

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 10–90; DA 13–162]

#### Wireline Competition Bureau Seeks Comment on Connect America Phase II Support for Price Cap Areas Outside of the Contiguous United States

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission seeks to further develop the record on issues relating to Connect America Phase II support for price cap carriers serving areas outside of the contiguous United States.

**DATES:** Comments are due on or before March 11, 2013 and reply comments are due on or before March 25, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 10–90, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Dania Ayoubi, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Wireline Competition Bureau's Public Notice in WC Docket No. 10–90, and DA 13–162, released February 8, 2013. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. These documents may also be purchased from

the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

#### I. Introduction

1. In this Public Notice, the Wireline Competition Bureau (Bureau) seeks to further develop the record on issues relating to Connect America Phase II support for price cap carriers serving areas outside of the contiguous United States. In particular, we seek comment on various options for providing Connect America Phase II support to price cap carriers serving such areas and the associated obligations that come with the receipt of such support.

#### II. Discussion

2. *Application of Cost Model to Areas Outside the Contiguous United States.* Several parties have argued that the Connect America Cost Model (CACM) would provide insufficient support to areas outside the contiguous United States. We seek comment on what objective criteria or factors the Bureau should consider in determining whether support determined by the cost model is sufficient.

3. The Bureau seeks to further develop the record on two alternative options for areas outside the contiguous United States: (1) Modifying the design of and/or specific inputs used in the CACM, including incorporating aspects of the Alaska-specific and Puerto Rico-specific model submissions; or (2) maintaining existing support levels.

4. What specific changes would need to be made or data would need to be incorporated, if the Bureau were to modify the current version of the CACM? Some providers have expressed concern over particular features of the CACM as related to the areas outside the contiguous United States that they serve. Puerto Rico Telephone Company, Inc. (PRTC) argues, for instance, that its standalone Puerto Rico-specific cost model is more accurate because, among other things, it incorporates actual customer locations and the cost of undersea cable transport to Florida. Likewise, Alaska Communications Systems Group, Inc. (ACS) argues that a model that does not include, among other things, the cost of satellite backhaul where terrestrial options are unavailable, would not accurately predict the costs of serving Alaska. Should the Bureau incorporate those modifications into the CACM to better

model the forward-looking cost of serving customers in areas outside of the contiguous United States? How should the Bureau proceed if a party has not submitted any information into the record regarding the circumstances in a particular non-contiguous area at the time the Bureau adopts the cost model?

5. If the Bureau were to incorporate aspects of the models offered by interested parties into CACM, how can it ensure that the inputs utilized reflect the costs of an efficient provider rather than current, embedded costs? The mere fact that current support levels may be higher now than they would be under CACM is not necessarily dispositive in determining whether support in such areas is "sufficient." Existing costs may not reflect the forward-looking costs of an efficient provider. What specific metrics or objective data would the Bureau need to be able to distinguish between legitimate differences in operating costs in non-contiguous areas and those that may not reflect the forward-looking costs of an efficient provider?

6. How should the Bureau take into account the additional time it would take to modify CACM to address the unique circumstances of each area outside of the contiguous United States at this stage in the process, and the extent to which a later adoption of CACM would delay the deployment of broadband in areas within the contiguous United States? In order to move forward more quickly, is there an administratively feasible way to pursue implementation of CACM in those areas where further refinement of the model is not necessary while developing an adequate approach in non-contiguous areas? If so, how would the Bureau ensure that total support levels remain within the overall \$1.8 billion budget?

7. The Virgin Islands Telephone Corporation (Vitelco) has argued in the alternative that we should maintain support at existing levels. And if we decline to use its "Broadband Cost Model: Puerto Rico" (BCMPR), PRTC recommends that we, "at a minimum, maintain legacy high cost universal service support." In directing the Bureau to consider the circumstances facing carriers providing service in areas outside the contiguous United States, the Commission required that if existing support levels are maintained, total support could not exceed the overall budget of \$1.8 billion per year. We note that 2011 disbursements for price cap carriers outside of the contiguous United States totaled approximately \$76 million, which would leave \$1.724 billion remaining for price cap carriers in the contiguous United States. How

would freezing support for certain carriers impact the Commission's progress in extending broadband-capable infrastructure in the United States?

8. We note that the Commission recently sought comment on several options for utilizing funds remaining from Connect America Phase I, with one possibility being to use some or all of those funds to enlarge the budget for Phase II. Should some of the unused Phase I monies be made available to maintain existing support levels for carriers in non-contiguous areas if the Commission were to adopt such a rule increasing the \$1.8 billion budget?

9. *State-Level Commitment Process.* The state-level commitment process set forth in the *USF/ICC Transformation Order and FNPRM*, 76 FR 73830, November 29, 2011 and 76 FR 78384, December 16, 2011, assumes that carriers would make commitments based on the model-determined support amount and the service obligations that would attach to that support. In the event the Bureau determines that support in some or all of the non-contiguous areas should instead be maintained at existing levels, should carriers receiving frozen support to serve those areas make a statewide commitment to accept or reject the frozen support? Should there be any changes in the statewide commitment process for carriers receiving frozen support instead of model-based support?

10. *Service Obligations.* Some have suggested that service obligations should be adjusted if support is frozen in non-contiguous areas. The Bureau seeks to further develop the record on what obligations, if any, should be adjusted if the Bureau maintains support at existing levels for some or all of the price cap carriers operating outside the contiguous United States. How many supported locations should be required to have broadband-capable infrastructure that can provide speeds of at least 4 Mbps/1 Mbps, and how should that figure be determined? Should recipients of frozen support be required to deploy infrastructure that can deliver speeds of at least 6 Mbps/1.5 Mbps to some number of supported locations, and how should that number be set? Recognizing that the Bureau has not yet specified metrics for latency or usage capacity for carriers making a state-level commitment, should those requirements be modified for carriers receiving frozen support? What measures would need to be in place to ensure that we have the ability to monitor compliance with adjusted service obligations? Commenters suggesting modified

obligations for these carriers should specifically identify which obligations should be modified and specify objective metrics that would need to be met, so that the Commission has the ability to ensure accountability and oversight.

### III. Procedural Matters

#### A. Initial Regulatory Flexibility Act Analysis

11. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Bureau has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice. Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Public Notice. The Commission will send a copy of the Public Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Public Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

#### B. Need for, and Objectives of, the Proposed Rules

12. The Notice seeks comment on a variety of issues relating to Connect America Phase II support for price cap carriers serving areas outside the contiguous United States. The Commission directed the Bureau to design a model to estimate the forward-looking economic costs of providing broadband to high-cost areas. In adopting the cost model, the Bureau was also to consider the unique circumstances facing areas outside the contiguous United States and determine whether the model adequately accounts for costs carriers face in serving those areas.

#### C. Legal Basis

13. The legal basis for any action that may be taken pursuant to the Notice is contained in sections 1, 2, 4(i), 214, 254, 303(r), 403, and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 214, 254, 303(r), 403, and 706, and §§ 1.1 and 1.1421 of the Commission's rules, 47 CFR 1.1, 1.421.

#### D. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

14. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by

the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act. 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.

15. Small Businesses. Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.

16. Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

17. Local Exchange Carriers (LECs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Public Notice.

18. Incumbent Local Exchange Carriers (incumbent LECs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have

1,500 or fewer employees and 301 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 rules adopted pursuant to the Public Notice.

19. We have included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.” The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

20. Competitive Local Exchange Carriers (competitive LECs), 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. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of the 72, seventy have 1,500 or fewer employees and two have 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 rules adopted pursuant to the Public Notice.

21. Wireless Telecommunications Carriers (except Satellite). Since 2007, the SBA has recognized wireless firms within this new, broad, economic

census category. Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1000 employees or more. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

22. Local Multipoint Distribution Service. Local Multipoint Distribution Service (“LMDS”) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 986 LMDS licenses began and closed in 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. An additional small business size standard for “very small business” was added as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. In 1999, the Commission re-auctioned 161 licenses; there were 32 small and very small businesses winning that won 119 licenses.

23. Satellite Telecommunications. Since 2007, the SBA has recognized satellite firms within this revised category, with a small business size standard of \$15 million. The most current Census Bureau data are from the economic census of 2007, and we will use those figures to gauge the prevalence of small businesses in this category. Those size standards are for

the two census categories of “Satellite Telecommunications” and “Other Telecommunications.” Under the “Satellite Telecommunications” category, a business is considered small if it had \$15 million or less in average annual receipts. Under the “Other Telecommunications” category, a business is considered small if it had \$25 million or less in average annual receipts.

24. 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.” For this category, Census Bureau data for 2007 show that there were a total of 512 firms that operated for the entire year. Of this total, 464 firms had annual receipts of under \$10 million, and 18 firms had receipts of \$10 million to \$24,999,999. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by rules adopted pursuant to the Public Notice.

25. The second category of Other Telecommunications “primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.” For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,346 firms had annual receipts of under \$25 million. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

26. Cable and Other Program Distribution. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or

providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.” The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year. Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1000 employees or more. Thus, under this size standard, the majority of firms can be considered small and may be affected by rules adopted pursuant to the Public Notice.

27. *Cable Companies and Systems.* The Commission has 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. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission’s rules, a “small system” is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Public Notice.

28. *Cable System Operators.* The Act 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.” 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. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. 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, and therefore we are unable to estimate

more accurately the number of cable system operators that would qualify as small under this size standard.

29. *Open Video Services.* The open video system (“OVS”) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is “Wired Telecommunications Carriers.” The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year. Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1000 employees or more. Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Notice. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (“BSPs”) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

30. *Internet Service Providers.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.” The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year. Of this total, 3144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1000 employees or

more. Thus, under this size standard, the majority of firms can be considered small. In addition, according to Census Bureau data for 2007, there were a total of 396 firms in the category Internet Service Providers (broadband) that operated for the entire year. Of this total, 394 firms had employment of 999 or fewer employees, and two firms had employment of 1000 employees or more. Consequently, we estimate that the majority of these firms are small entities that may be affected by rules adopted pursuant to the Public Notice.

#### *E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

31. In this Notice, the Commission seeks public comment on issues relating to Connect America Phase II support for price cap carriers serving areas outside the contiguous United States. The Notice seeks comment on whether the Connect America Cost Model can be modified to account for the unique circumstances providers serving those areas face, of whether existing support levels should be maintained. The Notice also seeks comment on the associated obligations that come with the receipt of such support.

#### *F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

32. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

33. The Notice seeks comment on CAF Phase II support to price cap carriers serving areas outside the contiguous United States. These CAF Phase II issues are not anticipated to have a significant economic impact on small entities insofar as the results impact high-cost support amounts for price cap carriers. This is primarily because most (and perhaps all) of the affected carriers are not small entities. Moreover, the choice of alternatives discussed is not anticipated to systematically increase or decrease

support for any particular group of entities and therefore any significant economic impact cannot necessarily be minimized through alternatives.

*G. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

34. None.

*H. Paperwork Reduction Act*

35. This document seeks comment on a potential new or revised information collection requirement. If the Commission adopts any new or revised information collection requirement, the Commission will publish a separate notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3501-3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

*I. Filing Requirements*

36. *Comments and Replies.* Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before the date indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

■ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

■ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

■ All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any

envelopes and boxes must be disposed of before entering the building.

■ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

■ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

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

In addition, we request that one copy of each pleading be sent to each of the following:

(1) Dania Ayoubi, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 6-A322, Washington, DC 20554; email: [Dania.Ayoubi@fcc.gov](mailto:Dania.Ayoubi@fcc.gov);

(2) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5-A452, Washington, DC 20554; email: [Charles.Tyler@fcc.gov](mailto:Charles.Tyler@fcc.gov).

38. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to

be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Federal Communications Commission.

**Kimberly A. Scardino,**

*Acting Division Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.*

[FR Doc. 2013-04034 Filed 2-20-13; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

**[MB Docket No. 13-23; RM-11690; DA 13-95]**

**Radio Broadcasting Services; Pearsall, Texas**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document the Commission requests comment on a petition filed by Wendolyn Tellez (“Petitioner”), licensee of FM Station KSAG, Channel 277A, Pearsall, Texas. Petitioner proposes to amend the FM Table of Allotments by substituting Channel 277A for vacant Channel 227A, at Pearsall. The proposal is part of a contingently filed “hybrid” application and rule making petition. Channel 277A can be allotted at Pearsall, Texas, in compliance with the Commission’s minimum distance separation requirements 28-56-40 NL and 99-11-44 WL, at a site 11.4 km (7.1 miles) northwest of Pearsall. Concurrence by the Government of Mexico is required because Pearsall, Texas, is located within 320 kilometers (199 miles) of the U.S.-Mexican border. See

**SUPPLEMENTARY INFORMATION** *infra*.

**DATES:** Comments must be filed on or before March 18, 2013 and reply comments must be filed on or before April 2, 2013.

**ADDRESSES:** You may submit comments, identified by MB Docket No 13-33, by any of the following methods: