 per subscriber; the rate first established for this service in FY 2002.[9]

8. One commenter, AAPC, addressed this issue.[10] AAPC agrees with our proposal and observes that maintaining the fee at the existing level is a reasonable and appropriate action due to the paging industry's declining subscriber base.[11] We conclude that for FY 2008 we should continue this regulatory fee rate at $0.08 per subscriber due to the declining subscriber base in this industry.[12]

2. Private Land Mobile Radio Service (''PLMRS'')

9. Commenters observe that the proposed FY 2008 fees for a PLMRS applicant are $40 per year for exclusive use PLMRS and $20 per year for shared use PLMRS.[13] Regulatory fees for this service have increased significantly over the past three years; [14] however, there are 74 percent fewer licensees in 2008 than there were in 2005.[15] PCIA also ''perceives'' a decline in Commission staffing devoted to PLMRS, which would correlate with the reduction in licensees.[16] Enterprise observes that there are few rulemakings associated with these licensees and the Commission has not allocated additional spectrum for these users since the mid-1980s.[17] In addition, because these licenses are site-specific, licensees often require multiple authorizations, which further increases the regulatory fee assessment.[18] Further, these Part 90 licenses are generally private internal systems used to support businesses and are not commercial communications systems with a substantial revenue stream.[19] For these reasons, commenters contend that we should not substantially increase the regulatory fees for PLMRS.

10. Instead of freezing the regulatory fees, we are going to address this matter more comprehensively in the attached FNPRM in the context of our entire regulatory fee structure. At this time; however, we are adopting the proposals in the *FY 2008 NPRM* for FY 2008.

3. Regulatory Fee Obligations for AM Expanded Band Broadcasters

11. Currently, AM expanded band stations in the 1610–1700 kHz range are exempt from regulatory fees, as a matter of Commission policy. In the *FY 2008 NPRM*, we sought comment on the most efficient way of assessing a regulatory fee on expanded band AM stations.[20] We sought comment on whether we should assess regulatory fees when the licensee has chosen to retain the expanded band station while no longer keeping the standard AM station as well as where the licensee continues to operate the standard AM station as well as the expanded band station.[21]

12. Two commenters addressed the AM expanded band issue. MRB is concerned with the situation where an expanded band licensee has relinquished its expanded band license but continues to operate under special temporary authority (''STA'').[22] In such a situation, the licensee is operating the standard band and the expanded band stations, but only holds a license to the standard band station. The five-year transition period for allowing lower band AM licensees to continue to operate the AM expanded band and the lower band has not yet expired for all licensees.[23]

13. There is no compelling reason to permanently exempt AM expanded band licensees from paying regulatory fees. As a general matter, it would be appropriate to treat the AM expanded band and the AM standard band similarly for regulatory fee purposes. We note, however, that currently only 20 licensees out of 54 have surrendered one of their dual licenses. The remaining 34 licensees have either conditionally surrendered one license and are operating under an STA permitting dual operation or have retained both licenses and are continuing dual operation under STAs. The Commission has before it the pending issue of whether we should permit licensees to continue to hold both standard band and expanded band licenses.[24] This issue should be resolved before we can assess regulatory fees on the expanded band AM licensees; therefore, we are not assessing regulatory fees on expanded band AM licenses at this time.

4. International Bearer Circuits

a. Background

14. In our *FY 2006 NPRM*,[25] we observed that VSNL Telecommunications (US) Inc. (''VSNL'') had filed a Petition for Rulemaking urging the Commission to revise its regulatory fee methodology for international bearer circuits (''IBCs'').[26] In the Petition, VSNL proposes that the Commission: (1) Reclassify non-common carrier submarine cable service as a new fee category [27] (all other carriers subject to IBC fees would be in the second category); [28] (2) apportion the IBC fee revenue requirement between the two categories, based on a comparative assessment of the regulatory services used by the entities in each category; [29] and (3) assess a flat annual fee per cable system for non-common carrier submarine cable operators.[30]

15. In our *FY 2008 NPRM*, we granted VSNL's petition and sought comment on the methodology used to calculate

[8] *See Assessment and Collection of Regulatory Fees for Fiscal Year 1997*, MD Docket No. 96–186, Report and Order, 12 FCC Rcd 17161, 17184–85, para. 60 (1997) (''*FY 1997 Report and Order*'').

[9] *FY 2008 NPRM* at para. 5.

[10] AAPC Comments at 1–4.

[11] *Id.* at 2.

[12] The subscriber base in the paging industry declined 83 percent from 40.8 million to 7.1 million, from FY 1997 to FY 2007, according to FY 2007 collection data, as of Sept. 30, 2007.

[13] PCIA Comments at 2; Enterprise Reply Comments at 2–3.

[14] PCIA Comments at 2.

[15] PCIA Comments at 3; Enterprise Reply Comments at 3.

[16] PCIA Comments at 3.

[17] Enterprise Reply Comments at 4.

[18] Enterprise Reply Comments at 4–5.

[19] Enterprise Reply Comments at 5–6.

[20] *FY 2008 NPRM* at para. 7.

[21] *Id.*

[22] MRB has petitioned the Commission to waive the requirement that either the expanded band or the standard band license be returned.

[23] Chisholm Reply Comments at 1.

[24] *See* Petition for Stay of Effective Dates, filed Mar. 27, 2006; Request for Waiver of Rules Requiring Return of AM Licenses,'' filed Mar. 27, 2006.

[25] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, MD Docket No. 06–68, Notice of Proposed Rulemaking, 21 FCC Rcd 3708, 3718, n.20 (2006) (''*FY 2006 NPRM*'').

[26] *See* Petition for Rulemaking of VSNL Telecommunications (US) Inc., RM–11312 (filed Feb. 6, 2006) (''VSNL Petition''). VSNL Telecommunications is now Tata Communications. We released a Public Notice designating the proceeding as RM–11312 and seeking comment on the Petition. *See* Consumer and Governmental Affairs Bureau, Reference Information Center, *Public Notice*, Report No. 2759 (rel. Feb. 15, 2006). In our *FY 2006 Report and Order* we stated that the issues presented in the Petition warranted consideration separately from the Commission's annual regulatory fee proceeding. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, MD Docket No. 06–68, Report and Order, 21 FCC Rcd 8092, 8098–99, para. 18 (2006) (''*FY 2006 Report and Order*'').

[27] Petition at 5. *See also* Apollo RM–11312 Comments at 2–4. AT&T filed comments disagreeing with this proposal and observing that the proposed new fee category would likely exclude all or most facilities-based carrier circuits on non-common carrier cables as well as the international bearer circuits on common carrier cables. AT&T RM–11312 Comments at 6. SIA agrees that regulatory fee reform is needed, but contends that such reform should extend to the treatment on non-common carrier satellite operators as well. SIA RM–11312 Comments at 1–4.

[28] Petition at 5.

[29] *Id.* at 5–6. *See also* Level 3 RM–11312 Comments at 6–7.

[30] Petition at 6. *See also* Hibernia Atlantic RM–11312 Comments at 7–8; Level 3 RM–11312 Comments at 8–10 (supporting a flat per-system fee on all submarine cable systems); Level 3 RM–11312 Reply Comments at 8–9.

regulatory fees for providers of international bearer circuits.[31] We specifically sought comment on whether the Commission should retain the current methodology used to assess these regulatory fees, or modify the methodology.[32] In addition to the comments filed to the *FY 2008 NPRM*, a Revised Joint Proposal for amending our IBC regulatory fee methodology was filed as an ex parte by a group of carriers on July 11, 2008.[33]

16. This proposal modified the earlier joint proposal to address several concerns raised by the parties. The Revised Joint Proposal would do the following: (1) Create a new regulatory fee category for submarine cablesystems, a new SCS fee, for both common carrier and non-common carrier systems.[34] The new SCS fee would be a flat fee, per cable landing license, with a reduced fee amount for ''small-capacity systems.'' In addition, a consortium would be considered one cable landing license for SCS fee purposes, regardless of how many licensees were members of the consortium. (2) The SCS fee would be based originally on one-half of the current IBC category. According the Revised Joint Proposal, this would subsequently be revised downward based on the Commission's internal calculations of regulatory effort expended to regulate this industry.[35] (3) In addition, there would be a new IBC fee based on active circuits, originally based on the remaining one-half of the current fee category, for common carriers. Thus, under the Revised Joint Proposal, common carriers would pay the flat SCS per license fee and a per circuit fee and non-common carriers would pay only the flat SCS per license fee.

17. Our current rules provide that regulatory fees for international bearer circuits are to be paid by facilities-based common carriers that have active international bearer circuits in any transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates.[36] Non-common carrier submarine cable operators are also to pay fees for any and all international bearer circuits sold on an indefeasible right of use (''IRU'') basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services.[37] Regulatory fees are based on the number of active 64 kbps international bearer circuits as of December 31 of the previous year.

18. We agree with the commenters who argue that our methodology for calculating IBC regulatory fees needs to be reformed and we intend to adopt a revised methodology to be effective for FY 2009. We recognize that an in-depth review of our IBC regulatory fee methodology may be long overdue. We also note that there appears to be significant non-compliance with our current regulatory fee requirements. One issue raised by several commenters is that the regulatory fee for IBCs is far too high. We will need to address the issue of non-compliance to determine if the fee is still considered unreasonably high after non-payors are contributing as well.[38] As we mentioned earlier, if some do not pay their share of regulatory fees, the amount of fees due is increased for the remaining parties. We consider rule non-compliance a serious issue affecting all regulatees.

b. Discussion

19. Several commenters argue that non-common carrier submarine cable operators generate only a fraction of the regulatory costs common carriers generate, yet they pay the same per unit regulatory fees.[39] AT&T and Verizon disagree, and argue that due to recent deregulation such as elimination of tariff filing requirements, the reduced disparities between the Commission's treatment of these services support the continued application of the same regulatory fees to all international bearer circuits.[40] AT&T observes that the private carriers' argument ignores the regulatory costs incurred in connection with the Commission's international representational activities, work with foreign regulators, and other activities in support of the Commission's international regulatory goals to promote effective competition in the global marketplace.[41] AT&T contends that the same fees should be applied to all types of submarine cable systems.[42] The difference in size between common carrier systems and private carrier systems, contends AT&T, is even larger now than when VSNL filed its petition.[43] AT&T, Verizon, and Qwest

[31] The Commission's website provides the following information regarding International and Satellite License Fees, for FY 2007:

International Bearer Circuits

Who Must Pay: Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active international bearer circuits *as of December 31, 2006* in any transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. Non-common carrier submarine cable operators are also to pay fees for any and all international bearer circuits sold on an indefeasible right of use (IRU) basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. If you are required to pay regulatory fees, you should pay based on your active 64 KB circuit count *as of December 31, 2006.*

For more information regarding compliance with regulatory fee payment requirements for international bearer circuits, refer to *FCC Public Notice: Compliance with Regulatory Fee Requirements by Cable Landing Licensees Operating on a Non-Common Carrier Basis (DA 04–2027, released July 6, 2004).*

Fee Calculation: $1.05 per active 64 KB circuit or equivalent.

See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC–275938A6. pdf.

[32] *FY2008 NPRM* at para. 8. Comments filed earlier in response to the VSNL Petition are referred to as ''RM–11312 Comments.'' Many of the same commenters filed comments on this issue in response to our *FY 2008 NPRM.* On May 30, 2008, a joint proposal for reforming International Bearer Circuit fees was submitted by Level 3 Communications, LLC, Brasil Telecom of America, Inc., Columbus Networks USA, Inc., ARCOS–1 USA, Inc., A.SUR Net, Inc., Hibernia Atlantic U.S. LLC, Pacific Crossing Limited, and PC Landing Corp. *See* Joint Proposal, MD Docket No. 08–65, Attach. (filed May 30, 2008).

[33] *See* Letter from Kent D. Bressie, Counsel, Level 3 Communications, LLC to Marlene H. Dortch, Secretary, FCC, MD Docket No. 08–65, Attach. (filed July 11, 2008). This revised joint proposal was submitted by Brasil Telecom of America, Inc., Columbus Networks USA, Inc., ARCOS–1 USA Inc., A.SUR Net, Inc., Global Crossing Ltd., Level 3 Communications, LLC, Hibernia-Atlantic U.S. LLC, Marine Cable Corp., Pacific Crossing Limited and PC Landing Corp., Reliance Globalcom Limited (fka FLAG Telecom Group Limited), and Tata Communications (US) Inc. (formerly VSNL International (US) Inc.) (''Revised Joint Proposal'').

[34] Revised Joint Proposal at 1.

[35] *Id.*

[36] *See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, Report and Order, 21 FCC Rcd 8092, 8107, n. 62 (2006) (''*FY 2006 Report and Order*''); *Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, MD Docket No. 01–76, *Report and Order*, 16 FCC Rcd 13525, 13593 (2001); *Regulatory Fees Fact Sheet: What You Owe—International and Satellite Services Licensees for FY 2005* at 3 (rel. July 2005) (the fact sheet is available on the FCC Web site at: *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC_249904A4.pdf*).

[37] *FY 2006 Report and Order*, 21 FCC Rcd at 8107, n. 62.

[38] We note that the flat fee proposed by commenters may address the non-compliance issue as well.

[39] *See, e.g.*, Petition at 10; Flag RM–11312 Comments at 3; SIA RM–11312 Comments at 4; Level 3 RM–11312 Reply Comments at 6–7; Level 3 Comments at 11–14.

[40] AT&T RM–11312 Comments at 8; Verizon RM–11312 Reply Comments at 2–3; Verizon Reply Comments at 4.

[41] AT&T RM–11312 Comments at 9; Verizon RM–11312 Reply Comments at 3; AT&T Reply Comments at 17; Verizon Reply Comments at 5.

[42] AT&T RM–11312 Reply Comments at 7.

[43] AT&T Comments at 3. AT&T observes that that the average capacity of the 27 U.S.-licensed non-common carrier systems is approximately 3.2 million circuits, almost ten times larger than the

oppose any new fee structure that would impose higher fees on facilities-based common carriers, such as the proposal that non-common carriers would no longer pay fees on active circuits.[44]

20. VSNL argues in its Petition that the number of active 64 kpbs circuits bears no relationship to the regulatory costs that operators generate.[45] For example, one commenter explains, if a licensee doubles its cable's capacity through a technology upgrade, the regulatory fee obligations will nearly double even though the regulatory costs to the Commission do not change.[46] Pacific contends that there is no correlation between cable system size and the Commission's regulatory effort.[47] Commenters observe that the 64 kbps increment measurement is an artifact of the original channelized telephone systems, but is not relevant to the current broadband environment where data passes unchannelized in packetized form.[48]

21. The flat annual fee proposed by VSNL as an alternative to our current circuit-based fee would be derived by dividing the revenue requirement for non-common carrier submarine cable systems by the number of licensed systems.[49] The Joint Proposal suggested by Level 3 and others and the Revised Joint Proposal *ex parte* would assess a per-system fee on common carriers and private carriers (regardless of system size) and would also impose a per-circuit fee for active circuits common carriers own or lease.[50] The net effect of either of the flat fee proposals would be to provide significant advantages to private carriers.[51] Global Crossing observes that the Joint Proposal would result in double counting where a common carrier has capacity from an affiliated private operator.[52] Common carriers disagree with the flat fee proposal on the grounds that this would require smaller systems to pay higher fees per circuit and would adversely affect common carrier systems which are generally smaller than non-common carrier systems.[53] The Joint Commenters contend that a flat per-system fee would discourage investment in the deployment of new submarine cable systems in the Caribbean or South America.[54] Instead, the Joint Commenters argue, the Commission should adopt a two-tiered approach.[55]

22. Pacific contends that the rate proposed in our *FY 2008 NPRM* of $1.09 is too high because the number of active circuits used in the calculation was far too low.[56] According to Pacific, international common carriers alone maintained 7.55 million active 64 kpbs circuits, so our estimate of 7.5 million for common carrier and non-common carrier combined must be revised upward.[57] Pacific concludes that if the Commission used more realistic estimates of active circuits, the per unit fee would be $.20 per circuit instead of $1.09 per circuit.[58] Several commenters observe that the prices for higher-capacity circuits have dropped more steeply than the prices for low-capacity circuits, thus the regulatory fee is an increasing percentage of the price of higher-capacity circuits.[59] The current IBC regulatory fee methodology discourages new investment to increase the capacity of existing undersea cables.[60] Verizon observes that under our current regulatory fee methodology, the IBC fee has dropped from $7.00 per circuit in 2000 to $1.09 per circuit in 2008, showing that increased demand has resulted in lower per circuit fees.[61] AT&T notes that private carriers have continued to rapidly expand their U.S. underseas cable capacity.[62]

23. Commenters also observe that the Commission has no way to monitor active IBCs and therefore cannot enforce compliance with regulatory fee requirements.[63] More stringent reporting requirements, generally opposed by private carriers, could eliminate the fee avoidance problem and further reduce the per circuit fee.[64] Pacific contends that the total number of active circuits is more than five times the number of payment units counted by the Commission.[65] Such significant undercounting of active circuits results in certain providers overpaying while others are underpaying.[66] Qwest observes that the Commission's reliance on section 43.82 reports of active circuits do not capture the circuits of private carriers.[67] The current practice of assessing fees based on a snapshot of active capacity on December 31 encourages operators to take capacity off line on December 31st to avoid having such capacity considered active.[68]

24. We agree with the commenters who argue that our methodology for calculating IBC regulatory fees needs to be reformed. We intend to resolve this issue within 60 days of adoption of this Order. Our rules should treat all providers subject to our regulatory fees in a nondiscriminatory and competitively neutral manner. If our rules permit certain entities to avoid complying with our regulatory fee requirements, the remaining carriers must pay a higher amount to compensate for those within the fee

average capacity of U.S. common carrier systems. *Id.* at note 4.

[44] AT&T Reply Comments at 1–6; Verizon Reply Comments at 2; Qwest Reply Comments at 2.

[45] Petition at 7–8. Level 3 contends that this fee timing issue can make owners base their capacity turn-up decisions on non-market factors, such as activating circuits only at certain times of the year. Level 3 RM–11312 Comments at 5.

[46] Flag RM–11312 Comments at 6. Reliance observes that, with respect to high-capacity leases, the per 64 kbps circuit fee distorts the market. Reliance Reply Comments at 5.

[47] Pacific Reply Comments at 5.

[48] Joint Commenters RM–11312 Reply Comments at 4–5; Global Crossing Comments at 2; Pacific Comments at 11; Tata Comments at 2–4. Commenters also observe that IBC operators sell services as a ''back up'' or restoration service, which does not fit the definition of ''active'' circuits. Level 3 Comments at 15. AT&T and Qwest, on the other hand, contend that IBC fees are based on ''active'' capacity, which provides a reasonable and nondiscriminatory method to allocate fees and is similar to the fee structure for other licensees. AT&T RM–11312 Comments at 11–13; Qwest Reply Comments at 3.

[49] Petition at 6. Apollo agrees with VSNL and argues that a fee per cable landing license, rather than a per 64 kpbs international bearer circuit, should be adopted. Apollo RM–11312 Comments at 6. SIA suggests assessing a flat fee based on section 214 authorizations and cable landing licenses. SIA RM–11312 Comments at 2. Pacific agrees that a per system fee would be fair, equitable, and easily administrated. Pacific Comments at 4. Telstra suggests that if we adopt a flat fee, we should establish a two-year ramp up period for newly-licensed systems. Telstra Reply Comments at 2–3.

[50] Level 3 Comments at 18; Level 3 Reply Comments at 5; Verizon Reply Comments at 3; Global Crossing Reply Comments at 2–3; Qwest Reply Comments at 4. Reliance supports the Joint Proposal. Reliance Reply Comments at 7.

[51] AT&T Reply Comments at 5. Qwest observes that the Joint Proposal contains different fee structures for submarine cable operators based on their common carrier or non-common carrier status and is not competitively neutral. Qwest Reply Comments at 5.

[52] Global Crossing Reply Comments at 2.

[53] AT&T RM–11312 Comments at 10–11; Qwest RM–11312 Reply Comments at 4; AT&T Comments at 3; AT&T Reply Comments at 1–6; Verizon Reply Comments at 1–3. The Joint Commenters, who operate smaller systems, contend that they would be unfairly prejudiced by a flat per-system fee. Joint Commenters at 2.

[54] Joint Commenters at 2.

[55] *Id.* at 3.

[56] Pacific Comments at 7–8.

[57] *Id.* citing the Commission's ''International Bureau Report on 2006 Section 43.82 Circuit Status Data,'' at 29, table 5.

[58] Pacific Comments at 8.

[59] Hibernia Atlantic RM–11312 Comments at 6–7; Apollo RM–11312 Comments at 6–7; Level 3 RM–11312 Comments at 3; Joint Commenters RM–11312 Reply Comments at 3–7; Global Crossing Comments at 3; Reliance Reply Comments at 5–6; Qwest Reply Comments at 2.

[60] Reliance Reply Comments at 6.

[61] Verizon Reply Comments at 5.

[62] AT&T Reply Comments at 10.

[63] Level 3 Comments at 16. Nonpayment by some operators raises the costs for others. Verizon Reply Comments at 5–6.

[64] AT&T Reply Comments at 7–8; Qwest Reply Comments at 3, note 9.

[65] Pacific Reply Comments at 3.

[66] Pacific Reply Comments at 4.

[67] Qwest Reply Comments at 3.

[68] Level 3 Comments at 17.

category who avoid payment. For FY 2008, however, we are using our current methodology and the rate set forth in Attachment C.[69]

Appendix A—Final Regulatory Flexibility Analysis

25. As required by the Regulatory Flexibility Act (''RFA''),[1] the Commission prepared an Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact on small entities by the policies and rules proposed in its Notice of Proposed Rulemaking.[2] Written public comments were sought on the FY 2008 fees proposal, including comments on the IRFA. This present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.[3]

I. Need for, and Objectives of, the Proposed Rules

26. This rulemaking proceeding is initiated to amend the Schedule of Regulatory Fees in the amount of $312,000,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its revised Schedule of Regulatory Fees in the most efficient manner possible and without undue public burden.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

27. No parties have raised significant issues in response to the IRFA.

III. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

28. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[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 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]

29. Nationwide, there are a total of 22.4 million small businesses, according to SBA data.[8] A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''[9] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[10] The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.''[11] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[12] We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.''[13] Thus, we estimate that most governmental jurisdictions are small. Below, we further describe and estimate the number of small entities, applicants and licensees, that may be affected by our action.

30. Incumbent Local Exchange Carriers (''ILECs''). Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[14] According to Commission data,[15] 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by these rules.

31. Competitive Local Exchange Carriers (''CLECs''), Competitive Access Providers (''CAPs''), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.'' Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[16] According to Commission data,[17] 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees and 94 have more than 1,500 employees. In addition, 12 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are ''Other Local Service Providers.'' Of the 39, an estimated 38 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities that may be affected by these rules.

32. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[18] According to Commission data,[19] 143 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 141 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by these rules.

33. Toll Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[20] According to Commission data,[21] 770 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 747 have 1,500 or fewer employees and 23 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by these rules.

34. Payphone Service Providers (''PSPs''). Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[22] According to Commission data,[23] 654 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 652 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers

[69] $0.93 per active 64 KB circuit.

[1] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (''CWAAA''). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').

[2] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08–65, Notice of Proposed Rulemaking, (''*FY 2008 NPRM*'').

[3] 5 U.S.C. 604.

[4] 5 U.S.C. 603(b)(3).

[5] 5 U.S.C. 601(6).

[6] 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**.''

[7] 15 U.S.C. 632.

[8] *See* SBA, Programs and Services, SBA Pamphlet No. CO–0028, at p. 40 (July 2002).

[9] 5 U.S.C. 601(4).

[10] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[11] 5 U.S.C. 601(5).

[12] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[13] We assume that the villages, school districts, and special districts are small and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, p. 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[14] 13 CFR 121.201, North American Industry Classification System (NAICS) code 517110.

[15] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, ''*Trends in Telephone Service*'' at Table 5.3, Page 5–5 (June 2005) (hereinafter ''*Trends in Telephone Service*'').

[16] 13 CFR 121.201, NAICS code 517110.

[17] ''Trends in Telephone Service'' at Table 5.3.

[18] 13 CFR 121.201, NAICS code 517310.

[19] ''Trends in Telephone Service'' at Table 5.3.

[20] 13 CFR 121.201, NAICS code 517310.

[21] ''Trends in Telephone Service'' at Table 5.3.

[22] 3 CFR 121.201, NAICS code 517110.

[23] ''Trends in Telephone Service'' at Table 5.3.

are small entities that may be affected by these rules.

35. Interexchange Carriers (''IXCs''). Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[24] According to Commission data,[25] 316 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 292 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by these rules.

36. Operator Service Providers (''OSPs''). Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[26] According to Commission data,[27] 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 20 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by these rules.

37. Prepaid Calling Card Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[28] According to Commission data,[29] 89 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 88 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by these rules.

38. 800 and 800-Like Service Subscribers.[30] Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (''toll free'') subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[31] The most reliable source of information regarding the number of these service subscribers appears to be data the Commission receives from Database Service Management on the 800, 866, 877, and 888 numbers in use.[32] According to our data, at the end of December 2004, the number of 800 numbers assigned was 7,540,453; the number of 888 numbers assigned was 5,947,789; the number of 877 numbers assigned was 4,805,568; and the number of 866 numbers assigned was 5,011,291. We do not have data specifying the number of these subscribers that are independently owned and operated or have 1,500 or fewer employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, we estimate that there are 7,540,453 or fewer small entity 800 subscribers; 5,947,789 or fewer small entity 888 subscribers; 4,805,568 or fewer small entity 877 subscribers, and 5,011,291 or fewer entity 866 subscribers.

39. International Service Providers. There is no small business size standard developed specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both categories, such a business is small if it has $13.5 million or less in average annual receipts.[33]

40. The first category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point 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.'' [34] For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year.[35] Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999.[36] Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

41. The second category of Other Telecommunications ''comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.'' [37] For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year.[38] Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999.[39] Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

42. Wireless Telecommunications Carriers (except Satellite). Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.[40] Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' [41] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[42] Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year.[43] Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.[44] For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year.[45] Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.[46] Thus, we

[24] 13 CFR 121.201, NAICS code 517110.

[25] ''Trends in Telephone Service'' at Table 5.3.

[26] 13 CFR 121.201, NAICS code 517110.

[27] ''Trends in Telephone Service'' at Table 5.3.

[28] 13 CFR 121.201, NAICS code 517310.

[29] ''Trends in Telephone Service'' at Table 5.3.

[30] We include all toll-free number subscribers in this category, including those for 888 numbers.

[31] 13 CFR 121.201, NAICS code 517310.

[32] ''Trends in Telephone Service'' at Tables 18.4, 18.5, 18.6, and 18.7.

[33] 13 CFR 121.201, NAICS codes 517410 and 517910.

[34] U.S. Census Bureau, 2002 NAICS Definitions, ''517410 Satellite Telecommunications;'' *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[35] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization),'' Table 4, NAICS code 517410.

[36] *Id.* An additional 38 firms had annual receipts of $25 million or more.

[37] U.S. Census Bureau, 2002 NAICS Definitions, ''517910 Other Telecommunications''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[38] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization),'' Table 4, NAICS code 517910.

[39] *Id.* An additional 14 firms had annual receipts of $25 million or more.

[40] U.S. Census Bureau, 2007 NAICS Definitions, ''517210 Wireless Telecommunications Categories (Except Satellite)''; *http://www.census.gov/naics/2007/def/ND517210.HTM#N517210.*

[41] U.S. Census Bureau, 2002 NAICS Definitions, ''517211 Paging''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM*; U.S. Census Bureau, 2002 NAICS Definitions, ''517212 Cellular and Other Wireless Telecommunications''; *http://www.census.gov/epcd/naics02/def/NDEF517.HTM.*

[42] 13 CFR 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS)).

[43] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization,'' Table 5, NAICS code 517211 (issued Nov. 2005)).

[44] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[45] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization,'' Table 5, NAICS code 517212 (issued Nov. 2005)).

[46] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

estimate that the majority of wireless firms are small.

43. Internet Service Providers. The SBA has developed a small business size standard for Internet Service Providers. This category comprises establishments ''primarily engaged in providing direct access through telecommunications networks to computer-held information compiled or published by others.''[47] Under the SBA size standard, such a business is small if it has average annual receipts of $21 million or less.[48] According to Census Bureau data for 1997, there were 2,751 firms in this category that operated for the entire year.[49] Of these, 2,659 firms had annual receipts of under $10 million, and an additional 67 firms had receipts of between $10 million and $24,999,999.[50] Thus, under this size standard, the great majority of firms can be considered small entities.

44. Television Broadcasting. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.''[51] The SBA has created a small business size standard for Television Broadcasting entities, which is: such firms having $13 million or less in annual receipts.[52] According to Commission staff review of the BIA Publications, Inc., Media Access Pro Television Database as of December 7, 200, about 825 (66 percent) of the 1,250 commercial television stations in the United States had revenues of $13 million or less. We note, however, that in assessing whether a business entity qualifies as small under the above definition, business (control) affiliations[53] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

45. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

46. There are also 2,117 low power television stations (''LPTV'').[54] Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

47. Radio Broadcasting. The SBA defines a radio broadcast entity that has $6 million or less in annual receipts as a small business.[55] Business concerns included in this industry are those ''primarily engaged in broadcasting aural programs by radio to the public.[56] According to Commission staff review of the BIA Publications, Inc., Master Access Radio Analyzer Database, as of May 16, 2003, about 10,427 of the 10,945 commercial radio stations in the United States have revenue of $6 million or less. We note, however, that many radio stations are affiliated with much larger corporations with much higher revenue, and that in assessing whether a business concern qualifies as small under the above definition, such business (control) affiliations[57] are included.[58] Our estimate, therefore likely overstates the number of small businesses that might be affected by the rules adopted herein.

48. Auxiliary, Special Broadcast and Other Program Distribution Services. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. The applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.[59]

49. The Commission estimates that there are approximately 5,618 FM translators and boosters.[60] The Commission does not collect financial information on any broadcast facility, and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most commercial translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business ($6.5 million for a radio station or $13.0 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a ''small business concern'' because they are not independently owned and operated.[61]

50. Cable and Other Program Distribution. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged as third-party distribution systems for broadcast programming. The establishments of this industry deliver visual, aural, or textual programming received from cable networks, local television stations, or radio networks to consumers via cable or direct-to-home satellite systems on a subscription or fee basis. These establishments do not generally originate programming material.''[62] The SBA has developed a small business size standard for Cable and Other Program Distribution, which is: all such firms having $13.5 million or less in annual receipts.[63] According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year.[64] Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million.[65] Thus, under this size standard, the majority of firms can be considered small.

51. Cable Companies and Systems. The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide.[66] Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard.[67] In addition, under the

[47] Office of Management and Budget, North American Industry Classification System, page 515 (1997). NAICS code 518111, ''On-Line Information Services.''

[48] 13 CFR 121.201, NAICS code 518111.

[49] U.S. Census Bureau, 1997 Economic Census, Subject Series: ''Information,'' Table 4, Receipts Size of Firms Subject to Federal Income Tax: 1997, NAICS code 514191.

[50] *Id.*

[51] U.S. Census Bureau, 2002 NAICS Definitions, ''515120 Television Broadcasting'' (partial definition); *http://www.census.gov/epcd/naics02/def/NDEF515.HTM*.

[52] 13 CFR 121.201, NAICS code 515120.

[53] ''Concerns are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 21.103(a)(1).

[54] *FCC News Release*, ''Broadcast Station Totals as of September 30, 2007.''

[55] *See* OMB, North American Industry Classification System: United States, 1997, at 509 (1997) (Radio Stations) (NAICS code 515112).

[56] *Id.*

[57] ''Concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1).

[58] ''SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size.'' 13 CFR 121(a)(4).

[59] 13 CFR 121.201, NAICS codes 513111 and 513112.

[60] FCC News Release, ''Broadcast Station Totals as of September 30, 2007.''

[61] 15 U.S.C. 632.

[62] U.S. Census Bureau, 2002 NAICS Definitions, ''517510 Cable and Other Program Distribution;'' *http://www.census.gov/epcd/naics02/def/NDEF517.HTM*.

[63] 13 CFR 121.201, NAICS code 517510.

[64] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, Table 4, Receipts Size of Firms for the United States: 2002, NAICS code 517510.

[65] *Id.* An additional 61 firms had annual receipts of $25 million or more.

[66] 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *Implementation of Sections of the 1992 Cable Act: Rate Regulation*, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408 (1995).

[67] These data are derived from: R.R. Bowker, *Broadcasting & Cable Yearbook 2006*, ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2; Warren Communications News, *Television & Cable Factbook 2006*, ''Ownership of Cable Systems in the United States,'' pages D–1805 to D–1857.

Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[68] Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have less than 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers.[69] Thus, under this second size standard, most cable systems are small.

52. Cable System Operators. The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 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.'' [70] The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[71] Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard.[72] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million,[73] and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

53. Open Video Services. Open Video Service (''OVS'') systems provide subscription services.[74] The SBA has created a small business size standard for Cable and Other Program Distribution.[75] This standard provides that a small entity is one with $13.5 million or less in annual receipts. The Commission has certified approximately 25 OVS operators to serve 75 areas, and some of these are currently providing service.[76] Affiliates of Residential Communications Network, Inc. (''RCN'') received approval to operate OVS systems in New York City, Boston, Washington, D.C., and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 24 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

54. Cable Television Relay Service. This service includes transmitters generally used to relay cable programming within cable television system distribution systems. The SBA has developed a small business size standard for Cable and Other Program Distribution, which is: all such firms having $13.5 million or less in annual receipts.[77] According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year.[78] Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million.[79] Thus, under this size standard, the majority of firms can be considered small.

55. Multichannel Video Distribution and Data Service (''MVDDS''). MVDDS is a terrestrial fixed microwave service operating in the 12.2–12.7 GHz band. The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. It defined a very small business as an entity with average annual gross revenues not exceeding $3 million for the preceding three years; a small business as an entity with average annual gross revenues not exceeding $15 million for the preceding three years; and an entrepreneur as an entity with average annual gross revenues not exceeding $40 million for the preceding three years.[80] These definitions were approved by the SBA.[81] On January 27, 2004, the Commission completed an auction of 214 MVDDS licenses (Auction No. 53). In this auction, ten winning bidders won a total of 192 MVDDS licenses.[82] Eight of the ten winning bidders claimed small business status and won 144 of the licenses. The Commission also held an auction of MVDDS licenses on December 7, 2005 (Auction 63). Of the three winning bidders who won 22 licenses, two winning bidders, winning 21 of the licenses, claimed small business status.[83]

56. Amateur Radio Service. These licensees are held by individuals in a noncommercial capacity; these licensees are not small entities.

57. Aviation and Marine Services. Small businesses in the aviation and marine radio services use a very high frequency (''VHF'') marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees.[84] Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations in this analysis, we estimate that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998, and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars.[85] There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the above special small business size standards.

58. Personal Radio Services. Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under Part 95 of our rules.[86] These services include Citizen Band Radio Service (''CB''), General Mobile Radio Service (''GMRS''), Radio Control Radio Service (''R/C''), Family Radio Service (''FRS''), Wireless Medical Telemetry Service (''WMTS''), Medical

[68] 47 CFR 76.901(c).

[69] Warren Communications News, *Television & Cable Factbook 2006*, ''U.S. Cable Systems by Subscriber Size,'' page F–2 (data current as of Oct. 2005). The data do not include 718 systems for which classifying data were not available.

[70] 47 U.S.C. 543(m)(2); *see* 47 CFR 76.901(f) & nn. 1–3.

[71] 47 CFR 76.901(f); *see* Public Notice, ''*FCC Announces New Subscriber Count for the Definition of Small Cable Operator*,'' 16 FCC Rcd 2225 (Cable Services Bureau, 2001).

[72] These data are derived from: R.R. Bowker, *Broadcasting & Cable Yearbook 2006*, ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2; Warren Communications News, *Television & Cable Factbook 2006*, ''Ownership of Cable Systems in the United States,'' pages D–1805 to D–1857.

[73] 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(f) of the Commission's rules. *See* 47 CFR 76.909(b).

[74] *See* 47 U.S.C. 573.

[75] 13 CFR 121.201, NAICS code 517510.

[76] *See http://www.fcc.gov/csb/ovs/csovscer.html*.

[77] 13 CFR 121.201, NAICS code 517510.

[78] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, Table 4, Receipts Size of Firms for the United States: 2002, NAICS code 517510.

[79] *Id.* An additional 61 firms had annual receipts of $25 million or more.

[80] *Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2–12.7 GHz Band by Direct Broadcast Satellite Licenses and their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd., to provide A Fixed Service in the 12.2–12.7 GHz Band, ET Docket No. 98–206,* Memorandum Opinion and Order and Second Report and Order, 17 FCC Rcd 9614, 9711, para. 252 (2002).

[81] *See* Letter from Hector V. Barreto, Administrator, SBA, to Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC (Feb. 13, 2002).

[82] *See* ''Multichannel Video Distribution and Data Service Auction Closes,'' *Public Notice,* 19 FCC Rcd 1834 (2004).

[83] *See* ''Auction of Multichannel Video Distribution and Data Service Licenses Closes; Winning Bidders Announced for Auction No. 63,'' *Public Notice,* 20 FCC Rcd 19807 (2005).

[84] 13 CFR 121.201, NAICS code 517212.

[85] *Amendment of the Commission's Rules Concerning Maritime Communications,* Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853 (1998).

[86] 47 CFR Part 90.

Implant Communications Service (''MICS''), Low Power Radio Service (''LPRS''), and Multi-Use Radio Service (''MURS'').[87] There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. Under the RFA, the Commission is required to make a determination of which small entities are directly affected by the rules being adopted. Since all such entities are wireless, we apply the definition of cellular and other wireless telecommunications, pursuant to which a small entity is defined as employing 1,500 or fewer persons.[88] Many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base an estimation of the number of small entities under an SBA definition that might be directly affected by the rules adopted herein.

59. Public Safety Radio Services. Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[89] There are a total of approximately 127,540 licensees in these services. Governmental entities [90] as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity.[91]

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

60. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159 Remittance Advice, and pay a regulatory fee based on the number of licenses or call signs.[92] Interstate telephone service providers must compute their annual regulatory fee based on their interstate and international end-user revenue using information they already supply to the Commission on the FCC Form 499–A, Telecommunications Reporting Worksheet, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (*e.g.*, cellular telephones, pagers, cable TV subscribers) they have in service, and complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

61. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject to the fee. Licensees may also file electronically to minimize the burden of submitting multiple copies of the FCC Form 159. Applicants who pay small fees in advance and provide fee information as part of their application must use FCC Form 159.

62. Licensees and regulatees are advised that failure to submit the required regulatory fee in a timely manner will subject the licensee or regulatee to a late payment penalty of 25 percent in addition to the required fee.[93] If payment is not received, new or pending applications may be dismissed, and existing authorizations may be subject to rescission.[94] Further, in accordance with the Debt Collection Improvement Act of 1996 (''DCIA''), Public Law 194–134, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantee if that person or entity fails to pay a delinquent debt owed to any federal agency.[95] Nonpayment of regulatory fees is a debt owed the United States pursuant to 31 U.S.C. 3711 *et seq.*, and the DCIA. Appropriate enforcement measures as well as administrative and judicial remedies, may be exercised by the Commission. Debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.[96]

63. The Commission's rules currently provide for relief in exceptional circumstances. Persons or entities may request a waiver, reduction or deferment of payment of the regulatory fee.[97] However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will defer payment in response to a request filed with the appropriate supporting documentation.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

64. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[98] In the *NPRM,* we sought comment on alternatives that might simplify

[87] The Citizens Band Radio Service, General Mobile Radio Service, Radio Control Radio Service, Family Radio Service, Wireless Medical Telemetry Service, Medical Implant Communications Service, Low Power Radio Service, and Multi-Use Radio Service are governed by Subpart D, Subpart A, Subpart C, Subpart B, Subpart H, Subpart I, Subpart G, and Subpart J, respectively, of Part 95 of the Commission's rules. *See generally* 47 CFR Part 95.

[88] 13 CFR 121.201, NAICS Code 517212.

[89] With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's Rules, 47 CFR 90.15–90.27. The police service includes approximately 27,000 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes approximately 23,000 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of approximately 41,000 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are approximately 7,000 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The approximately 9,000 state and local governments that are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The approximately 1,000 licensees in the Emergency Medical Radio Service (''EMRS'') use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15–90.27. The approximately 20,000 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33–90.55.

[90] 47 CFR 1.1162.

[91] 5 U.S.C. 601(5).

[92] The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (*e.g.*, Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are Educational Broadband Service (EBS) (previously referred to as instructional television fixed service licensees). Regulatory fees are automatically waived for the licensee of any translator station that: (1) Is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than $10.

[93] 47 CFR 1.1164.

[94] 47 CFR 1.1164(c).

[95] Public Law 104–134, 110 Stat. 1321 (1996).

[96] 31 U.S.C. 7701(c)(2)(B).

[97] 47 CFR 1.1166.

[98] 5 U.S.C. 603.

our fee procedures or otherwise benefit filers, including small entities, while remaining consistent with our statutory responsibilities in this proceeding.

65. Several categories of licensees and regulatees are exempt from payment of regulatory fees. Also, waiver procedures provide regulatees, including small entity regulatees, relief in exceptional circumstances.

66. *Report to Small Business Administration:* The Commission will send a copy of this Report and Order, including a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. The Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

67. *Report to Congress:* The Commission will send a copy of this FRFA, along with this *Report and Order,* in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Appendix B

List of Commenters

INITIAL COMMENTS

Party	Abbreviated name
American Association of Paging Carriers	AAPC.
AT&T, Inc	AT&T.
Global Crossing North America, Inc	Global Crossing.
Level 3 Communications, LLC	Level 3.
Multicultural Radio Broadcasting Licensee, LLC and Way Broadcasting Licensee, LLC	MRB.
Pacific Crossing Limited and PC Landing Corp	Pacific.
PCIA—The Wireless Infrastructure Association	PCIA.
Satellite Industry Association	SIA.
Tata Communications (US) Inc	Tata.

REPLY COMMENTS

Party	Abbreviated name
AT&T Inc	AT&T.
Brasil Telecom of America, Hibernia Atlantic U.S. LLC, Columbus Networks USA, Inc., ARCOS–1 USA, Inc., A.SUR Net, Inc.	Joint Commenters.
Chisholm Trail Broadcasting Co	CTBC.
Enterprise Wireless Alliance	Enterprise.
Global Crossing North America, Inc	Global Crossing.
Independent Telephone and Telecommunications Alliance	ITTA.
Level 3 Communications, LLC	Level 3.
Pacific Crossing Limited and PC Landing Corp	Pacific.
Quest Communications International, Inc	Quest.
Reliance Globalcom Limited	Reliance.
Telstra Incorporated	Telstra.
Verizon	Verizon.

PARTIES FILING INITIAL COMMENTS IN RESPONSE TO VSNL PETITION, RM–11312

Party	Abbreviated name
Apollo Submarine Cable System, Inc	Apollo.
AT&T, Inc	AT&T.
Flag Telecom Group Limited	Flag.
Hibernia Atlantic	Hibernia.
Level 3 Communications, LLC	Level 3.
Satellite Industry Association	SIA.

PARTIES FILING REPLY COMMENTS TO VSNL PETITION, RM–11312

Apollo Submarine Cable System, Inc	Apollo.
ARCOS–1 USA, Inc., *et al*	Joint Commenters.
AT&T, Inc	AT&T.
Level 3 Communications, LLC	Level 3.
Versión	Versión.
Quest Communications Internacional	Qwest.
VSNL Communications (US) Inc	VSNL.

ATTACHMENT A

Sources of Payment Unit Estimates for FY 2008

In order to calculate individual service fees for FY 2008, we adjusted FY 2007 payment units for each service to more accurately reflect expected FY 2008 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee databases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (''ULS''), International Bureau Filing System (''IBFS''), Consolidated Database System (''CDBS'') and Cable Operations and Licensing System (''COALS''), as well as reports generated within the Commission such as the Wireline Competition Bureau's *Trends in Telephone*

Service and the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.*

We tried to obtain verification for these estimates from multiple sources and, in all cases; we compared FY 2008 estimates with actual FY 2007 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2008 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2008 payment units are based on FY 2007 actual payment units, it does not necessarily mean that our FY 2008 projection is exactly the same number as FY 2007. We have either rounded the FY 2008 number or adjusted it slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, 218–219 MHz, Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (''WTB'') projections of new applications and renewals taking into consideration existing Commission licensee databases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 07 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 07 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2007 payment units.
UHF/VHF Television Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2007 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2007 payment units.
LPTV, Translators and Boosters, Class A Television.	Based on CDBS data, adjusted for exemptions, and actual FY 2007 payment units.
Broadcast Auxiliaries	Based on actual FY 2007 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2007 payment units.
Cable Television Relay Service (''CARS'') Stations.	Based on data from Media Bureau's COALS database and actual FY 2007 payment units.
Cable Television System Subscribers	Based on publicly available data sources for estimated subscriber counts and actual FY 2007 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499–Q data for the four quarters of calendar year 2007, the Wireline Competition Bureau projected the amount of calendar year 2007 revenue that will be reported on 2008 FCC Form 499–A worksheets in April, 2008.
Earth Stations	Based on International Bureau (''IB'') licensing data and actual FY 2007 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2007 payment units.
International Bearer Circuits	Based on IB reports and actual FY 2007 payment units.
International HF Broadcast Stations, International Public Fixed Radio Service.	Based on IB reports and actual FY 2007 payment units.

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ATTACHMENT B

Calculation of FY 2008 Revenue Requirements and Pro-Rata Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted along with the application at the time the application is filed.

Fee Category	FY 2008 Payment Units	Years	FY 2007 Revenue Estimate	Pro-Rated FY 2008 Revenue Require-ment	Computed New FY 2008 Regulatory Fee	Round ed New FY 08 Regula -tory Fee	Expected FY 2008 Revenue
PLMRS (Exclusive Use)	1,150	10	437,500	469,918	41	40	460,000
PLMRS (Shared use)	11,500	10	2,325,000	2,497,278	22	20	2,300,000
Microwave	4,900	10	1,740,000	1,868,931	38	40	1,960,000
218-219 MHz (Formerly IVDS)	3	10	1,650	1,772	59	60	1,800
Marine (Ship)	8,400	10	800,000	859,278	10	10	840,000
GMRS	14,000	5	400,000	429,639	6	5	350,000
Aviation (Aircraft)	7,500	10	440,000	472,603	6	5	375,000
Marine (Coast)	310	10	108,000	116,003	37	35	108,500
Aviation (Ground)	1,700	10	165,000	177,226	10	10	170,000
Amateur Vanity Call Signs	15,000	10	171,990	184,734	1.23	1.23	184,500
AM Class A	65	1	210,800	227,355	3,498	3,500	227,500
AM Class B	1,564	1	2,546,375	2,740,081	1,752	1,750	2,737,000
AM Class C	935	1	890,150	963,919	1,031	1,025	958,375
AM Class D	1,706	1	2,983,750	3,237,984	1,898	1,900	3,241,400
FM Classes A, B1 & C3	3,040	1	6,281,025	6,788,261	2,233	2,225	6,764,000
FM Classes B, C, C0, C1 & C2	3,043	1	7,655,100	8,261,311	2,715	2,725	8,292,175
AM Construction Permits	95	1	26,000	39,253	413	415	39,425
FM Construction Permits[1]	299	1	117,875	179,400	600	600	179,400
Satellite TV	127	1	137,500	147,961	1,165	1,175	149,225
Satellite TV	3	1	1,650	1,789	596	595	1,785

Fee Category	FY 2008 Payment Units	Years	FY 2007 Revenue Estimate	Pro-Rated FY 2008 Revenue Require-ment	Computed New FY 2008 Regulatory Fee	Round ed New FY 08 Regula -tory Fee	Expected FY 2008 Revenue
Construction Permit							
VHF Markets 1-10	42	1	2,764,900	2,983,938	71,046	71,050	2,984,100
VHF Markets 11-25	57	1	2,827,350	3,051,067	53,527	53,525	3,050,925
VHF Markets 26-50	77	1	2,392,775	2,581,765	33,529	33,525	2,581,425
VHF Markets 51-100	118	1	2,300,000	2,480,777	21,024	21,025	2,480,950
VHF Remaining Markets	195	1	1,014,750	1,093,312	5,607	5,600	1,092,000
VHF Construction Permits [1]	4	1	15,375	22,400	5,600	5,600	22,400
UHF Markets 1-10	91	1	1,788,150	1,932,551	21,237	21,225	1,931,475
UHF Markets 11-25	82	1	1,478,200	1,597,692	19,484	19,475	1,596,950
UHF Markets 26-50	113	1	1,242,000	1,343,975	11,894	11,900	1,344,700
UHF Markets 51-100	168	1	1,058,400	1,142,771	6,802	6,800	1,142,400
UHF Remaining Markets	193	1	320,250	347,204	1,799	1,800	347,400
UHF Construction Permits[1]	18	1	38,500	32,400	1,800	1,800	32,400
Broadcast Auxiliaries	27,600	1	270,000	251,048	9	10	276,000
LPTV/Trans-lators/Boosters/ Class A TV	3,500	1	1,173,000	1,274,067	364	365	1,277,500
CARS Stations	750	1	144,300	155,598	207	205	153,750
Cable TV Systems	64,800,000	1	48,375,000	52,061,017	0.80341	0.80	51,840,000
Interstate Tele-communication Svc. Providers [3]	$46,700,000,000	1	135,660,000	146,636,961	0.00313998	0.00314	146,638,000
CMRS Mobile Cellular Svcs.	260,000,000	1	41,220,000	43,917,284	0.1689	0.170	44,200,000

Fee Category	FY 2008 Payment Units	Years	FY 2007 Revenue Estimate	Pro-Rated FY 2008 Revenue Require-ment	Computed New FY 2008 Regulatory Fee	Round ed New FY 08 Regula -tory Fee	Expected FY 2008 Revenue
CMRS Messag. Services	7,000,000	1	600,000	560,000	0.080	0.080	560,000
BRS[2]	1,700	1	422,500	501,500	295	295	501,500
LMDS	335	1	133,250	98,825	295	295	98,825
International Bearer Circuits	8,750,000	1	7,560,000	8,149,636	.0931	.93	8,137,500
International Public Fixed	1	1	1,875	2,014	2,014	2,025	2,025
Earth Stations	4,000	1	721,500	786,409	197	195	780,000
International HF Broadcast	5	1	3,975	4,288	858	860	4,300
Space Stations (Geostationary)	85	1	9,391,200	10,140,209	119,297	119,300	10,140,500
Space Stations (Non-Geostationary	6	1	698,850	754,556	125,759	125,750	754,500
****** Total Estimated Revenue to be Collected			291,055,465	313,567,960			313,311,610
****** Total Revenue Requirement			290,295,160	312,000,000			312,000,000
Difference			760,305	1,567,960			1,311,610

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

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

[3] Beginning in FY 2008, regulatory fees for IVoIP will be included as part of the Interstate Telecommunications Service Provider (ITSP) fee, and these fees will be collected at the same time as ITSP fees are collected.

ATTACHMENT C

FY 2008 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted along with the application at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	40
Microwave (per license) (47 CFR part 101)	40
218-219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	60
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	35
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	20
PLMRS (Shared Use) (per license) (47 CFR part 90)	20
Aviation (Aircraft) (per station) (47 CFR part 87)	5
Aviation (Ground) (per license) (47 CFR part 87)	10
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.23
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.17
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 21) Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	295 295
AM Radio Construction Permits	415
FM Radio Construction Permits	600
TV (47 CFR part 73) VHF Commercial	
Markets 1-10	71,050
Markets 11-25	53,525
Markets 26-50	33,525
Markets 51-100	21,025
Remaining Markets	5,600

Fee Category	Annual Regulatory Fee (U.S. $'s)
Construction Permits	5,600
TV (47 CFR part 73) UHF Commercial	
Markets 1-10	21,225
Markets 11-25	19,475
Markets 26-50	11,900
Markets 51-100	6,800
Remaining Markets	1,800
Construction Permits	1,800
Satellite Television Stations (All Markets)	1,175
Construction Permits – Satellite Television Stations	595
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	365
Broadcast Auxiliaries (47 CFR part 74)	10
CARS (47 CFR part 78)	205
Cable Television Systems (per subscriber) (47 CFR part 76)	.80
Interstate Telecommunication Service Providers (per revenue dollar)	.00314
Earth Stations (47 CFR part 25)	195
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	119,300
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	125,750
International Bearer Circuits (per active 64KB circuit)	.93
International Public Fixed (per call sign) (47 CFR part 23)	2,025
International (HF) Broadcast (47 CFR part 73)	860

FY 2008 RADIO STATION REGULATORY FEES						
Population Served	**AM Class A**	**AM Class B**	**AM Class C**	**AM Class D**	**FM Classes A, B1 & C3**	**FM Classes B, C, C0, C1 & C2**
<=25,000	$650	$500	$450	$525	$600	$775
25,001 – 75,000	$1,325	$1,025	$650	$775	$1,225	$1,375
75,001 – 150,000	$1,975	$1,275	$875	$1,300	$1,675	$2,550
150,001 – 500,000	$2,975	$2,175	$1,325	$1,550	$2,600	$3,325
500,001 – 1,200,000	$4,300	$3,325	$2,200	$2,575	$4,125	$4,900
1,200,001 – 3,000,00	$6,600	$5,100	$3,300	$4,125	$6,700	$7,850
>3,000,000	$7,925	$6,125	$4,175	$5,150	$8,550	$10,200

BILLING CODE 6712–01–C

ATTACHMENT D

Factors, Measurements, and Calculations That Go Into Determining Station Signal Contours and Associated Population Coverages

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (''RMS'') figure milliVolt per meter (mV/m) @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in section 73.150 and 73.152 of the Commission's rules.[1] Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3.[2] Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2000 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power (''ERP'') (kW) and respective height above average terrain (''HAAT'') (m) combination was used. Where the antenna height above mean sea level (''HAMSL'') was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials.[3] The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2000 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

ATTACHMENT E

FY 2007 Schedule of Regulatory Fees

Fee category	Annual regulatory fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	35
Microwave (per license) (47 CFR part 101)	40
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	55
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	30
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	15
PLMRS (Shared Use) (per license) (47 CFR part 90)	15
Aviation (Aircraft) (per station) (47 CFR part 87)	5
Aviation (Ground) (per license) (47 CFR part 87)	10
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.17
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.18
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license sign) (47 CFR part 21)	325
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	325
AM Radio Construction Permits	400
FM Radio Construction Permits	575
TV (47 CFR part 73) VHF Commercial:	
Markets 1–10	64,300
Markets 11–25	46,350
Markets 26–50	31,075
Markets 51–100	20,000
Remaining Markets	5,125
Construction Permits	5,125
TV (47 CFR part 73) UHF Commercial:	
Markets 1–10	19,650
Markets 11–25	19,450
Markets 26–50	10,800
Markets 51–100	6,300
Remaining Markets	1,750
Construction Permits	1,750
Satellite Television Stations (All Markets)	1,100
Construction Permits—Satellite Television Stations	550
Low Power TV, TV/FM Translators & Boosters (47 CFR part 74)	345
Broadcast Auxiliary (47 CFR part 74)	10
CARS (47 CFR part 78)	185
Cable Television Systems (per subscriber) (47 CFR part 76)	.75
Interstate Telecommunication Service Providers (per revenue dollar)	.00266
Earth Stations (47 CFR part 25)	185
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR part 100)	109,200
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	116,475

[1] 47 CFR 73.150 and 73.152.

[2] *See Map of* Estimated *Effective Ground Conductivity in the United States,* 47 CFR 73.190 Figure R3.

[3] 47 CFR 73.313.

Fee category	Annual regulatory fee (U.S. $'s)
International Bearer Circuits (per active 64KB circuit)	1.05
International Public Fixed (per call sign) (47 CFR part 23)	1,875
International (HF) Broadcast (47 CFR part 73)	795

FY 2007 RADIO STATION REGULATORY FEES

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C0, C1 & C2
<=25,000	$625	$475	$400	$475	$575	$725
25,001–75,000	1,225	925	600	725	1,150	1,250
75,001–150,000	1,825	1,150	800	1,200	1,600	2,300
150,001–500,000	2,750	1,950	1,200	1,425	2,475	3,000
500,001–1,200,000	3,950	2,975	2,000	2,375	3,900	4,400
1,200,001–3,000,00	6,075	4,575	3,000	3,800	6,350	7,025
>3,000,000	7,275	5,475	3,800	4,750	8,075	9,125

Rule Changes

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303, 309.

■ 2. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

Exclusive use services (per license)	Fee amount [1]	Address
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR, Part 90):		
(a) New, Renew/Mod (FCC 601 & 159)	$40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
220 MHz Nationwide:		
(a) New, Renew/Mod (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
2. Microwave (47 CFR Pt. 101) (Private):		
(a) New, Renew/Mod (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
3. 218–219 MHz Service:		
(a) New, Renew/Mod (FCC 601 & 159)	60.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	60.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 601 & 159)	60.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	60.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
4. Shared Use Services:		
Land Mobile (Frequencies Below 470 MHz—except 220 MHz)		
(a) New, Renew/Mod (FCC 601 & 159)	20.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	20.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 601 & 159)	20.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	20.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
General Mobile Radio Service:		
(a) New, Renew/Mod (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
Rural Radio (Part 22):		
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159).	20.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159)	20.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
Marine Coast:		
(a) New Renewal/Mod(FCC 601 & 159)	35.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	35.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 601 & 159)	35.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.

Exclusive use services (per license)	Fee amount[1]	Address
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	35.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
Aviation Ground:		
(a) New, Renewal/Mod (FCC 601 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 601 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Only) (FCC 601 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
Marine Ship:		
(a) New, Renewal/Mod (FCC 605 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 605 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	10.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
Aviation Aircraft:		
(a) New, Renew/Mod (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(c) Renewal Only (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	5.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
5. Amateur Vanity Call Signs:		
(a) Initial or Renew (FCC 605 & 159)	1.23	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
(b) Initial or Renew (Electronic Filing) (FCC 605 & 159)	1.23	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
6. CMRS Mobile Services (per unit) (FCC 159)	[2].17	FCC, P.O. Box 979084, St. Louis, MO 63197–9000.
7. CMRS Messaging Services (per unit) (FCC 159)	[3].08	FCC, P.O. Box 979084, St. Louis, MO 63197–9000.
8. Broadband Radio Service (formerly MMDS and MDS)	295	FCC, P.O. Box 979084, St. Louis, MO 63197–9000.
9. Local Multipoint Distribution Service	295	FCC, P.O. Box 979084, St. Louis, MO 63197–9000.

[1] Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 5- or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also apply as detailed in § 1.1102 of this chapter.

[2] These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

[3] These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

■ 3. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

	Fee amount	Address
Radio [AM and FM] (47 CFR, Part 73)		
1. AM Class A:		
<=25,000 population	$650	FCC, Radio, P.O. Box 979084, St. Louis, MO 63197–9000.
25,001–75,000 population	1,325	
75,001–150,000 population	1,975	
150,001–500,000 population	2,975	
500,001–1,200,000 population	4,300	
1,200,001–3,000,000 population	6,600	
>3,000,000 population	7,925	
2. AM Class B:		
<=25,000 population	500	
25,001–75,000 population	1,025	
75,001–150,000 population	1,275	
150,001–500,000 population	2,175	
500,001–1,200,000 population	3,325	
1,200,001–3,000,000 population	5,100	
>3,000,000 population	6,125	
3. AM Class C:		
<=25,000 population	450	
25,001–75,000 population	650	
75,001–150,000 population	875	
150,001–500,000 population	1,325	
500,001–1,200,000 population	2,200	
1,200,001–3,000,000 population	3,300	
>3,000,000 population	4,175	
4. AM Class D:		
<=25,000 population	525	
25,001–75,000 population	775	
75,001–150,000 population	1,300	
150,001–500,000 population	1,550	
500,001–1,200,000 population	2,575	
1,200,001–3,000,000 population	4,125	
>3,000,000 population	5,150	
5. AM Construction Permit	415	
6. FM Classes A, B1 and C3:		
<=25,000 population	600	

	Fee amount	Address
25,001–75,000 population	1,225	
75,001–150,000 population	1,675	
150,001–500,000 population	2,600	
500,001–1,200,000 population	4,125	
1,200,001–3,000,000 population	6,700	
>3,000,000 population	8,550	
7. FM Classes B, C, C0, C1 and C2:		
<=25,000 population	775	
25,001–75,000 population	1,375	
75,001–150,000 population	2,550	
150,001–500,000 population	3,325	
500,001–1,200,000 population	4,900	
1,200,001–3,000,000 population	7,850	
>3,000,000 population	10,200	
8. FM Construction Permits	600	
TV (47 CFR, Part 73) VHF Commercial		
1. Markets 1 thru 10	71,050	FCC, TV Branch, P.O. Box 979084, St. Louis, MO 63197–9000.
2. Markets 11 thru 25	53,525	
3. Markets 26 thru 50	33,525	
4. Markets 51 thru 100	21,025	
5. Remaining Markets	5,600	
6. Construction Permits	5,600	
UHF Commercial		
1. Markets 1 thru 10	21,225	FCC, UHF Commercial, P.O. Box 979084, St. Louis, MO 63197–9000.
2. Markets 11 thru 25	19,475	
3. Markets 26 thru 50	11,900	
4. Markets 51 thru 100	6,800	
5. Remaining Markets	1,800	
6. Construction Permits	1,800	
Satellite UHF/VHF Commercial		
1. All Markets	1,175	FCC Satellite TV, P.O. Box 979084, St. Louis, MO 63197–9000.
2. Construction Permits	595	
Low Power TV, Class A TV, TV/FM Translator, & TV/FM Booster (47 CFR Part 74)	365	FCC, Low Power, P.O. Box 979084, St. Louis, MO 63197–9000.
Broadcast Auxiliary	10	FCC, Auxiliary, P.O. Box 979084, St. Louis, MO 63197–9000.

■ 4. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

	Fee amount	Address
Radio Facilities:		
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159).	$40.00	FCC, P.O. Box 979097, St. Louis, MO 63197–9000.
Carriers:		
1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499–A).	.00314	FCC, Carriers, P.O. Box 979084, St. Louis, MO 63197–9000.

■ 5. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees and filing locations for cable television services.

	Fee amount	Address
1. Cable Television Relay Service	$205	FCC, Cable, P.O. Box 979084, St. Louis, MO 63197–9000.
2. Cable TV System (per subscriber)	.80	

■ 6. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international services.

	Fee amount	Address
Radio Facilities:		
1. International (HF) Broadcast	$860	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
2. International Public Fixed	2,025	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
Space Stations (Geostationary Orbit)	119,300	FCC, Space Stations, P.O. Box 979084, St. Louis, MO 63197–9000.
Space Stations (Non-Geostationary Orbit)	125,750	FCC, Space Stations, P.O. Box 979084, St. Louis, MO 63197–9000.
Earth Stations:		
Transmit/Receive & Transmit Only (per authorization or registration)	195	FCC, Earth Station, P.O. Box 979084, St. Louis, MO 63197–9000.
Carriers:		
International Bearer Circuits (per active 64KB circuit or equivalent)	.93	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. E8–19899 Filed 8–25–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–1714; MB Docket No. 07–183; RM–11394]

Radio Broadcasting Services; Cotulla and Dilley, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division grants a Petition for Rule Making issued at the request of Katherine Pyeatt, proposing the allotment of Channel 291A at Dilley, Texas, as its fourth local FM aural transmission service. The reference coordinates for vacant Channel 291A at Dilley are 28–36–06 NL and 99–06–21 WL. This site is located 9.6 kilometers (6 miles) southeast of Dilley. This site is located within 320 kilometers of the Mexican border. Although concurrence has been requested for Channel 291A at Dilley, notification has not been received. If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Mexican government, the construction permit will include the following condition: ''Operation with the facilities specified for Dilley herein is subject to modification, suspension or, termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement.''

Additionally, the new reference coordinates for vacant Channel 289A at Cotulla, Texas are modified to 28–22–00 NL and 99–17–00 WL. This site is located 9.1 kilometers (5.7 miles) southwest of Cotulla. This site is located within 320 kilometers of the Mexican border. Although concurrence has been requested for Channel 289A at Cotulla, notification has not been received. If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Mexican government, the construction permit will include the following condition: ''Operation with the facilities specified for Cotulla herein is subject to modification, suspension or, termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement.''

DATES: Effective September 8, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MB Docket No. 07–183, adopted July 23, 2008, and released July 25, 2008. The *Notice of Proposed Rule Making* proposed the allotment of Channel 291A at Dilley, Texas. *See* 72 FR 59510, published October 22, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 291A at Dilley.

Federal Communications Commission.

Robert A. Haynes,

Senior Attorney.

[FR Doc. E8–19544 Filed 8–25–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket OST–2003–15245]

RIN 2105–AD55

Procedures for Transportation Workplace Drug Testing Programs

AGENCY: Office of the Secretary, DOT.