Telecommunications Access Policy Division, at (202) 418–0991 or *Nathan.Eagan@fcc.gov* or Dangkhoa Nguyen of the Wireline Competition Bureau, Telecommunications Access Policy Division at (202) 418–7865 or *Dangkhoa.Nguyen@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3196, released June 21, 2023. The full text of the Petition can be accessed online via the Commission's Electronic Comment Filing System at: *http://apps.fcc.gov/ecfs/.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: The Uniendo a Puerto Rico Fund and the Connect USVI Fund (WC Docket Nos. 18–143; 10–90).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–13972 Filed 6–29–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 23–203; FCC 23–52; FRS ID 151775]

All-In Pricing for Cable and Satellite Television Service

AGENCY: Federal Communications Commission

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, The Federal Communications Commission (Commission) propose to require cable operators and direct broadcast satellite providers to clearly and prominently display the total cost of video programming service in promotional materials and on subscribers' bills. Requiring ''all-in'' pricing is intended to clearly and accurately reflect consumers' subscription payment obligations, eliminate unexpected fees, and allow consumers to comparison shop among competing cable operators and direct broadcast satellite providers as well as alternative programming providers like streaming services. We also seek comment on the effect of imposing such requirements on other types of multichannel video programming distributors and on our authority to do so.

DATES: Submit comments on or before July 31, 2023. Submit reply comments on or before August 29, 2023.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Brendan Murray, *Brendan.Murray@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–1573.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking,* (NPRM) FCC 23–52, adopted on June 14, 2023, and released on June 20, 2023. These documents will also be available via ECFS (*https://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.) To request these documents in accessible formats for people with disabilities, send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis. Access to clear, easy-to-understand, and accurate information about the pricing of video services helps consumers make informed choices and encourages competition in the market. It does so by empowering consumers with information to comparison shop and to find the video programming services that best meets their needs and matches their budget. Consumers who choose a video service based on an advertised monthly price may be surprised by unexpected fees related to the cost of video programming that raise the amount of the bill significantly. These fees, with names like broadcast TV fee, or regional sports programming surcharge, are listed in the fine print as ''fees'' or ''taxes and surcharges,'' separate from the top line listed service price and can result in a bill that is substantially more than the advertised price. This categorization can be potentially misleading and interpreted as a government-imposed tax or fee, instead of a company-imposed service fee increase. This practice can also make it difficult for consumers to compare the service prices of competing video service providers.

In this Notice of Proposed Rulemaking (NPRM), we propose to enhance pricing transparency by requiring cable operators and direct broadcast satellite (DBS) providers to specify the ''all-in'' price for service in their promotional materials and on subscribers' bills. This proposal would require cable operators and DBS providers to clearly and prominently display the total cost of video programming service. This all-in pricing proposal is intended to give consumers a transparent and accurate reflection of their subscription payment obligations and eliminate unexpected fees. It also seeks to provide consumers with the ability to comparison shop among competing cable operators and DBS providers, and to compare programming costs against alternative programming providers, including streaming services. We also seek comment on whether we should consider expanding the requirements of this proceeding to other types of multichannel video programming providers (MVPDs) and on our authority to do so.

Background. Sections 335 and 632 of the Communications Act of 1934, as amended (the Act), authorize the Commission to adopt public interest regulations for DBS and direct the Commission to adopt cable customer service requirements, respectively. In 2019, Congress adopted the Television Viewer Protection Act of 2019 (TVPA), which bolstered the consumer protection provisions of the Act by adding specific consumer protections. The TVPA revised the Act to add section 642, which, among other things, requires greater transparency in subscribers' bills. As it considered this legislation, Congress expressed specific concern that consumers face ''unexpected and confusing fees when purchasing video programming,'' including ''fees for broadcast TV,'' and noted that the practice of charging these fees began in the late 2000s. In 2021, the Media Bureau sought comment on the steps MVPDs have taken to implement the TVPA requirements and on whether consumers found those steps effective in furthering Congress's goal of protecting consumers when purchasing MVPD or broadband service. In response to that PN, Consumer Reports commented that below-the-line fees, ''which are solely the creation of the provider (versus regulatory fees that are passed on to the consumer)[,] made up the bulk'' of costs that are added to advertised rates and MVPD subscribers' bills. It appears that since adoption of the TVPA, the practice of charging subscribers unexpected ''fees'' (for example, for broadcast television programming and regional sports programming listed separately from the monthly subscription rate for video programming service) that are actually charges for the video programming service for which the subscriber pays, has continued. Moreover, websites, advertisements, and other promotional materials may advertise a top-line price that does not note prominently the mandatory programming costs that make up the

service until the customer signs up for the service. For example, those materials use a different font size (often in fine print) and separate from the proclaimed monthly subscription fee amounts extra ''fees'' designated by the provider that consumers will also need to pay for the video programming that they will receive.

Discussion. We believe that the public interest requires that cable operators and DBS providers represent their subscription charges transparently, accurately, and clearly. Accordingly, we propose to require cable operators and DBS providers to provide the ''all-in'' price for video programming service in their promotional materials and on subscribers' bills. Below, we seek comment on (i) the specifics of this proposal, (ii) existing Federal, state, and local requirements related to truth-in-billing, (iii) the marketplace practices regarding advertising and billing, and (iv) our legal authority to adopt this proposal. We also seek comment on the costs and benefits of our proposal and the effects that our proposal could have on equity and inclusion.

Proposal Details. We propose to require that cable operators and DBS providers aggregate the cost of the video programming service (that is, any and all amounts that the cable operator or DBS provider charges the consumer for video programming, including for broadcast retransmission consent, regional sports programming, and other programming-related fees) as a prominent single line item on subscribers' bills and in promotional materials, if they choose to advertise a price in those promotional materials. Section 602 of the Act defines video programming as ''programming provided by, or generally considered comparable to programming provided by, a television broadcast station.'' We intend for this aggregate amount to include the full amount the cable operator or satellite provider charges (or intends to charge) the customer in exchange for video programming service (such as broadcast television, sports programming, and entertainment programming), but nothing more (that is, no taxes or charges unrelated to video programming). We do not propose to require that cable operators and DBS providers include equipment costs in the ''all-in'' price listed on promotional materials and bills, as these costs are variable for each subscriber, and some subscribers use their own equipment and therefore do not incur such charges from the provider. We seek comment on this analysis. The goal of this proposal is to provide consumers with the video programming service portion of their subscription payment for which they are or will be responsible in clear terms. This will allow consumers to make informed choices, including the ability to comparison shop among competing cable operators and DBS providers; compare programming costs against alternative programming providers, including streaming services; and budget for the actual amount that they will need to pay for cable or DBS video service every month, similar to the truth-in-billing rules that the Commission has in place to aid common carrier customers in understanding their bills and making informed choices in the market.

We seek comment on our proposal. Is this proposal sufficient to ensure that subscribers and potential subscribers have accurate information about the cost for video service? To what extent are providers to already advertising an ''all-in'' price that is inclusive of all video programming-related costs, government-imposed taxes, and fees? Would such materials satisfy our proposal, given that it relates only to charges for video programming? If a provider attempts to attract new subscribers with a total price (which would necessarily be higher than just the price for video programming), does that benefit outweigh the benefits of requiring uniformity for comparison shopping purposes? Are there more consumer-friendly ways that cable operators and DBS providers should be required to provide this information? Is the term ''prominent'' specific enough to ensure that cable operators and DBS providers present consumers with an easy-to-understand ''all-in'' subscription price, or do we need to provide more detail about how cable operators and DBS providers must communicate the price for service? For example, should we require cable operators and DBS providers to convey the information in a consistent font size or via some other measurable metric? In cases where the cable operator or DBS provider bundles video programming with other services like broadband internet service, can the cable operator or DBS provider readily identify the amount of the bill that is attributable to video programming, and if not, how should our rulemaking account for those situations? We invite comment, particularly from consumers and local franchising authorities (LFAs), about whether consumers encounter misleading promotions or receive misleading bills, and request that commenters include documents (such as advertisements and bills with redacted personal information) to support their claims.

Subscribers are entitled to clear, concise, and understandable information about the elements that comprise their subscription fees. We also understand that cable operators and DBS providers may wish to (or in some cases are required to under 47 U.S.C. 562) provide their subscribers and potential subscribers with information about how much of their subscription payments are attributable to specific costs of the video programming service, equipment rental, or other items that contribute to the bill. Section 622(c) permits cable operators to identify franchisee fees, public, educational, and governmental access (PEG) fees, and other fees, taxes, assessments, or other charges imposed by the government ''as a separate line item on each regular bill of each subscriber.'' Section 642(b) states that when an MVPD provides a consumer a bill in an electronic format, that bill shall include an ''itemized statement that breaks down the total amount charged for or relating to the provision of the covered service by the amount charged for the provision of the service itself and the amount of all related taxes, administrative fees, equipment fees, or other charges.'' The language in our rulemaking is intended to make clear that MVPDs may itemize their bills with even more granularity than the statute requires. We are concerned, however, that some cable operators and DBS providers may currently portray retransmission consent and sports programming costs as separate lines on the bill in such a way as to lead a reasonable consumer to believe that the charge has been mandated by the government, which is a concern that is similar to the concerns that the Commission had with regard to common carriers when it adopted truth-in-billing rules that apply to them. Therefore, consistent with sections 622(c) and 642 of the Act, we propose to explicitly state in our rule that cable operators and DBS providers may complement the prominent aggregate cost line item with an itemized explanation of the elements that compose that aggregate cost, so long as the cable operator or DBS provider portrays the video programming-related costs as part of the all-in price for service. We seek comment on this proposal. Are there consumer benefits to receiving the cost line-item information, which would justify their inclusion on consumer bills? Would a prohibition on separate line items, other than those mandated by section 642 of the Act or permitted under section 622(c) of the Act, better serve the public interest, and if so, could the Commission adopt such

a prohibition consistent with the Act and the First Amendment? Should we require cable operators and DBS providers that choose to itemize portions of their bills to provide a full accounting of how a subscriber's bill is apportioned? For example, should we require cable operators and DBS providers to explain what portion of a bill is attributable to programming costs, or other relevant costs? If so, we seek comment on which categories would best inform consumers about how their payments are apportioned. We invite comment about rules we should consider in order to promote billing and marketing transparency.

Marketplace Practices. We seek comment on industry practices regarding service pricing categorization. Is there a business purpose for characterizing these service rate increases as taxes, fees, or surcharges, and if so, what is this purpose? Are certain sectors in the MVPD marketplace more prone to charging such fees? Aside from line-item fees for broadcast television, sports programming (including regional sports programming), and entertainment programming, are there other video programming-related fees that are being categorized as taxes, fees, and surcharges, instead of included in the price for video service? Have any MVPDs changed the way they bill or promote such fees since the TVPA took effect, and if so, how? Aside from the examples discussed above, are there any other industry practices that are relevant to the analysis of our proposal?

Existing Consumer Protections. We seek comment on whether any existing laws and protections prevent these advertising and billing practices related to charges for video programming that are listed separately on bills as taxes, fees, or surcharges. The Act provides shared authority over cable customer service issues: the Commission sets baseline customer service requirements at the Federal level, and state and local governments tailor more specific customer service regulations based on their communities' needs. Given the bifurcated authority we share with state and local governments, we seek comment on whether any franchising authorities have regulations or franchise agreement terms about these types of billing and advertising practices, and if so, whether they would conflict with our proposal. We seek specific input from franchising authorities about whether any regulations or franchise agreement terms have succeeded in eliminating surprise, below-the-line fees and potentially deceptive advertising, and whether those regulations or terms would make for appropriate Federal standards for purposes of the practices we are considering here. What other insights can franchising authorities share regarding their experiences in assisting constituents with understanding these billing and/or advertising practices? And have other regulatory bodies addressed this practice? For example, has the Federal Trade Commission investigated any of these advertising and billing practices, and if so, what was the result of that investigation? Have any state attorneys general investigated these practices and found them to violate any state laws? If so, how do such efforts contribute to our efforts in this proceeding?

Legal Authority. We tentatively conclude that sections 335, 632, and 642 of the Act provide ample authority for this proposal. We also tentatively conclude that our proposed rule is consistent with the First Amendment. We seek comment on our analysis below and invite comment on other sources of authority upon which we may rely to support our proposed rule.

We tentatively conclude that section 335 of the Act provides us with authority to adopt our proposed rule as it will apply to direct broadcast satellite (DBS) providers. Section 335(a) provides us with authority to impose on DBS providers ''public interest or other requirements for providing video programming.'' The Commission has not relied on this authority to impose customer service obligations on DBS before, but has recognized that section 335(a) authorizes the adoption of public interest regulations. We tentatively find that the rules we propose here are public interest requirements that fall squarely within our authority under section 335(a). As the Commission recently explained, ''Consumer access to clear, easy-to-understand, and accurate information is central to a well-functioning marketplace that encourages competition, innovation, low prices, and high-quality services. The same information empowers consumers to choose services that best meet their needs and match their budgets and ensure that they are not surprised by unexpected charges or service quality that falls short of their expectations.'' These are some of the same goals that our proposed rule here is intended to accomplish. Although section 335(a) covers requirements for ''providing video programming,'' we do not read that phrase to limit our authority to cover only communications that take place after a DBS provider and consumer enter into a contract. Advertising and promotional materials are often the catalyst for locking consumers into long-term contracts for the provision of video service. Our proposed rule, as it applies to advertising and other promotional materials, will ensure consumers have accurate and understandable information from the start of their subscriber relationship with the DBS provider, prevent consumer surprise down the road from unexpected charges assessed for ''providing video programming,'' and allow each consumer to have accurate information about the monthly cost in order to choose an MVPD service that best suits his or her needs. Accordingly, we tentatively conclude that we have authority under section 335(a) to apply our proposed rule to DBS providers. We seek comment on this tentative conclusion.

In addition, we seek comment on whether we have authority under section 4(i) of the Act to extend our proposed rule to DBS providers. By doing so, we will ensure uniformity of regulation between and among cable operators (regulated under Title VI and by various state consumer protection laws and local franchising provisions) and DBS providers (under Title III), thereby preventing DBS providers from gaining a competitive advantage over their competitors with potentially misleading marketing materials. We seek comment on this analysis.

Further, we tentatively conclude that section 632 of the Act provides us with authority to adopt our proposed rule as it will apply to cable operators. Section 632(b) provides us authority to establish customer service standards regarding billing practices and other communications with consumers, and we have relied on that authority for decades to regulate in this area. Our mandate under section 632(b) is to adopt customer service requirements regarding, among other enumerated topics, ''communications between the cable operator and the subscriber (including standards governing bills and refunds).'' Although the statute identifies specific areas that the Commission's customer service standards must cover, section 632 describes these only as the ''minimum'' standards. Thus, by its terms, section 632(b) gives us broad authority to adopt customer service standards that go beyond those enumerated, including outside the billing context. The legislative history of section 632 provides that ''[p]roblems with customer service have been at the heart of complaints about cable television,'' and Congress believed that ''strong mandatory requirements are necessary.'' Congress expected ''the FCC, in

establishing customer service standards to provide standards addressing . . . billing and collection practices; disclosure of all available service tiers, [and] prices (for those tiers and changes in service) . . . .'' This language from the legislative history—particularly the expectation that the Commission would adopt standards regarding ''disclosure of all available service tiers, [and] prices''—suggests that Congress granted the Commission authority over how cable operators disclose their prices to consumers, including prices for services to which consumers may have not yet subscribed. We do not read the reference to ''customer service'' requirements in section 632(b) to limit the Commission to regulate only post-contract communications; rather, we tentatively find that price information in advertising and other promotional materials is a natural extension of the power Congress expressly delegated to the Commission concerning billing communications between cable operators and subscribers. That is, our proposal seeks to prohibit a cable operator from promoting a potentially misleading price to entice customers to sign up for service and then billing subscribers more than the advertised price. Thus, we tentatively conclude that requiring an ''all-in'' price for service is the type of ''strong mandatory requirement'' that Congress contemplated in section 632 and accordingly we have authority under section 632(b) to adopt our proposed rule as applied to cable operators. We seek comment on these tentative conclusions, and whether we should consider expanding the requirements of this proceeding to other types of MVPDs, and on what statutory basis. We also seek comment on the potential competitive effects of applying these requirements to only a subset of video programming providers.

As discussed above, section 642, as added by the TVPA, requires MVPDs to bill subscribers transparently when the MVPD sends an electronic bill, and specifically requires MVPDs to include in their bills ''an itemized statement that breaks down the total amount charged for or relating to the provision of the covered service by the amount charged for the provision of the service itself and the amount of all related taxes, administrative fees, equipment fees, or other charges.'' We tentatively conclude that our proposal requiring cable operators and DBS providers to provide consumers with the ''all-in'' price for video programming service meets this statutory directive, at least as it applies to any electronic bill the MVPD sends. Specifically, our proposal to require cable operators and DBS providers to provide consumers with the total charge for all video programming would ensure that consumers are provided complete and accurate information about the ''amount charged for the provision of the service itself,'' as Congress intended. We tentatively find that such costs make up the charges for the ''provision of the service itself'' because broadcast channels, regional sports programming, and other programming track the statutory definition of ''video programming'' (that is, all are programming provided by, or generally considered comparable to programming provided by, a television broadcast station), and video programming is, by definition, the service that an MVPD makes available for purchase. We tentatively conclude that listing such costs as below-the-line fees potentially results in confusion for consumers about the ''amount charged for the provision of the service itself,'' because the word ''itself'' suggests a single charge for the total service rather than one charge for one portion of the service and then a separate charge for other programming provided. This contravenes Congress's core purpose for enacting the legislation: as noted above, the legislative history of this section indicates that Congress intended to curb MVPDs' practice of charging ''unexpected and confusing fees,'' but recent press reports suggest that this practice continues. We observe that the statute further provides for the disclosure of a second group of costs on electronic bills—*i.e.,* ''the amount of all related taxes, administrative fees, equipment fees, or other charges.'' However, we do not believe that costs related to video programming fall within this category. Such costs are not ''taxes,'' ''administrative fees,'' ''equipment fees,'' or ''other charges'' because the Act defines video programming as the specific service that customers buy from MVPDs—in other words, the ''service itself.'' Thus, the terms ''taxes,'' ''administrative fees,'' ''equipment fees,'' or ''other charges'' cannot reasonably include separate charges for various types of video programming (*e.g.,* amounts paid for retransmission consent rights or rights to transmit regional sports programming or any other programming). We note that section 622(c) permits cable operators to identify, ''as a separate line item on each regular bill of each subscriber, . . . [t]he amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational, or governmental channels or the use of such channels.'' 47 U.S.C. 542(c). As noted above, we drafted our proposed rule to be consistent with this rule section by making explicit that cable operators and DBS providers may list discrete costs that make up the ''all-in'' cost for video programming. Based on this analysis, we tentatively conclude that our proposed rule regarding pricing disclosures is a reasonable construction of these statutory directives and is authorized under the TVPA. Section 642's silence with respect to the Commission's rulemaking role does not remove such authority. The courts have previously affirmed the Commission's authority to promulgate rules implementing a section of the Communications Act even where Congress never explicitly or implicitly delegated power to the Commission to interpret that particular statutory section. We seek comment on these tentative conclusions.

We also tentatively conclude that our proposed rule is consistent with the First Amendment. As the Commission has explained in other contexts where it adopted truth-in-billing, advertising, and labeling rules, ''[c]ommercial speech that is misleading is not protected speech and may be prohibited,'' and ''commercial speech that is only potentially misleading may be restricted if the restrictions directly advance a substantial governmental interest and are no more extensive than necessary to serve that interest.'' To what extent is the speech at issue here—portrayal that the cost of video service is a certain amount when the actual amount for the video service is potentially much higher—misleading? Is it categorically misleading such that is not considered protected speech? Or is it only potentially misleading? Is there a credible argument that this practice is not misleading at all?

If a reviewing court were to find that the speech is misleading, the constitutional analysis would end there because the proposed rule simply prevents misleading commercial speech, which is afforded no protection under the First Amendment. However, even if our proposed rule seeks to regulate only potentially misleading speech, regulations involving commercial speech that require a disclosure of factual information (such as the disclosure of the total cost for video programming service that our proposed rule would require) are entitled to more lenient review from courts than regulations that limit speech. That is, under Supreme Court precedent, a speaker's commercial speech rights are adequately protected as long as

disclosure requirements are reasonably related to the government's interest in preventing deception of consumers. That standard is met here as our proposed rule would simply require cable operators and DBS providers to disclose to consumers in bills and promotional materials an accurate statement of the total cost for video programming service, and the disclosure requirement is reasonably related to the government's interest in preventing deception of consumers. As was the case in *Zauderer,* here, a cable operator's or DBS provider's constitutionally protected interest in *not* providing the required information is ''minimal.'' In addition, the rule does not prevent cable operators and DBS providers from conveying any additional information. We seek comment on this analysis.

Assuming, for the sake of argument, that our proposed rule would be subject to the more stringent test of commercial speech regulation (*i.e.,* intermediate scrutiny), we still believe that the rule passes that three-prong test that the Supreme Court established in *Central Hudson*: first, the government must assert a substantial interest in support of its regulation; second, the government must demonstrate that the restriction on commercial speech directly and materially advances that interest; and third, the regulation must be ''narrowly drawn.'' Our proposed rule passes this test. First, we have a substantial interest in making sure that consumers can identify the full cost of video programming to which they subscribe so that they can understand the price they are being charged for the service as well as make informed purchasing decisions as they consider competing cable and DBS service options. Second, our proposed rule would advance that interest by requiring cable operators and DBS providers to identify the cost for video programming as a single, prominent line-item on consumer bills and promotional materials, which would allow consumers to identify the full cost of video programming. Finally, our proposal is narrowly drawn and proportionate to the substantial interest we aim to promote: the proposed rule would permit cable operators and DBS providers to identify elements that comprise the total charge for video programming and require only that they present information about the total cost for video programming uniformly. We seek comment on this analysis.

Cost/Benefit Analysis. We seek comment on the benefits and costs associated with adopting the proposed rules. In addition to the consumer benefits discussed above, including promotion of competition, are there also benefits to industry, such as leveling the playing field for cable operators and DBS providers that do offer transparent pricing? We also seek comment on any potential costs that would be imposed on consumers or cable operators and DBS providers if we adopt the proposals contained in this NPRM. Would a truth-in-billing requirement impose undue burdens on small cable operators, as that term is defined by the Small Business Administration? Are there ways to limit any potential compliance burdens on providers, including small cable operators, while still achieving the benefits to consumers discussed above? Comments should be accompanied by specific data and analysis supporting claimed costs and benefits. We seek comment on these issues and any other issues related to the regulation of below-the-line fees and truth-in-billing requirements.

Digital Equity and Inclusion. Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

Initial Regulatory Flexibility Act Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) relating to this *NPRM.* The IRFA is set forth below.

Paperwork Reduction Act. This *NPRM* may result in new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 through 3520). If the Commission adopts any new or revised information collection requirement, the Commission will publish a 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.''

Ex Parte Rules—Permit-But-Disclose. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. 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. Memoranda must contain a summary of the substance of the ex parte presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b) of the rules. In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Filing Requirements—Comments and Replies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR

1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *https://fjallfoss.fcc.gov/ecfs2/.*

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by 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. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Availability of Documents. Comments and reply comments will be publicly available online via ECFS.

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

Need for, and Objectives of, the Proposed Rules. Sections 335 and 632 of the Communications Act of 1934, as amended (the Act), authorize the Commission to adopt public interest regulations for direct broadcast satellite (DBS) and direct the Commission to adopt cable customer service requirements, respectively. In 2019, Congress adopted the Television Viewer Protection Act of 2019 (TVPA), which bolstered the consumer protection provisions of the Act by adding specific consumer protections. The TVPA revised the Act to add section 642, which, among other things, requires greater transparency in subscribers' bills. As it considered this legislation, Congress expressed specific concern that consumers face ''unexpected and confusing fees when purchasing video programming,'' including ''fees for broadcast TV,'' and noted that the practice of charging these fees began in the late 2000s. In 2021, the Media Bureau sought comment on the steps multichannel video programming distributors (MVPDs) have taken to implement the TVPA requirements and on whether consumers found those steps effective in furthering Congress's goal of protecting consumers when purchasing MVPD or broadband service. In response to that PN, Consumer Reports commented that below-the-line fees, ''which are solely the creation of the provider (versus regulatory fees that are passed on to the consumer)[,] made up the bulk'' of costs that are added to advertised rates and MVPD subscribers' bills. It appears that since adoption of the TVPA, the practice of charging subscribers unexpected ''fees'' (for example, for broadcast television programming and regional sports programming listed separately from the monthly subscription rate for video programming service) that are actually charges for the video programming service for which the subscriber pays, has continued. Moreover, websites, advertisements, and other promotional materials may advertise a top-line price that does not note prominently the mandatory programming costs that make up the service until the customer signs up for service. For example, those materials use a different font size (often in fine print) and separate from the proclaimed monthly subscription fee amounts extra ''fees'' designated by the provider that consumers will also need to pay for video programming that they will receive.

Some MVPDs charge subscribers an assortment of unexpected fees that are not identified as a cost attributable to the video programming service that they sell, even though those fees are for parts of that video programming service. This categorization can potentially be misleading and interpreted as a government-imposed tax or fee, instead of a company-imposed service fee increase. This practice can also make it difficult for consumers to compare the service prices of competing video service providers. To make sure that consumers have the information they need to budget for video programming service and compare competitive services,

Legal Basis. The proposed action is authorized pursuant to sections 1, 4(i), 303(v), 335(a), 632(b), and 642 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(v), 335(a), 552(b), and 562.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply—Cable and Other Subscription Programming. The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA small business size standard for this industry classifies firms with annual receipts less than $41.5 million as small. Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year. Of that number, 149 firms operated with revenue of less than $25 million a year and 44 firms operated with revenue of $25 million or more. Based on this data, the Commission estimates that a majority of firms in this industry are small.

Cable Companies and Systems (Rate Regulation Standard). 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 4,200 cable operators nationwide, all but 9 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 4,200 systems nationwide, 3,900 have fewer than 15,000 subscribers, based on the

same records. Thus, under this second size standard, the Commission believes that most cable systems are small.

Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, contains a size standard for a ''small cable operator,'' which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice. Based on industry data, only six cable system operators have more than 677,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

Direct Broadcast Satellite (DBS) Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS is included in the Wired Telecommunications Carriers industry which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service—DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation. DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, we must conclude based on internally developed Commission data, in general DBS service is provided only by large firms.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. The NPRM proposes to require cable operators and DBS providers to state the makeup of consumers' bills transparently, accurately, and clearly. The NPRM does not propose any new or modified recordkeeping or other compliance requirements.

In assessing the cost of compliance for small entities, at this time the Commission is not in a position to determine whether, if adopted, amending the cable operator customer service obligations will require small entities to hire professionals to comply, and cannot quantify the cost of compliance with any of the potential rule changes that may be adopted. To help the Commission more fully evaluate the cost of compliance, in the NPRM we seek comment on whether a truth-in-billing requirement would impose undue burdens on small entities. We also seek comment on ways to limit any potential compliance burdens on small entities, while still achieving the benefits to consumers of clearer, non-misleading bills and advertisements. Comments should be accompanied by specific data and analysis supporting claimed costs and benefits. In addition, we seek comment on these issues and any other issues related to the regulation of below-the-line fees and truth-in-billing requirements. We expect the comments that we receive from the parties in the proceeding, including cost and benefit analyses, to help the Commission identify and evaluate compliance costs and burdens for small entities that may result from the matters discussed in the NPRM.

Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered. 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 (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

The NPRM seeks comment on whether cable operators and DBS providers have changed the way they bill or promote such fees since the TVPA took effect, and if so, how. We ask whether there is a business purpose for characterizing these service rate increases as taxes, fees, or surcharges, and whether certain sectors in the MVPD marketplace more prone to charging such fees. We also ask whether any franchising authorities have regulations or franchise agreement terms about these types of billing and advertising practices, and if so, whether they would conflict with our proposal. Consistent with section 642 of the Act, the NPRM proposes to explicitly state in our rule that cable operators and DBS providers may complement the prominent aggregate cost line item with an itemized explanation of the elements that compose that aggregate cost, so long as the cable operator or DBS provider portrays the video programming-related costs as part of the all-in price for service. There may be consumer benefits to allowing cable operators and DBS providers to provide their subscribers and potential subscribers with information about how much of their subscription payments are attributable to specific elements of the video programming service, equipment rental, or other elements that contribute to the bill.

We considered alternatives to whether our proposal to provide the ''all-in'' price for service in their promotional materials and on subscribers' bills is sufficient to ensure that subscribers and potential subscribers have accurate information about the cost for video service. We considered whether there are more consumer-friendly ways that cable operators and DBS providers should be required to provide this information and whether the term ''prominent'' is specific enough to

ensure that cable operators and DBS providers present consumers with an easy-to-understand ''all-in'' subscription price, or whether we need to provide more detail about how cable operators and DBS providers must communicate the price for service and seek comment on these matters. We also considered whether, aside from line-item fees for broadcast television, sports programming (including regional sports programming), and entertainment programming, there are other video programming-related fees that are being categorized as taxes, fees, and surcharges, instead of included in the price for video service. We also considered whether are there also benefits to industry, such as leveling the playing field for MVPDs that do offer transparent pricing.

We expect to more fully consider the economic impact and alternatives for small entities following the review of comments and costs and benefits analyses filed in response to the NPRM. Our evaluation of this information will shape the final alternatives we consider, the final conclusion we reach, and any final actions we ultimately take in this proceeding to minimize any significant economic impact that may occur on small entities.

Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule. None.

It is ordered that, pursuant to the authority found in sections 1, 4(i), 303(v), 335(a), 632(b), and 642 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(v), 335(a), 552(b), and 562, this Notice of Proposed Rulemaking *is adopted. It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Add § 76.310 to read as follows:

§ 76.310 Truth in billing and advertising.

Cable operators and direct broadcast satellite (DBS) providers shall aggregate the cost of video programming that they provide as a prominent single line item on subscribers' bills and in any promotional materials. Cable operators and DBS providers may complement the aggregate line item with an itemized explanation of the elements that compose that single line item.

[FR Doc. 2023–13971 Filed 6–29–23; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191, 192, and 193

[Docket No. PHMSA–2021–0039]

RIN 2137–AF51

Pipeline Safety: Gas Pipeline Leak Detection and Repair

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On May 18, 2023, PHMSA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** titled: ''Pipeline Safety: Gas Pipeline Leak Detection and Repair.'' PHMSA received requests to extend the comment period for stakeholders to have more time to evaluate the NPRM. PHMSA is therefore extending the comment period to August 16, 2023.

DATES: The comment period for the proposed rule published at 88 FR 31890 on May 18, 2023, is extended from July 17, 2023 to August 16, 2023. The agency will, consistent with 49 CFR 190.323, consider late-filed comments to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2021–0039 by any of the following methods:

E-Gov Web: https://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

Mail: Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: U.S. DOT Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 1–202–493–2251.

Instructions: Please include the docket number PHMSA–2021–0039 at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *https://www.regulations.gov/.*

Note: Comments are posted without changes or edits to *https://www.regulations.gov,* including any personal information provided. There is a privacy statement published on *https://www.regulations.gov.*

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), that can be reviewed at *www.dot.gov/privacy.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA, 5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this document contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Submissions containing CBI should be sent to Sayler Palabrica, Office of Pipeline Safety (PHP–30), Pipeline and Hazardous