

**FEDERAL COMMUNICATIONS  
COMMISSION****47 CFR Part 1**

[MD Docket No. 96-186; FCC 97-215]

**Assessment and Collection of  
Regulatory Fees for Fiscal Year 1997**AGENCY: Federal Communications  
Commission.

ACTION: Final rule.

SUMMARY: The Commission has revised  
its Schedule of Regulatory Fees in order

to recover the amount of regulatory fees that Congress has required it to collect for fiscal year 1997. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees. For fiscal year 1997 sections 9(b)(2) and (3) provide for annual "Mandatory Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees. These revisions will further the National Performance Review goals of reinventing Government by requiring beneficiaries of

Commission services to pay for such services.

EFFECTIVE DATE: September 15, 1997.

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**SUPPLEMENTARY INFORMATION:**Adopted: June 16, 1997; Released: June  
26, 1997

By the Commission:

**TABLE OF CONTENTS**

| Topic  | Paragraph<br>number |
|--|---------------------|
| I. Introduction .....  | 1                   |
| II. Background .....   | 4                   |
| III. Discussion:..   |                     |
| A. Summary of FY 1997 Fee Methodology .....  | 7                   |
| B. Cost-Based Fee Methodology .....  | 12                  |
| C. Relationship of Cost of Service to Revenue Requirements .....                     | 21                  |
| D. Application of Cost-Based Methodology To Determine Fee Amounts.                   |                     |
| 1. Adjustment of Payment Units .....   | 31                  |
| 2. Calculation of Revenue Requirements .....   | 32                  |
| 3. Calculation of Regulatory Costs .....   | 33                  |
| 4. Establishment of 25 Percent Revenue Ceiling .....                                 | 35                  |
| 5. Calculation of Fees .....   | 42                  |
| E. Other Changes .....   | 43                  |
| 1. Consolidation of Private Microwave and Domestic Public Fixed Fee Categories ..... | 44                  |
| 2. Commercial AM/FM Radio .....  | 47                  |
| 3. Personal Communications Service (PCS) .....                                       | 57                  |
| 4. Commercial Mobile Radio Services (CMRS) .....                                     | 58                  |
| 5. Intelsat & Inmarsat Signatories .....   | 65                  |
| 6. Non-Common Carrier International Bearer Circuits .....                            | 66                  |
| 7. Low Earth Orbit Satellite Systems .....   | 73                  |
| 8. Broadcast Auxiliary Services .....  | 76                  |
| 9. Amateur Vanity Call Signs .....   | 77                  |
| 10. Interstate Common Carriers .....   | 78                  |
| 11. New Filing Requirements .....  | 79                  |
| F. Schedule of Regulatory Fees .....   | 80                  |
| G. Effect of Revenue Redistributions on Major Constituencies .....                   | 81                  |
| H. Procedures for Payment of Regulatory Fees.  |                     |
| 1. Installment Payments for Large Fees .....   | 82                  |
| 2. Annual Payments of Standard Fees .....  | 84                  |
| 3. Advance Payment of Small Fees .....   | 85                  |
| 4. Standard Fee Calculations and Payment Dates .....                                 | 86                  |
| 5. Minimum Fee Payment Liability .....   | 88                  |
| IV. Ordering Clause .....  | 89                  |
| V. Authority and Further Information .....   | 90                  |

**Rule Changes**

## Attachments to Preamble:

- Attachment A—Final Regulatory Flexibility Analysis
- Attachment B—Sources of Payment Unit Estimates for FY 1997
- Attachment C—Calculation of Revenue Requirements
- Attachment D—Calculation of Regulatory Costs
- Attachment E—Calculation of FY 1997 Regulatory Fees
- Attachment F—FY 1997 Schedule of Regulatory Fees
- Attachment G—Comparison Between FY 1996 & FY 1997 Proposed & Final Regulatory Fees

Attachment H—Detailed Guidance on Who  
Must Pay Regulatory FeesAttachment I—Description of FCC  
ActivitiesAttachment J—FCC Cost Accounting  
Activity and Project Codes

Attachment K—AM/FM Fees

Attachment L—Parties Filing Comments  
and Reply Comments**I. Introduction**

1. By this Report and Order, the Commission concludes its rulemaking proceeding to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress,

pursuant to Section 9(a) of the Communications Act, as amended, has required it to collect for Fiscal Year (FY) 1997. See 47 U.S.C. 159(a).

2. Congress has required that we collect \$152,523,000 through regulatory fees in order to recover the costs of our enforcement, policy and rulemaking, international and user information activities for FY 1997. Public Law 104-208 and 47 U.S.C. 159(a)(2). This amount is \$26,123,000 or nearly 21% more than the amount that Congress designated for recovery through regulatory fees for FY 1996. See

Assessment and Collection of Regulatory Fees for Fiscal Year 1996, FCC 96-295, released July 5, 1996, 61 FR 36629 (July 12, 1996). Thus, we are revising our fees in order to collect the increased amount that Congress has required that we collect. Additionally, we are amending the Schedule in order to assess regulatory fees upon licensees and/or regulatees of services not previously subject to payment of a fee, to simplify and streamline the Fee Schedule, and to clarify and/or revise certain payment procedures. 47 U.S.C. 159(b)(3).

3. In revising our fees, we have adjusted the payment units and revenue requirement for each service subject to a fee, consistent with Sections 159(b) (2) and (3). In addition, we have made changes to the fees pursuant to public interest considerations including the establishment of a procedure to limit the maximum increase in a fee for any individual fee category. The current Schedule of Regulatory Fees is set forth in §§ 1.1152 through 1.1156 of the Commission's rules. 47 CFR 1.1152 through 1.1156. See rule changes and Attachment F for our revised fee schedule for FY 1997.

## II. Background

4. Section 9(a) of the Communications Act of 1934, as amended, authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international, and user information activities. See 47 U.S.C. 159(a). See Attachment I for definitions of these and other activities of the Commission. In our FY 1994 Fee Report and Order, 59 FR 30984 (June 16, 1994), we adopted the Schedule of Regulatory Fees that Congress established and we prescribed rules to govern payment of the fees, as required by Congress. 47 U.S.C. 159 (b), (f)(1). Subsequently, in our FY 1995 and FY 1996 Fee Reports and Orders, 60 FR 34004 (June 29, 1995) and 61 FR 36629 (July 12, 1996), we modified the Schedule to increase by approximately 93 percent and 9 percent, respectively, the revenue generated by these fees in accordance with the amounts Congress required us to collect in FY 1995 and FY 1996. Also, in both our FY 1995 and FY 1996 fee decisions, we amended certain rules governing our regulatory fee program based upon our experience administering the program in prior years. See 47 CFR 1.1151 *et seq.*

5. For fiscal years after FY 1994, Sections 9(b) (2) and (3), respectively, provide for "Mandatory Adjustments" and "Permitted Amendments" to the

Schedule of Regulatory Fees. 47 U.S.C. 159 (b)(2), (b)(3). Section 9(b)(2), entitled "Mandatory Adjustments," requires that we revise the Schedule of Regulatory Fees whenever Congress changes the amount that we are to recover through regulatory fees. 47 U.S.C. 159(b)(2). Section 9(b)(3), entitled "Permitted Amendments," requires that we determine annually whether adjustments to the fees are warranted based upon the requirements of this subsection and that, whenever we make such adjustments, we take into account factors that are reasonably related to the benefits provided to the payer of the fee and factors that are in the public interest. In making these amendments, we are to "add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services." 47 U.S.C. 159(b)(3).

6. Section 9(i) requires that we develop accounting systems necessary to adjust our fees when making permitted amendments to the Fee Schedule and for other purposes and that we provide interested persons with an opportunity to comment concerning the allocation of our regulatory costs. 47 U.S.C. 9(i). Finally, Section 9(b)(4)(B) requires that we notify Congress of any permitted amendments 90 days before those amendments go into effect. 47 U.S.C. 159(b)(4)(B).

## III. Discussion

### A. Summary of FY 1997 Fee Methodology

7. As noted above, Congress has required that we recover \$152,523,000 for FY 1997 through the collection of regulatory fees, reflecting its determination of the costs of our enforcement, policy and rulemaking, international, and user information activities.<sup>1</sup> 47 U.S.C. 159(a).

8. In our FY 1997 NPRM we developed our proposed FY 1997 fee schedule by first estimating payment units<sup>2</sup> for FY 1997 in order to determine

<sup>1</sup> The impact of regulatory fees on the FCC's appropriation is substantial. For example, without regulatory fees to offset the Commission's costs, the FCC would require a Congressional appropriation of \$189 million for FY 1997. When offsetting regulatory fees are taken into consideration, only \$37 million must be appropriated from tax receipts to fund the Commission. Thus, taxpayers are spared the expense of funding almost 80% of the Commission's annual budget. Funds collected as application or filing fees pursuant to Section 8 of the Act are deposited into the General Fund of the U.S. Treasury as reimbursement to the United States but, unlike Section 9 regulatory fees, do not offset funds appropriated to the Commission. 47 U.S.C. 158(a).

<sup>2</sup> Payment units are the number of subscribers, mobile units, pagers, cellular telephones, licenses, call signs, adjusted gross revenue dollars, etc.

the aggregate amount of revenue we would collect without any revision to our FY 1996 fees. Next, we compared this revenue amount to the \$152,523,000 that Congress has required us to collect in FY 1997 and pro-rated the shortfall of \$15,188,635 among all the existing fee categories. We then adjusted the projected revenue requirements of each category of service so that it equaled the actual cost of each service, using data accumulated by our cost accounting system to ensure that revenues from each category of service approximated, to the extent possible, our regulatory costs for each fee category.

9. We next examined the impact on each class of regulatees of using actual costs to establish regulatory fees in order to determine whether any regulatees would experience an unduly large fee increase. Our review disclosed that cost-based fees would result in fee payments dramatically higher for regulatees in many service categories in FY 1997 compared with their fees in FY 1996. Therefore, rather than proposing fully cost-based fees for FY 1997, we proposed to phase in full reliance on cost-based fees and, for FY 1997, to establish a revenue ceiling in each service no higher than 25 percent above the revenue that payers within a fee category would have paid if FY 1997 fees had remained at FY 1996 levels adjusted only for changes in payment unit volumes and the overall increase required by Congress.

10. Once we established our tentative FY 1997 fees, we evaluated various proposals made by Commission staff concerning other adjustments to the Fee Schedule and to our collection procedures. We discussed these proposals in Paragraphs 20-40 of the NPRM and factored them into our proposed FY 1997 Schedule of Regulatory Fees, set forth in Attachment F of the NPRM.

11. Finally, we incorporated, as Attachment H of the NPRM, proposed Guidance containing detailed descriptions of each fee category, information on the individual or entity responsible for paying a particular fee and other critical information designed to assist potential fee payers in determining the extent of their fee liability, if any, for FY 1997.

### B. Cost-Based Fee Methodology

12. In our NPRM, we announced that we had implemented our new cost accounting system and that we would rely on the cost accounting system to

which represent the base volumes against which fee amounts are calculated.

assist us in determining our costs of regulation of those services subject to a fee for FY 1997. In response, several interested parties, including the Personal Communications Industry Association (PCIA), Century Cellunet, Inc. (Century), and PanAmSat Corporation (PanAmSat), contend that we failed to explain the accounting system sufficiently to permit interested parties to determine how the system distributes costs among our various services. Comsat argues that we merely disclosed the results of the cost accounting system and, therefore, interested parties cannot evaluate our cost accounting system or suggest improvements. In addition, PCIA, Arch Communications Group, Inc. (Arch) and Columbia Communications Corporation (Columbia), among others, argue that without more data concerning our assignment of costs, they cannot determine whether the costs attributed to their services are reasonable estimates of our actual costs of regulating their services.

13. We are satisfied that our NPRM provided sufficient information describing the accounting system to afford interested parties the opportunity to comment. Our NPRM made it clear that our cost accounting system relied upon information derived from our personnel/payroll system and our fiscal accounting system as the basis for recording direct and indirect costs, separately and combined, for every major category of service subject to a fee. Also, we stated that the cost accounting system was designed to generate useful data for identifying the actual costs of our regulation by category of service and that this information, combined with other information,<sup>3</sup> would yield fees more closely reflecting our cost of service. We stated that the system was integrated with our personnel/payroll system and collected both personnel and payroll information by category of service to insure accurate and timely production of cost of service information. In sum, the system we developed for distributing costs is a derivative of our payroll and accounting systems with the added feature that it collects cost of service information on an employee-by-employee basis.

14. Moreover, we are confident that our NPRM provided sufficient detail concerning not only our manner of distributing costs of personnel directly assigned to regulatory activities, but other costs included in our determination of regulatory costs. We

stated that the system separately identifies direct costs, including salary and expenses for staff directly assigned to our operating Bureaus, and other costs, such as rent, utilities and contracts, directly attributable to such personnel. Also, we stated that we included as indirect costs those costs attributable to personnel assigned to overhead functions, including such functions as field and laboratory staff, on a proportional basis; i.e., spread among all categories of service subject to a fee according to their share of direct costs. Finally, in Attachment D of the NPRM, we provided a precise calculation of the regulatory costs, including separate discussions of the cost accounting system's accumulation of the direct, indirect and total actual costs for each major category of service. Thus, we are satisfied that our NPRM, consistent with Section 9(i) of the Act, sufficiently described our cost accounting system, including how it distributes actual costs among the various categories of service, affording parties an understanding of the system sufficient for them to submit comments on how the system allocated costs among those services subject to a regulatory fee. 47 U.S.C. 159(i).

15. Nevertheless, in consideration of the increased amount that Congress has required that we recover through regulatory fees in FY 1997, we believe that we should describe our cost accounting system in further detail so that interested parties may be reassured about the integrity of the system and its unbiased distribution of costs.

16. Our cost accounting system was developed under contract by American Management Systems, Inc (AMS) in FY 1995. From its inception, the system has been integrated with the Commission's bi-weekly payroll and fiscal accounting systems and, as such, its procedures conform to generally accepted cost accounting principles and standards as mandated by the General Accounting Office (GAO) and by the U.S. Treasury Department. The cost accounting system contains built-in safeguards and internal controls designed to ensure data integrity. For example, employees are required to certify the accuracy of the service category codes they designate on their time and attendance reports, timekeepers must enter data according to procedures established in system guidelines, and supervisors are required to review and attest by their signature that coding appears to be appropriate. Additionally, standards are in place which prevent employees from altering their own cost accounting data in the automated payroll system. Standardized system follow-up reports are also

periodically provided to Bureau/Office administrative and management officials for their review to ensure that staff are following system guidelines.

17. Additionally, as official financial records, employee cost accounting code sheets are associated with formal time and attendance records and maintained in accordance with prescribed GAO standards. As with all financial systems, criminal and/or administrative penalties apply should any fraudulent or coercive actions associated with either the payroll or cost accounting system be discovered. To date, no known deficiencies of this nature have been identified or alleged.

18. As we have noted, the actual accumulation of cost of service information is derived from our automated personnel/payroll system. In order to collect cost of service information, the cost accounting system requires that each Commission employee select or designate a particular cost code or multiple codes when completing bi-weekly payroll sheets.<sup>4</sup> Cost codes consist of a two digit code designating the proper "Activity" (e.g., Authorization of Service, Policy & Rulemaking, Enforcement, Public Information) together with a three digit code designating the "program" or fee category.<sup>5</sup> The Commission has utilized its basic "activity" definitions for Office of Management and Budget (OMB) and Congressional Budget purposes and for fiscal accounting reporting requirements for many years, with agency employees generally well acquainted with the distinction between feeable (i.e., Policy & Rulemaking, Enforcement, Public Information, International) and non-feeable (i.e., Authorization of Service) activities. The selection of "program codes" used for accumulating regulatory fee costs by service category, on the other hand, were newly established for the cost accounting system.<sup>6 7</sup> To ensure

<sup>4</sup> Some employees who routinely work on the same activities each pay period may use default codes which reduce the need to enter new codes each pay period. These employees have the option of changing codes as dictated by the work they perform.

<sup>5</sup> Although the Commission collects cost data for Authorization of Service activities and for reimbursable activities, these costs are not used in developing annual regulatory fees.

<sup>6</sup> See Attachment J for a list of all cost accounting codes.

<sup>7</sup> The Commission's cost accounting system was designed to provide the flexibility to add or delete cost codes not only at the beginning (or end) of a fiscal year, but during the course of the fiscal year as well. This increases the accuracy of cost allocation by allowing the agency to quickly begin accumulating costs when required for operational or fee development purposes without waiting weeks or months to do so. In June 1996, two new codes were added to the cost code structure in place at the beginning of FY 1996. One of the codes was for

<sup>3</sup> Specifically, information pertaining to payment units and total amounts required to be collected.

smooth implementation, extensive training was provided to timekeepers and each Commission employee was provided with detailed instructions pertaining to use of the cost accounting system prior to system implementation.

19. As noted, the program cost codes that we designated for regulatory fee development correspond to the major fee categories contained in the Commission's Schedule of Fees. Every pay period, each employee completes a time and attendance form and verifies with his or her initials the accuracy of the distribution of worktime among the various Commission programs, including those programs covered by regulatory fees.<sup>8</sup> In turn, the employee's supervisor is required to review and to certify the accuracy of the employee's entries before the details of the employee's work statement are key-entered into our automated payroll system (operated by the Department of Agriculture's National Finance Center) along with all other bi-weekly payroll data by time and attendance clerks. Built-in system checks and detailed follow-up reports are distributed to all Bureaus/Offices to insure that data entry is completed in an accurate manner and that resulting reports are accurate.<sup>9</sup> During FY 1996, senior administrative

accumulating costs relative to LEOs and the other was for accumulating costs associated with Signatory activities. Prior to establishment of these new codes, International Bureau staff were only able to allocate their work time to existing fee categories (i.e., space stations, earth stations, international public fixed radio, international HF radio stations and international bearer circuits). To obtain an approximation of full-year costs in these situations, the standard mathematical procedure would normally be to "annualize" the partial year costs. Annualization is a simple predictive process which estimates what accumulated costs would be for a full year based on partial year data. It assumes that costs for similar periods during the fiscal year would mirror the costs accumulated in the partial year period. For example, if \$500 in costs were accumulated for three months of a fiscal year, the annualized cost accumulation would total \$2000 (\$500/3 months times 12 months). Unfortunately, due to administrative oversight, many employees actually working on activities related to LEOs and signatory activities were not made aware of the new cost codes and, therefore, the time allotted by employees to these two activities was inadvertently less than the time actually spent by employees on these two activities. To correct this imbalance, the International Bureau reviewed its actual FY 1996 FTE usage to identify by Activity and fee category where it had actually been spending its finite staff resources during FY 1996. This breakout of staff time was then used to allocate actual International Bureau costs to its several fee categories as shown on Attachment D.

<sup>8</sup>As noted in the NPRM, it is impractical to require employees to allocate their time into very small increments. However, most employees do allocate their time in increments of one hour.

<sup>9</sup>The Commission's cost accounting system also accumulates detailed FTE data. Prior to implementation of the cost accounting system, FTEs used in budget and fee development were estimated by agency program managers.

staff were assigned to carefully monitor the new cost accounting system to insure system integrity. Although the government-wide furlough in early FY 1996 hindered the resolution of minor problems pertaining to integration of the new program codes at the onset of system implementation, these problems were subsequently corrected and cost accounting data for FY 1996 used in the formulation of FY 1997 fees do not contain any known omissions or erroneous data.

20. In addition to personnel costs, which make up about 80% of the Commission's overall costs, the agency's cost accounting system also accumulates non-personnel costs. These are the costs of office rental, equipment, travel, information technology, supplies, contracts and telecommunications services. Non-personnel costs are generally accrued on an actual basis at the time the Commission obligates itself to pay for these materials and services. Some costs, such as annual and sick leave costs, and other obligations such as rental of space and telecommunications, are not logically chargeable to a specific fee category at the time they are incurred. In these situations, they are allocated at month-end to all fee categories based on how direct costs were incurred during the reporting period. For example, costs for annual and sick leave are allocated on a pro-rated basis to fee categories incurring direct costs during the accounting period. In an effort to report costs as accurately as possible, the allocation is limited to the organizations where the leave was taken, rather than across all organizations. Costs for office space rental and telecommunications, on the other hand, are allocated to each fee category—FCC-wide—that incurred direct costs during the month. At the end of each accounting period, the cost accounting system combines the non-personnel costs with the Commission's salary and benefits (payroll) costs and then distributes various overhead costs

to specific fee categories based on pre-determined allocation formulas.<sup>10 11</sup>

### *C. Relationship of Cost of Service to Revenue Requirements*

21. PCIA and other commenters contend that there is no basis for or relationship between the revenue that the Commission is proposing to collect from a particular fee group and the amount of regulatory work or oversight associated with that fee group. As discussed in Paragraph 2, the Commission, by statute, must collect annually from its licensees and regulatees the amount specified by Congress. Further, in Paragraph 14, we stated that the direct costs of our regulatory oversight comprise only a portion of the overall costs we are required to recover through regulatory fees. Direct costs include salary and expenses for (a) Staff directly assigned to our operating Bureaus and performing regulatory activities and (b) staff assigned outside the operating Bureaus to the extent that their time is spent performing regulatory activities pertinent to an operating Bureau. Indirect costs include costs of support personnel assigned to overhead functions such as field and laboratory staff and certain staff assigned to the Office of Managing Director. Support costs, for both direct and indirect staff, also must be recovered. These costs include rent, utilities, equipment and

<sup>10</sup>Overhead costs include a number of components: (a) The time of employees whose functional activities cannot logically be designated or allocated to a single or even several fee categories (e.g., Commissioners and their immediate staffs, staff supporting all Commission organizations); and (b) subsidized activities specifically excluded from fee assessment (e.g., amateur radio, public safety and government licensee oversight, non-commercial radio and TV licensees, CB, ship and aircraft radio users and non-profit organizations). Together these costs are estimated to total nearly 40% of the Commission activity costs covered by regulatory fees. As noted elsewhere in this Report and Order, additional allocations are made proportionally to all the fee categories in order to bring total accumulated costs up to the total amount Congress requires us to collect. Additionally, actual costs at any point in time, including the end of a fiscal year, will not exactly equal the amount Congress requires us to collect because Congress' estimate of costs to be recovered through regulatory fees is generally determined at least twelve months before the end of the fiscal year to which the fees actually apply. As such, year-end actual activity costs will not equal exactly the amount Congress designates for collection in a particular fiscal year.

<sup>11</sup>Leave costs, indirect costs related to centralized services and bureau-specific support costs are distributed among the various fee categories that a particular organization supports. The costs are distributed on a pro-rata basis to only those fee categories that incurred direct costs during the accounting period. As a final step, executive direction and related support costs are distributed FCC-wide to all fee categories incurring direct costs during the accounting period.

contractual costs attributable to regulatory oversight.

22. Our fees also recover costs attributable to regulatees that Congress, in Section 9(h) of the Act, has exempted from payment of a fee and those regulatees that obtain a waiver or reduction of their fee payment pursuant to Section 9(d) of the Act. 47 U.S.C. 159 (d), (h). Fee payers must also offset other costs attributable to regulatees whose fees have been eliminated or reduced through permitted amendments in accordance with Section 9(b)(3) of the Act. For example, Citizen's Band Radio and most recreational ship and aircraft radio station operators, amateur radio licensees, governmental entities, licensees in the public safety radio services, and all non-profit groups are not required to pay a fee. The costs of regulating these entities is borne by those regulatees subject to a fee requirement, with no direct measurable benefit accruing to such fee payers. We recover our costs of regulation for exempt entities by allocating our regulatory costs attributable to them on a proportional basis across all fee categories so as to not unduly impact any particular category of fee payers.

23. Thus, in direct response to PCIA, our fees are designed to recover the amount that Congress has required us to collect and, although based upon the cost of service of each category of regulatee, include costs that are not directly related to those entities subject to a fee. Therefore, a particular fee and resulting revenue collection will invariably exceed the service's direct regulatory costs because the revenue requirement for any of our services, and thus the fees assessed upon fee payers in those services, will be higher than their actual cost of service, notwithstanding that actions by Congress and the Commission to deregulate would appear to warrant a lower fee.

24. Several commenters also allude to our proposal to use actual FY 1996 regulatory costs as the basis for determining FY 1997 costs and question whether FY 1997 costs will approximate FY 1996 costs. For example, PCIA contends that we have not demonstrated that our FY 1996 costs are sufficiently related to our FY 1997 costs to rely on FY 1996 costs to establish our fees for FY 1997.

25. Clearly, the Commission cannot determine actual FY 1997 costs until well after the close of FY 1997, several weeks after the collection of FY 1997 fees must be completed. Moreover, even though we could have estimated our FY 1997 costs per service in our NPRM, that estimate would have been based on

only three months of FY 1997 data. Also, any method for estimating future FY 1997 costs would become a point of controversy and contention because it is difficult, if not impossible, to predict with any certainty the regulatory costs per service in view of today's dynamic telecommunications regulatory environment. Under our proposal to base our fees on the previous year's actual costs of regulation, we eliminated the need to rely on estimated costs. Because we foresee no lessening in the dynamic pace of technological development and innovation in the communications regulatory environment, we are reluctant to continue to rely on estimated future costs when actual costs for a prior year are available. Therefore, we shall not rely on estimates of future costs, and, henceforth, will develop our fees based on historic cost data. We note that even if FY 1997 costs were ultimately to differ from those based on FY 1996 data, our proposed methodology would effectively adjust FY 1998 fees to take into account actual FY 1997 costs.

26. Several of the parties contend that their fees bear little or no relationship to their costs of regulation or to the benefits they receive from our regulation. These parties contend that our fees should be calculated to recover an amount reflecting the cost of the services performed and the value conferred on the payor pursuant to Section 9(b)(1)(A) of the Act. 47 U.S.C. 159(b)(1)(A).

27. We again reject the arguments that our proposed fees are inconsistent with the statute or otherwise unlawful because they are not completely cost-based or do not reflect the benefits received by entities subject to a fee payment. Section 9(a) requires that we recover our costs "in the total amounts required in Appropriations Acts." 47 U.S.C. 159(a). Section 9(a) does not require that we base our fees solely on benefits to regulatees or that the fees recover from an entity only its particular cost of regulation. In our FY 1995 Report and Order, we stated that we are not limited to setting regulatory fees only in the amount that reflects services received by regulated entities. 10 FCC Rcd at 13521, citing *Skinner v. Mid-America Pipe Line Co.*, 490 U.S. 212, 224 (1989). Rather, once Congress, as in Section 9, has made a proper delegation of authority to raise funds, "so long as the fees in question are within the scope of Congress' lawful delegation of authority in Section 9, they are constitutional." *Id.* Thus, as we noted in our FY 1995 Report and Order, we "can collect fees from regulatees for their use of frequencies and for the potential

benefits of [our] regulatory activities, even if they do not utilize these activities." See 60 FR 34008 (June 29, 1995), citing *United States v. Sperry Corp.*, 493 U.S. 52, 63. Moreover, no requirement exists that the fees we establish be designed to recover only the costs of those benefits directly received by an entity.

28. Arch and PCIA point out that our NPRM did not provide actual FY 1996 fee collection data, including the number of actual payment units and the actual amount of fees collected in certain fee categories. These commenters contend that such information is essential to its evaluation of Commission fee proposals for FY 1997. We recognize that we did not provide a detailed listing of actual FY 1996 collections data in the NPRM. However, Attachment B of the NPRM contained a service-by-service explanation of the basis for our estimated FY 1997 payment units. Several of these are based on actual FY 1996 payments. Others are based on estimates obtained from Commission program experts or from regulated industries. In any case, as we noted in the NPRM, we consider as one factor in estimating payment units the actual number of payment units recorded in our fees collection system for FY 1996. These payment unit estimates use "as of" dates corresponding to the beginning of the current fiscal year or, for some fee categories, at the end of the previous calendar year. We believe that this reliance upon actual "historical" or retrospective FY 1996 data provides us a much greater confidence level than would an estimate of payment units made prospectively. Finally, from the inception of the regulatory fee collection program, actual historical payment units and collection amounts for the various categories of services have been routinely available for inspection to interested persons upon request. In sum, we cannot find that there is a basis for concluding that these commenters could not fairly evaluate our proposed fees for FY 1997 given the information pertaining to payment units contained in the NPRM and detailed collections data readily available from the Commission. Additionally, we note that no interested party proposed alternative payment units for any category of service for FY 1997.

29. Finally, PCIA, Century, Columbia and other interested parties are concerned about the amount of our proposed increase in their revenue requirements and in their fee amounts for FY 1997 compared with those established for FY 1996. They question how estimates of actual costs for FY

1996 and FY 1997 could differ so significantly from one year to the next in certain fee categories. The most obvious reason for major differences, as we have noted elsewhere, is that Congress has increased the total amount we are to collect by more than 20% in FY 1997 compared to FY 1996. Also, we must recover our indirect and overhead costs as well as direct costs of regulating services and also must recover our regulatory costs generated by regulatees not subject to a regulatory fee. Our fees for FY 1996 were developed using existing FY 1995 fee amounts adjusted for changes in payment units. These fees were developed without the benefit of actual cost data and were essentially based on (a) the Congressionally established relationships between fees contained in Section (g) of the Act, and (b) subsequent adjustments based on estimated changes in FTE levels and payment units. By contrast, for FY 1997, we proposed to rely upon actual cost accounting data as the basis for determining revenue requirements and fee amounts. Thus, there are few, if any, grounds for comparison between FY 1996 fees and revenue requirements and corresponding fees and revenue requirements for FY 1997. Accordingly, the amount that FY 1997 fees rise or fall relative to FY 1996 fees is essentially unrelated to any change in actual costs, but instead to the application of different methodologies and an increasing revenue requirement mandated by the Congress.

30. After taking into consideration the comments received in this proceeding concerning our regulatory costs and our cost accounting system, we have decided to adopt the overall cost-based methodology proposed in the NPRM for developing FY 1997 fees. As discussed in the preceding paragraphs, we believe adoption of this methodology will best insure the fairest allocation of costs and resultant fees among the Commission's regulatees in FY 1997.

#### *D. Application of Cost-Based Methodology To Determine Fee Amounts*

##### **1. Adjustment of Payment Units**

31. As the first step in calculating individual service regulatory fees for FY 1997, we adjusted the estimated payment units for each service because payment units for many services have changed substantially since we adopted our FY 1996 fees. We obtained our estimated payment units through a variety of means, including our licensee data bases, actual prior year payment records, and industry and trade group projections. Whenever possible, we

verified these estimates from multiple sources to ensure the accuracy of these estimates.<sup>12</sup> Attachment B provides a summary of how payment units were estimated for each fee category.

##### **2. Calculation of Revenue Requirements**

32. We next multiplied the revised payment units for each service by our FY 1996 fee amounts in each fee category to determine how much revenue we would collect in FY 1997 without any change to the existing Schedule of Regulatory Fees. The amount of revenue we would collect is approximately \$137.3 million.<sup>13</sup> This amount is approximately \$15.2 million less than the amount the Commission is required to collect in FY 1997. We therefore adjusted the revenue requirements for each fee category on a proportional basis, consistent with Section 9(b)(2) of the Act, to obtain an estimate of revenue requirements for each fee category necessary to collect the \$152,523,000 amount required by Congress for FY 1997. Attachment C provides detailed calculations showing how we determined the revised revenue amount for each service.

##### **3. Calculation of Regulatory Costs**

33. On October 1, 1995, the Commission implemented, in accordance with 47 U.S.C. 159(i), a cost accounting system designed, in part, to provide us with useful data, in combination with other information, to help ensure that fees closely reflected our actual costs of regulation.

34. In order to utilize actual costs derived from our cost accounting system for fee development purposes, indirect support costs contained in the cost accounting system have to be added to direct costs<sup>14</sup> and the results adjusted

further to approximate the amount of revenue that Congress requires us to collect in FY 1997 (\$152,523,000).<sup>15</sup> Thus, we proportionally adjusted the actual cost data related to regulatory fee activities recorded for the period October 1, 1995 through September 30, 1996 among the fee categories so that total costs approximated \$152,523,000. The results of these calculations are shown in detail in Attachment D and represent our best estimate of actual total attributable costs relative to each fee category and sub-category for FY 1997. For fee categories differentiated by class or market (e.g., VHF and UHF Commercial Television), we distributed the costs to the class or market group by maintaining the relationships between class or market revenue requirements shown on Attachment C.<sup>16 17</sup>

Director. The combining of direct and indirect costs is accomplished on a proportional basis among all fee categories as shown on Attachment D.

<sup>15</sup> Congress' estimate of costs to be recovered through regulatory fees is generally determined at least twelve months before the end of the fiscal year to which the fees actually apply. As such, year-end actual activity costs will not equal exactly the amount Congress designates for collection in a particular fiscal year.

<sup>16</sup> While some might argue that the Commission's cost accounting system should further distinguish our work activities to the television market or radio class level, it would not be practical to record employee work time in such small incremental breakouts.

<sup>17</sup> In the NPRM we erroneously distributed these costs by maintaining the relationship between fees contained in the FY 1996 Fee Schedule. As commenters pointed out, we should have made these distributions by maintaining the relationship between FY 1996 revenue requirements for these fee categories. The following example illustrates the allocation process:

Under the FM Radio fee classification, the actual costs attributable to FM radio are \$8,465,118. This amount is allocated to FM Classes C, C1, C2, B; Classes A, B1, C3; and FM Construction Permits (CP) as follows:

(1) First we determine the relationships between the three categories (see Attachment C) by dividing the smallest of the pro-rated FY 1997 FM revenue requirements into the sum of the pro-rated FY 1997 FM revenue requirements to determine the appropriate ratios for allocation of the revenue requirement.

(a) Pro-rated FY 1997 FM CP revenue requirement = \$235,258

Pro-rated FY 1997 FM Classes A, B1, and C3 revenue requirement = \$2,546,006

Pro-rated FY 1997 FM Classes C, C1, C2, and B revenue requirement = \$3,621,944

Sum = \$6,403,208

(b) FM CP percentage is \$235,258 divided by \$6,403,208 = 0.0367

FM Classes A, B1, and C3 percentage is \$2,546,006 divided by \$6,403,208 = 0.3976

FM Classes C, C1, C2, and B percentage is \$3,621,944 divided by \$6,403,208 = 0.5656

(2) Finally, we determine the new revenue requirement for each of the three by multiplying the cost-based revenue requirement for all of FM by each of the percentages calculated in (1)(b).

FM CP revenue requirement = 0.0367 times \$8,465,118 = \$310,670

<sup>12</sup> Certain payment unit estimates have been revised since release of the NPRM due to additional or updated information obtained by the Commission. This may result in changed fee amounts from those proposed in the NPRM. It is also important to note that Congress' required revenue increase in regulatory fee payments of approximately 21 percent in FY 1997 will not fall equally on all fee payers due to differences in payment unit estimates between FY 1996 and FY 1997.

<sup>13</sup> This revenue amount has changed since release of the NPRM due to changed estimates of payment units.

<sup>14</sup> One feature of the cost accounting system is that it separately identifies direct and indirect costs. Direct costs include salary and expenses for (a) staff directly assigned to our operating Bureaus and performing regulatory activities and (b) staff assigned outside the operating Bureaus to the extent that their time is spent performing regulatory activities pertinent to an operating Bureau. These costs include rent, utilities and contractual costs attributable to such personnel. Indirect costs include support personnel assigned to overhead functions such as field and laboratory staff and certain staff assigned to the Office of Managing

#### 4. Establishment of 25 Percent Revenue Ceiling

35. Our next step was to determine whether reliance on actual costs to develop FY 1997 regulatory fees would result in fees which were too disparate from corresponding FY 1996 fees. As a result of this analysis, we proposed establishing a ceiling of 25 percent on the increase in the revenue requirement of any service over and above the Congressionally mandated overall increase in the revenue requirement and after taking into consideration changes in payment unit counts.<sup>18</sup>

36. Because Congress has increased our overall fee collection requirement, we are already required to collect substantially more than we collected in FY 1996. Nevertheless, capping each service's revenue requirement at no more than a 25 percent increase would enable us to begin the process of realigning fees to account for differences in regulatory costs. As we noted in the NPRM, we are not suggesting that FY 1997 fee increases be limited to a 25 percent increase over FY 1996 fees. The 25 percent increase would be over and above the revenue which would be required after adjusting for the projected FY 1997 payment units and the proportional share of the 21 percent increase in the amount that Congress requires us to collect. Thus, FY 1997 fees could increase by more than 25 percent over FY 1996 fees. Under this methodology, fees could actually increase by as much as 40% or more.

37. An important consideration in establishing a revenue ceiling is the impact on other fee payers. Because the Commission is required to collect \$152,523,000 in FY 1997 regulatory fees, the additional revenue that would have been collected from classes of licensees subject to a revenue ceiling, instead needs to be collected from licensees not subject to the ceiling. This results in a certain amount of subsidization between fee payer classes.<sup>19</sup> We believe, however, that the

public interest would best be served by adopting a revenue ceiling because, otherwise, several entities would be subjected to unexpected, substantial increases which could severely impact the economic well being of these licensees.<sup>20</sup>

38. SBC Communications Inc. and Ameritech submit that the subsidization resulting from application of the 25% revenue ceiling is unfair and that the phased-in methodology proposed by the Commission has the effect of moving revenues further from actual costs than they would be without the ceiling, contrary to the goal of eventually having revenue requirements approximate actual costs. Both suggest that the Commission abandon the revenue ceiling concept, with SBC proposing that the Commission merely apply a uniform 21% increase to all regulatees' fees.

39. Regulation of interstate telephone service providers accounts for approximately 36% of all Commission costs. Therefore, any methodology which employs a subsidization feature, such as our proposed revenue ceiling, will impact these regulatees to a greater extent than others, at least in the short term. As other fee payers' fees approach amounts that bring their revenues closer to actual costs, as our phased-in revenue ceiling technique would do, the amount of subsidization required of fee payers below their revenue ceilings (such as those common carriers providing interstate telephone service) will steadily decrease. Thus, in the long term, subsidization will decrease and revenue requirements for all services will approach actual costs (assuming other factors, such as the total amount that Congress requires us to collect, remain constant).

40. Additionally, although SBC and Ameritech are correct that the revenue requirement proposed for FY 1997 for telephone companies providing interstate toll services is higher than the

total costs attributable to these companies, revenues are only up 6.5% from what they would be if FY 1996 fees remained in place. Further, proposed revenues from these carriers would increase 23% over the applicable FY 1996 revenue requirement for these entities, comparing well with the overall 21% increase in fee collections ordered by the Congress for FY 1997. Additionally, SBC's proposal to set fees at amounts 21% over FY 1996 fee amounts is not mathematically sound. As we note elsewhere in this item, changes to payment units from FY 1996 to FY 1997 must be taken into consideration when determining the amount of revenue that would be collected from one year to the next. Overall increases to payment unit estimates from one year to the next, even without changes to previous year fee amounts, provides additional revenue, offsetting to some extent, any required increase to overall collections. On the other hand, any reduction in payment units requires higher fees to offset the resultant loss of revenue. The application of a percentage increase to either prior year fee amounts or prior year revenue requirements, as proposed by SBC, would therefore not provide any benefit and is rejected as non-workable in concept.

41. For the reasons discussed above, we will adopt the 25% revenue ceiling proposed in the NPRM. Attachment E contains a description of the step-by-step process we used to calculate adjusted revenue requirements for each fee category for FY 1997, including the reallocation of revenue requirements resulting from the application of our revenue ceiling.<sup>21</sup>

#### 5. Calculation of Fees

42. Once we determined the amount of fee revenue needed to be collected from each class of licensee, we divided the individual revenue requirements by the number of associated payment units (and by the license term, if applicable,

<sup>18</sup> FM Classes A, B1, and C3 revenue requirement = 0.3976 times \$8,465,118 = \$3,365,731

FM Classes C, C1, C2, and B revenue requirement = 0.5656 times \$8,465,118 = \$4,787,871

(3) The revenue requirements calculated in (2) are inserted in Attachment D for the three FM categories.

<sup>19</sup> For example, the regulatory cost associated with the Aviation (Aircraft) service is \$934,905. If no change were made to this service's FY 1996 regulatory fee (\$3 per year), the total revenue collected from licensees in this service would be only \$70,634 in FY 1997, a shortfall of \$864,271. Application of the proposed 25 percent revenue ceiling to this service results in a capped revenue ceiling of \$88,293 (\$70,634 × 125%).

<sup>19</sup> Revenues from current fee payers already offset significant costs attributable to regulatees exempt

from payment of a fee or otherwise not subject to a fee pursuant to Section 9(h) of the Act or the Commission's rules. For example, CB and ship radio station users, amateur radio licensees, governmental entities, licensees in the public safety radio services, and all non-profit groups are not required to pay a fee. The costs of regulating these entities is borne by those regulatees subject to a fee requirement.

<sup>20</sup> For example, the following illustrate the annual fees that would be in effect if fees were cost-based without application of a revenue ceiling:

LEOS—\$2,412,025  
International Public Fixed Radio Stations—\$6,750  
MDS/MMDS—\$1,025  
International Bearer Circuits—\$25  
Marine Coast & Ship Stations—\$30 (Total upfront payment=\$300)  
Aircraft—\$45 (Total upfront payment=\$450)

<sup>21</sup> Application of the 25% ceiling was accomplished by choosing a "target" fee revenue requirement for each individual fee category. This "target" was either the actual calculated revenue requirement (for those categories at or below the 25% ceiling) or, in cases where the calculated revenue exceeded the ceiling, an amount equal to the ceiling. The shortfall created by reducing the revenue requirement of those whose revenue requirement exceeded the revenue ceiling was proportionately spread among those fee categories whose revenue requirements were below the ceiling. This computation required more than one round of adjustment because the allocation of this revenue, in a few instances, caused the new revenue requirement amount to exceed the 25% ceiling. After two iterations (rounds), all the revenue requirements were at or below the revenue ceiling. See Attachment E.



for "small" fees) to obtain actual fee amounts for each fee category. These calculated fee amounts were then rounded in accordance with Section 9(b)(3) of the Act. See Attachment E.

#### *E. Other Changes*

43. In our NPRM, we proposed several adjustments to our fees and/or changes to payment procedures based upon the public interest and other criteria established in 47 U.S.C. 159(b)(3). Additionally, we received several comments and suggestions unrelated to our specific proposals contained in the NPRM.

#### 1. Consolidation of Private Microwave and Domestic Public Fixed Fee Categories

44. In our prior fee schedules, we required Private Microwave licensees to pay "small" regulatory fees, in advance, for an entire license term at the time of filing an initial, renewal or reinstatement application. Congress established this requirement in its statutory fee schedule, 47 U.S.C 159(g). In contrast, our fee schedules and the statutory fee schedule have required licensees in the Domestic Public Fixed Service category to file an annual "standard" regulatory fee. Private Microwave licensees include systems authorized under Part 101 of the Commission's rules to provide point-to-point telecommunications services to private parties. The Domestic Public Fixed Service comprises several commercial microwave services, including microwave multiple address, microwave common carrier fixed, microwave digital electronic message, and microwave local TV transmission.<sup>22</sup>

45. In our NPRM at Paragraph 23, we stated that many microwave licensees had expressed confusion concerning whether to submit a small fee or a standard fee. We noted that the operational and technical characteristics of private microwave and commercial microwave systems are similar. Thus, we proposed to consolidate these fee categories into a single Microwave category for FY 1997. Only one interested party, IXC Carrier, Inc. (IXC), commented on our proposal. IXC supports our proposal, stating that not only are these services similar in their operational and technological characteristics, but that our regulatory oversight of these services is identical.

46. Accordingly, we are adopting our proposal to establish in our fee schedule a single fee category covering licensees in both the Domestic Public Fixed Service and the Private Microwave Service. As we have noted, these services are operationally and technologically similar, and we agree with IXC that our regulation is essentially the same for these services. Thus, these payers would be subject to payment of a single "small" fee, payable in advance for the entire term of their license when filing an initial, renewal, or reinstatement application. Those licensees that paid the standard "annual" regulatory fee per station in FY 1996 are not subject to a fee payment for FY 1997 unless they file a new, renewal or reinstatement application. The regulatory fee for Microwave licensees for FY 1997 will be \$10 per license.

This new fee is calculated as follows:

- (a) From Attachments C and E:
  - (1) 5,350 private microwave stations (units) (Revenue requirement = \$535,000)
  - (2) 18,845 commercial microwave/public fixed stations (units) (Revenue requirement = \$94,225)
- (b) Converting from annual payment ("standard fee") to license term payment ("small fee"):
  - (1) 18,845 commercial microwave units divided by 10 year license term = 1,885 commercial microwave units to be licensed each year.
- (c) Calculation of new microwave fee:
 

The sum of the two revenue requirements divided by the sum of the units to be licensed and divided by the license term as follows:

  - (1)  $((\$535,000 + \$94,225) \text{ divided by } (5,350 + 1,885)) \text{ divided by } 10 \text{ years} = \$8.70.$
- (d) Round fee to the nearest five dollars = \$10 (47 U.S.C 159(b)(2)).

#### 2. Commercial AM/FM Radio

47. In our NPRM to establish regulatory fees for FY 1996, we stated that we "were particularly interested in a proposal which would associate population density and service area contours with license data" and we requested interested parties to propose alternatives for assessment of AM and FM fees. Assessment and Collection of Regulatory Fees for Fiscal Year 1996, FCC 96-153, at Paragraphs 20-21 (April 9, 1996), 61 FR 16432 (April 15, 1996). In response, the Montana Broadcaster's Association (Montana) filed comments proposing an AM and FM fee structure based on class of station and relative market size. However, we decided not to take any action on Montana's proposal

until we had an opportunity to more extensively evaluate its impact on AM and FM licensees. Assessment and Collection of Regulatory Fees for Fiscal Year 1996, FCC 96-295, at Paragraphs 23-29, July 5, 1996, 61 FR 36629 (July 12, 1996).

48. We issued a Notice of Inquiry (NOI) to determine if it would be feasible to utilize both market size and class of station to assess annual regulatory fees on commercial AM and FM broadcast radio stations. See Amendment of Part 1 of the Commission's Rules Pertaining to the Schedule of Annual Regulatory Fees for Mass Media Services, FCC 96-422, released November 6, 1996, 61 FR 59397 (November 22, 1996). In response to the NOI, Montana filed a proposal which would group radio markets by Arbitron market size, with the fee for each market group predicated on the ratios that Congress initially established in Section 9(g) of the Act (47 U.S.C. 159(g)) for assessing fees for licensees of television stations serving different sized markets. The National Association of Broadcasters ("NAB") also submitted a proposal under which stations would pay a fee determined not only by class, but by population served, irrespective of the market in which they are located. However, we identified several problems with each proposal that needed to be resolved, and our FY 1997 NPRM invited interested parties to comment on the NAB and Montana proposals, as well as on any alternative method for assessing radio station fees. All relevant comments received by the Commission in response to the NPRM support the NAB or Montana proposal or some variation thereof. As discussed below, the fee mechanism we are adopting utilizes the best features of the NAB proposal, while correcting its defects.

49. Neither the Montana nor the NAB proposal provide an ideal method of assessing radio station fees. For example, the Arbitron rankings, relied on by Montana, are incomplete for several markets. Markets are only ranked if a sufficient number of stations located within the market subscribe to the Arbitron service, and a station may be placed in a market if it competes with market stations even though it may not be physically located in a major metropolitan area within the market, or it may be placed in a market based on data collected during a promotional programming period which is not reflective of normal operations. Similarly, NAB's proposal is flawed because the database on which NAB's fee schedule is based contains more than 800 errors, omissions, erroneous

<sup>22</sup> Although the Multipoint Distribution Service (MDS) and the Multichannel Multipoint Distribution Service (MMDS) were originally grouped with Domestic Public Fixed services, we have, since FY 1995, listed them separately in our Fee Schedule.



station classes, duplicate records, non-profit or non-commercial stations (which are exempt from payment of regulatory fees), incorrect call letters, "silent" stations, and Canadian stations.

50. Nevertheless, we fully agree that using population to assess radio station fees is an improvement over the current method for assessment of AM and FM fees, assuming a systematic schedule can be developed using accurate population class of station data. The NAB proposal to use population within a station's area of coverage offers greater specificity and flexibility than our

current method of assessing these fees.<sup>23</sup> To obtain an accurate data base to implement such an improved fee methodology, we corrected NAB's database, using the Commission's own records, including official station files. The resulting compilation of stations, based on official Commission records and the population coverage data provided to the Commission by NAB, provided an accurate starting point for developing the improved AM/FM fee schedule.

51. We next calculated the individual revenue requirements and resultant fees

for each class of station (e.g., AM Class A or FM Classes C, C1, C2 & B) under our existing methodology for assessing radio station fees as shown in Attachment E. In order to consider both population and class of station, we then multiplied that fee by the population served to determine the weighted population. The weighted approach also streamlines the schedule by allowing us to combine AM and FM stations into a single "radio" category. The following table is a representative illustration of how we determined the weighted population for each station.

| Station<br>(a)       | Computed<br>FY 1997 fee<br>(from at-<br>tachment E)<br>(b) | 1990 census<br>population<br>coverage (not<br>actual data—<br>for illustration<br>only)<br>(c) | Weighted popu-<br>lation<br>(b) times (c)<br>(d) |
|----------------------|--|--|--|
| #1—AM Class A .....  | \$1,725  | 1,000,000  | 1,725,000,000                                    |
| #2—AM Class A .....  | 1,725  | 50,000   | 86,250,000                                       |
| #3—AM Class B .....  | 950  | 1,000,000  | 950,000,000                                      |
| #4—AM Class C .....  | 390  | 50,000   | 19,500,000                                       |
| #5—AM Class D .....  | 480  | 100,000  | 48,000,000                                       |
| #6—FM Group I .....  | 1,725  | 5,000,000  | 8,625,000,000                                    |
| #7—FM Group II ..... | 1,150  | 7,500,000  | 8,625,000,000                                    |
| #8—FM Group II ..... | 1,150  | 5,000  | 5,750,000  |

52. Our next step was to sort the data by compiling a list of every AM and FM station in descending order by weighted population. The following illustration indicates how the stations represented by each group in the above chart would be ranked by weighted average:

| Station<br>(a)       | Computed<br>FY 1997 fee<br>(from at-<br>tachment E)<br>(b) | 1990 census<br>population<br>coverage (not<br>actual data—<br>for illustration<br>only)<br>(c) | Sorted weighted<br>population (b)<br>times (c)<br>(d) |
|----------------------|--|--|---|
| #6—FM Group I .....  | \$1,725  | 5,000,000  | 8,625,000,000   |
| #7—FM Group II ..... | 1,150  | 7,500,000  | 8,625,000,000   |
| #1—AM Class A .....  | 1,725  | 1,000,000  | 1,725,000,000   |
| #3—AM Class B .....  | 950  | 1,000,000  | 950,000,000   |
| #2—AM Class A .....  | 1,725  | 50,000   | 86,250,000  |
| #5—AM Class D .....  | 480  | 100,000  | 48,000,000  |
| #4—AM Class C .....  | 390  | 50,000   | 19,500,000  |
| #8—FM Group II ..... | 1,150  | 5,000  | 5,750,000   |

53. Next, we determined actual fees for each station. The simplest method appeared to be one which used a "per population" average cost applied to the weighted populations. To test this approach, we divided the sum of all the individual revenue requirements (from

Attachment E as applied to each station like the ones in column (b) in the table above) by the sum of all the individual populations. This "per pop" cost factor was then multiplied by each weighted population to calculate a unique fee for each station. Unfortunately, this

particular methodology resulted in an unwieldy and unacceptable range of fees. On a pure per weighted population basis, fees would range from a high of \$34,435 for a Class B FM station in New York, with the highest weighted population, to a low of \$0.06 for a Class

<sup>23</sup> DataWorld MediaXpert Service prepared for NAB a calculation of the signal coverage for each station, and overlaid this data onto 1990 decennial census population data to estimate the population contained within each station's signal coverage area. For each AM station, estimated soil conductivity data was retrieved for each of 360 radial azimuths around the transmitter site, the standard horizontal plane radiation pattern was

calculated and any pertinent pattern augmentations applied, and the distance to the 1 mV/m field strength contour for each of the 360 radials was calculated using the appropriate propagation curves and the FCC equivalent distance method. For each FM station, terrain averages were calculated from the USGS/DMA 3 arc second terrain database for each of 360 radial azimuths, the HAAT was calculated using the height of the center of radiation

AMSL and processed with FM contour calculation software, pertinent directional antenna information was applied, and the distance to the 60 dBuV/m contour was calculated using the appropriate FCC F[50,50] curves. For both AM and FM, the distance to contour data was applied to population counting software using 1990 census data to determine the total population within each station's coverage area.

A FM station in Ludlow, CA, with the lowest weighted population.

54. Therefore, as an alternative to a pure weighted population fee assessment methodology, we designed a schedule, similar to the Montana and NAB proposals, which would place stations in wide bands with different fees for each band. We established the ranges for the schedule by first deciding on minimum and maximum fee amounts. In setting a minimum fee, we decided that it should be no less than the AM Construction Permit fee which we calculated in Attachment E to be \$195. Therefore, we set the lowest radio fee at \$200. In setting a maximum fee, we compared the maximum radio fee contained in Public Law 103-66 for FY 1994 (\$900) and the total revenue requirement for FY 1994 (\$60.4 million) to the current FY 1997 revenue requirement (\$152.5 million), and calculated that a station which paid \$900 in 1994 would now be subject to a fee of \$2,272. Because this would represent an unacceptably large increase in fees for many fee payers, we decided to limit the maximum fee to \$2,000. At the same time, we decided to expand the number of actual fee classifications from the existing six (four AM and two FM) to ten. This allowed us to establish fee classifications in \$200 increments, with each increment containing the same number of stations, resulting in a more equitable fee schedule while keeping the size of the schedule relatively manageable.<sup>24</sup> The resulting schedule of regulatory fees for radio stations (both AM and FM) is:

| Classification group | Number of stations | Fee     |
|----------------------|--------------------|---------|
| 1 .....              | 1019               | \$2,000 |
| 2 .....              | 1019               | 1,800   |
| 3 .....              | 1019               | 1,600   |
| 4 .....              | 1019               | 1,400   |
| 5 .....              | 1019               | 1,200   |
| 6 .....              | 1019               | 1,000   |
| 7 .....              | 1019               | 800     |
| 8 .....              | 1019               | 600     |
| 9 .....              | 1019               | 400     |
| 10 .....             | 1018               | 200     |

55. This schedule, which we adopt today, results in: (1) Same class stations in different size cities generally having different fees, (2) different class stations in the same city generally having different fees, and (3) same class stations in the same city generally having the same fee. In addition, it is generally true that in using this methodology: (1) Larger stations and those located in larger metropolitan

areas tend to be assessed higher fees and (2) small stations and those located in rural areas tend to be assessed lower fees. This fee schedule we have adopted thus achieves the objectives of both the NAB and Montana proposals by assessing fees based on class of station and populations served, thereby providing a fair and equitable means of distinguishing between stations located in metropolitan areas and those located in rural areas. Moreover, if a licensee believes that it has been improperly placed in a particular fee classification group or that it will suffer undue financial hardship from the fee assessment, our rules provide for waiver, reduction or deferral of a fee as described in § 1.1166 of our rules. 47 U.S.C 1.1166.

56. This methodology also requires that the Commission inform radio station licensees as to their exact fee obligation. A Public Notice listing each station's call letters, location, population, and the required fee will be mailed to each licensee. The same information will also be available at our internet web site (<http://www.fcc.gov>). Interested parties may also obtain their applicable fee amount for FY 1997 by calling the FCC's National Call Center at 1-888-225-5322. We have also provided detailed payment information for each radio station as Attachment K to this Report and Order and will publish this list in the **Federal Register** upon completion of this rulemaking.

### 3. Personal Communications Service (PCS)

57. Our FY 1996 Report and Order deferred assessing a regulatory fee upon licensees in the Personal Communications Service ("PCS") because PCS was in a very early start-up phase of operations. See FY 1996 Report and Order at Appendix F, Paragraph 15. However, in our NPRM, at Paragraph 38, we proposed to initiate the PCS fee since sufficient PCS systems are now in operation to justify inclusion of PCS licensees among those licensees assessed a Commercial Mobile Radio Services (CMRS) fee for FY 1997. We received no comments specifically addressing whether or not PCS licensees should be subject to a regulatory fee for FY 1997. Since PCS systems now are in operation, we have decided to require PCS licensees to submit regulatory fees in FY 1997, as described below.

### 4. Commercial Mobile Radio Services (CMRS)

58. In our FY 1996 Report and Order, we discussed a proposal submitted by Destineer, Inc., a PCS licensee, that we establish a CMRS Messaging Service fee

category to replace our CMRS One-Way Paging fee category. See FY 1996 Report and Order at Paragraph 22. Destineer stated that, with the exception of two-way paging services, our CMRS Mobile Services fee category includes only broadband services which provide two-way interactive voice communications. Destineer recommended establishing a CMRS Messaging Service to include all narrowband services, including two-way paging services. We invited interested parties to file comments on Destineer's proposal or to propose alternative methods to assess CMRS fees for FY 1997. We were particularly interested in the number of estimated payment units associated with any alternative proposal and the impact the proposed change would have on projected revenues. See FY 1997 NPRM at Paragraph 39.

59. In its comments, RAM Mobile Data USA Limited Partnership (RMD) supports establishing a new CMRS Messaging Service fee category and urges that the distinction between our CMRS fee categories rest on whether the licensee provides voice services or non-voice services. Paging Network, Inc. (PageNet) also supports establishing a CMRS Messaging Service, recommending that narrowband PCS services be included in the new fee category along with paging and similar services. The Personal Communications Industry Association (PCIA), supported by Arch Communications Group, Inc. (Arch), requests that two-way paging and other services similar to paging services be assessed the same regulatory fee as one-way paging. No party submitted estimates of the number of payment units subject to a CMRS fee.

60. We are persuaded from the comments that a revision of our CMRS fee categories to distinguish broadband mobile services from narrowband services would serve the public interest. Therefore, we will amend our fee schedule to replace our CMRS One-Way Paging fee category with a new CMRS Messaging Services fee category. The distinguishing characteristic between the CMRS Mobile Services fee category and the CMRS Messaging Services fee category will be the amount of bandwidth that we have authorized. Our bandwidth distinction is consistent with the fee schedule enacted by Congress and by our own prior fee schedules that assess fees based upon the quality of the channels provided to licensees. See 47 U.S.C. 159(g).

61. Specifically, Congress in its statutory fee schedule distinguished between licensees that we authorized to provide exclusive use services and those we authorized to provide only shared

<sup>24</sup> The number of stations is not exactly divisible by 10, leaving group 10 with one less station than the other groups.

use services. Section (g) assesses a higher fee upon licensees of exclusive use spectrum than upon licensees of less valuable shared use spectrum. Similarly, the statutory fee schedule established fees for broadcast licensees that consider the type of service and class of service authorized. Moreover, since we established the fee program, our fee schedules have adhered to Congress' principle that our fee categories are to be based on the authorization provided to a licensee rather than the use a particular licensee makes of its authorized spectrum. As such, our fee schedule for CMRS will not consider the particular use made of a licensee's spectrum and will consider the nature of services offered only to the extent that services offered on broadband spectrum and services offered on narrowband spectrum will be subject to different categories of fee payment. Thus, licenses authorizing operations on broadband spectrum will be subject to the CMRS Mobile Services fee, regardless of the services offered on that spectrum by the licensee. Further, licenses authorizing the provision of services on narrowband spectrum will be subject to the CMRS Messaging Services fee, regardless of the services offered on that spectrum. It should also be noted that our NPRM inadvertently placed CMRS licensees operating in the 220–222 MHz and interconnected Business Radio Services in the CMRS Mobile Services fee category. Both should be included in the CMRS Messaging Services fee category. See Attachment H, paragraph 15.

62. In implementing this revision, we must recompute the revenue requirements and fees attributable to the two CMRS categories. Revenue required from narrowband services (PCS and two-way paging) must be subtracted from the CMRS Mobile Services category and added to the one-way paging category (to be renamed the CMRS Messaging Services category). The required calculations to achieve this result are shown below:

- (1) Determination of revised payment unit estimates
  - (a) CMRS Mobile Services payment units (from Attachment C) = 47,300,000  
 Subtract: Reclassified Narrowband PCS/Two-way Paging payment units = 150,000<sup>25</sup>  
 Equals: Revised CMRS Mobile Services payment units = 47,150,000
  - (b) CMRS One-Way Paging payment units (from Attachment C) = 40,850,000

Add: Reclassified Narrowband PCS/Two-way Paging payment units = 150,000

Equals: Revised CMRS Messaging Services payment units = 41,000,000

- (2) Determination of revised revenue requirements
  - (a) CMRS Mobile Services revenue requirement (from Attachment E) = \$11,352,000  
 Subtract: Reclassified Narrowband PCS/Two-way Paging revenue requirement (150,000 payment units × \$.24) = \$36,000  
 Equals: Revised CMRS Mobile Services revenue requirement = \$11,316,000
  - (b) CMRS One-way Paging revenue requirement (from Attachment E) = \$1,225,500

Add: Reclassified Narrowband PCS/Two-way Paging revenue requirement (from 2(a) above) = \$36,000

Equals: Revised CMRS Messaging Services revenue requirement = \$1,261,500

- (3) Determination of revised fee amount
  - (a) CMRS Mobile Services fee = revised revenue requirement/ revised payment units (i.e., \$11,316,000/47,150,000 units) = \$.24/unit (no change in fee)
  - (b) CMRS Messaging Service fee = revised revenue requirement/ revised payment units (i.e., \$1,261,500/41,000,000 units) = \$.03/unit (no change in fee)

63. Finally, RMD, Pagenet and PCIA contend that CMRS licensees that have converted from private to commercial service should not be required to pay regulatory fees twice for the same time period, once as a PMRS licensee and again as a CMRS licensee. The parties note that our NPRM did not address the issue of refunds and ask for clarification in order to avoid double payments by certain CMRS licensees.

64. In our FY 1996 Report and Order at Paragraph 21, we stated that our rules provide that a licensee is entitled to a refund of an advance payment, upon request, whenever we "adopt new rules that nullify a license or other authorization." 47 CFR 1.1159(2)(i). Therefore, any licensee that has converted from PMRS to CMRS and has paid fees in advance for a period of years may file a request for refund, pro-rated for the number of remaining years in the initial PMRS license term. Detailed refund procedures will be issued separately by public notice, by the Managing Director pursuant to delegated authority.

## 5. Intelsat and Inmarsat Signatories

65. In our NPRM, we proposed to charge a Signatory fee to cover the costs for FY 1997 of Commission regulatory activities associated with Comsat's role as U.S. Signatory to INTELSAT and INMARSAT. On May 30, 1997, the United States Court of Appeals for the District of Columbia vacated our decision to charge Comsat a Signatory fee for FY 1996. *COMSAT Corporation v. Federal Communications Commission*, Case No. 96–1325 (May 30, 1997 D.C. Cir.). Accordingly, we will not, at this time, assess a fee to recover the costs of our regulatory activities in connection with Comsat's role as U.S. Signatory.<sup>26</sup>

## 6. Non-Common Carrier International Bearer Circuits

66. International bearer circuit fees have been assessed upon domestic and international common carriers only. In its comments responding to proposals contained in our FY 1996 NPRM, Comsat contended that payment of international bearer circuit fees should be expanded to non-common carriers providing international bearer circuits directly to end users. In our FY 1996 Report and Order, we declined to expand collection of international bearer circuit fees to these entities because we lacked appropriate data required to calculate a fee applicable to bearer circuits provided directly to end users over non-common carrier domestic and international facilities. We, therefore, proposed in our FY 1997 NPRM to assess the international bearer circuit fee only on domestic and international common carriers in FY 1997. However, we invited interested parties to comment on Comsat's proposal. We were especially interested in information concerning the number of bearer circuits provided directly to end users over non-common carrier domestic and international facilities.

67. We received comments from Comsat, Columbia and PanAmSat concerning Comsat's proposal to extend the bearer circuit fee to all non-common carriers providing international bearer circuits to end users. Comsat argues that the circuits provided by non-common carrier satellites are functionally identical to those provided by common carriers. Comsat further argues that the bearer circuit fee is not intended to recover the costs of benefits received by particular entities, but to recover the costs of the FCC's regulatory activities. As such, the non-common carriers should be required to contribute their

<sup>25</sup> Based on Commission estimates.

<sup>26</sup> Signatory oversight activities represent approximately 7.8% of all international costs.

share to the recovery of such costs. PanAmSat, on the other hand, argues that, whether or not non-common carrier bearer circuits are identical to common carrier circuits as a technical matter, they do not impose equivalent regulatory burdens because they are not subject "to the full panoply of Title II regulation." Similarly, Columbia argues that non-common carriers are not regulated and do not impose administrative costs on the Commission. As a result, Columbia argues that it is "axiomatic" that regulatory fees cannot be charged for activities that are not subject to the full range of Title II regulation that applies to common carriers. None of the respondents provided information concerning the number of circuits the non-common carriers provided directly to end users.

68. We agree with Comsat that international bearer circuits provided by non-common carriers are technically identical to bearer circuits provided by common carriers. We also agree with PanAmSat and Columbia that the offerings of non-common carrier satellite providers are not subject to Title II regulation. The same, however, can be said of operators of non-common carrier undersea cable systems, which are also exempted from Title II regulation, and even of non-dominant common carriers that we have exempted from many Title II regulations. Yet non-common carrier undersea cable operators and non-dominant common carriers have been subject to the bearer circuit fee since we established our regulatory fee program. See FY 1994 Report and Order at Paragraph 98. In addition, regulatory fees, such as the international bearer circuit fees, are not intended to recover only the costs of Title II regulation. Those Title II costs are recovered, in part, by separate fees which recover the costs of processing applications to provide common carrier services pursuant to Section 214 of the Act and the costs of our review of tariff filings imposed under Section 8 of the Communications Act.<sup>27</sup> In contrast, Section 9 regulatory fees, of which the bearer circuit fee is an example, recover the costs of our enforcement, policy and rulemaking, user information and international activities.

69. It is necessary for the Commission to maintain these activities as part of its overall mission and, under Section 9 of the Act, it is necessary for the Commission to assess regulatory fees to recover the cost of those activities. For example, the international bearer circuit fee is designed to recover many of the costs of the Commission's International

Bureau's enforcement, rulemaking and representation activities. All entities that engage in international telecommunications benefit from the fact that the Commission maintains an enforcement mechanism to protect them from those who violate the Communications Act. Similarly, all entities that engage in international telecommunications benefit from the Commission's rulemaking, public information and international representation activities. And each must help to defray the Commission's costs in maintaining the capability to carry out those activities, even though it is not easy to predict in advance who will specifically benefit from those activities.

70. It is now appropriate to begin to collect the fee from such entities. Although non-common carrier systems have not been subject to Title II regulation, their provision of bearer circuits have imposed, particularly in recent years, far greater regulatory burdens on the Commission. We initially exempted non-common carrier satellite operators from Title II regulation because their proposed service offerings were sufficiently different from those of common carriers that they could, in some sense, be said not to be in direct competition. For example, they proposed not to offer voice services, but only bearer circuits that would not be interconnected with the public switched network and that would be offered only on a sale or long term lease basis. As a result, their initial license prohibited them, or their customers, from connecting circuits provided over non-common carrier satellite systems with the public switched telephone network (PSN).<sup>28</sup> In addition, we narrowly limited their service offerings to the sale or lease of bulk capacity; that is, the right to use capacity for the life of the satellite or leasing them capacity for a term of one year or longer—restrictions not imposed on common carriers.<sup>29</sup> Under such restrictions, we concluded that these carriers would require little Commission regulatory oversight.

71. The operations and offerings of the non-common carrier satellite providers have in recent years changed significantly, however, and we expect that these carriers will propose even

further expansions of these types of offerings in the future. For example, we no longer restrict the number of circuits common carriers can use in non-common carrier satellite systems.<sup>30</sup> The non-common carrier satellite providers have requested and obtained approval for the removal of the restriction limiting their provision of capacity on a sale or long-term-lease basis.<sup>31</sup> Finally, we eased the ban on connecting their circuits to the public switched network and, effective January 1, 1997, we eliminated the restriction altogether.<sup>32</sup> The net result of these activities has been a greatly increased demand for these services and operations that increasingly resemble those of the common carriers with whom they compete. Thus, the steady expansion of services offered by the non-common carrier satellite operators has greatly increased the need for our oversight of their commercial activities and imposed a greater burden on our staff and other resources. Thus, although we have not in the past required these providers to pay the international bearer circuit regulatory fees, we conclude that it is now appropriate to impose the fee, due to these satellite providers extensive participation in services once reserved to the common carriers and private undersea cable operators and, in particular, to the important role they now play in the provision of international bearer circuits.

72. We have noted in the past that we do not have information concerning the exact number of non-common carrier bearer circuits offered to the public. Neither Comsat nor the non-common carriers offered us such information. We do, however, have available data concerning circuits offered directly to end users by satellite operators and by Comsat. Based on this information, it appears that there were approximately 100,000 active circuits offered by non-common carriers in 1996. We propose to incorporate these estimates into our payment unit estimates for bearer

<sup>30</sup> See, e.g., Streamlining the International Section 214 Authorization Process and Tariff Requirements, 11 FCC Rcd 12884, 12900-1(1996), 61 FR 15724 (April 9, 1996).

<sup>31</sup> See 9 FCC Rcd 1282, 1286 (1994).

<sup>32</sup> See, e.g., 7 FCC Rcd 2313 (1992), 57 FR 14798 (April 23, 1992), allowing non-common carrier satellite providers, or their customers, to interconnect up to 100 64 KB circuits per satellite to the public switched network (PSN) for international switched service; see also, 9 FCC Rcd 347 (1994), 59 FR 3100 (January 20, 1994), increasing the number of circuits that may be interconnected to the PSN to 1,250 per satellite; and 11 FCC Rcd 16387 (1996), increasing the number to 8,000 per satellite. The Commission's 1992 Order also established an automatic sunset of any restrictions on interconnection to the PSN on January 1, 1997. See 7 FCC Rcd 2313, 2314 (1992).

<sup>28</sup> Establishment of Satellite Systems Providing International Communications, 101 F.C.C.2d 1046 (1985) ("Separate Systems Decision"), recon., 61 RR2d 649 (1986), further recon., 1 F.C.C. Rcd 439 (1986).

<sup>29</sup> Establishment of Satellite Systems Providing International Communications, 101 F.C.C.2d 1046 (1985) ("Separate Systems Decision"), recon., 61 RR2d 649 (1986), further recon., 1 F.C.C. Rcd 439 (1986), 51 FR 44478 (December 10, 1986).

<sup>27</sup> 47 U.S.C. 158 (1996).

circuits and use them to calculate the bearer circuit regulatory fee due from both common carriers and non-common carriers. The applicable calculations are as follows:

#### Number of Active Circuits

Common Carriers—164,000  
Non-common carriers—100,000  
Total—264,000

#### Revenue Requirement

FY 1997 Revenue Requirement (from Attachment E)—\$820,000

#### Fee Computation

Revenue Requirement (\$820,000)  
divided by circuits (264,000) =  
\$3.10  
Rounded fee = \$5.00

#### 7. Low Earth Orbit Satellite Systems

73. In our NPRM, we proposed that entities authorized to operate Low Earth Orbit Satellite Systems (LEOS) be assessed a regulatory fee for any LEO system with one or more satellites upon certification that it is operating in compliance with the terms and conditions of its authorization pursuant to § 25.120(d) of the Commission's rules. 47 CFR 25.120(d).

74. Loral Qualcomm, Inc. (L/Q) argues that we should not assess the full LEO fee on a LEO system licensee until the system is commercially viable, contending that most LEO systems cannot provide commercial services with a single operational satellite. Instead, L/Q requests that we assess only a portion of our regulatory fee on a LEO System until such time that the system initiates actual commercial service. According to L/Q, a LEO system with a substantial number of satellites in its constellation is unlikely to provide actual commercial services prior to launching at least some critical mass of the constellation. L/Q argues that the requirement to pay the fee once a single space station is operating is unfair because some LEO systems will be unable to offset payment of the fee with commercial revenue. In this connection, L/Q states that a LEO system may require launch of several satellites in order to test the reliability of commercial services before providing these services.

75. In response to L/Q's concern, we note that the timing of the commercial viability of a particular LEO system is outside our control. Also, the amount of revenue required for commercial viability will vary from system to system. Since there is no standard time-frame and, as L/Q maintains, no set number of operational satellites necessary for LEO systems to achieve

commercial viability, we will not approve L/Q's proposal for partial payments of the LEO regulatory fee. Requiring payment of the LEO fee following commencement of operations of a system's first satellite will assure that we recover our regulatory costs related to LEO systems from licensees of these systems as early as possible so that other regulatees are not burdened with these costs any longer than necessary. Therefore, we will retain our requirement that licensees of LEO systems pay the LEO regulatory fee upon their certification of operation of a single satellite pursuant to § 25.120(d). Licensees of LEO systems may obtain a waiver, reduction or deferment of the fee upon a showing of financial hardship pursuant to § 1.1160 of the rules. 47 CFR 1.1166.

#### 8. Broadcast Auxiliary Services

76. NAB, in its comments, suggests that the Commission could improve its fee collection process by more specifically identifying the broadcast auxiliary licenses for which fees are payable. We are aware that certain operators of auxiliary equipment have had difficulty in determining their liability for auxiliary fees. We have, therefore, in Attachment H, incorporated additional clarifying language to better enable licensees of broadcast auxiliary services to determine their fee liability. We will also include this additional information in materials distributed to broadcasters and other licensees of auxiliary equipment.

#### 9. Amateur Vanity Call Signs

77. In late-filed comments, the American Radio Relay League (ARRL) discusses the Commission's implementation of vanity call signs. ARRL notes that we have established several "gates" for the filing of vanity call sign applications. The FY 1997 fee for an amateur vanity call sign would result in certain applicants incurring fees, over the life of the license, two-thirds higher than other applicants who filed their applications in "gates" currently open before the effective date of the FY 1997 fees. ARRL asks that we suspend implementation of the higher FY 1997 fee until after the remaining gates have been opened and applicants have been afforded an opportunity to file. In response to ARRL's concerns, we expect our remaining vanity call sign "gates" to open before the effective date of our FY 1997 regulatory fee payment requirement. Thus, there should be no impact on new applicants for vanity call signs in FY 1997 and no need to delay implementation of the FY 1997 fee.

However, applicants are expected to pay the fee applicable at the time they file.

#### 10. Interstate Common Carriers

78. SBC, an interstate telephone company, claims that our proposed interstate revenue-based fees are unfair to local exchange companies because they have no underlying expenses to deduct from gross revenues. It appears that SBC misunderstands the purpose of the deductions. Our regulatory fee rules allow long distance carriers to deduct from gross interstate revenues payments made to underlying carriers where those payments would be included in the underlying carrier's revenue base. For example, suppose that a customer could obtain an interstate service from either SBC or from a reseller for the same price—one dollar. If SBC provides the service to the customer, it would pay a regulatory fee based on the entire dollar. If the reseller provides the service, SBC would pay a regulatory fee only on the portion of the dollar that it charged as the wholesale rate to the reseller. The reseller, in turn, would pay a fee based on the dollar less its payment to SBC. The same total fee would be paid in both circumstances. Thus the fee is fundamentally fair and creates no competitive distortions.

#### 11. New Filing Requirements

79. We will be proposing in a Further Notice of Proposed Rulemaking (FNPRM) a revision to our collection procedures relative to non-profit entities to require these entities to submit or have on file with us their current IRS Determination Letters or other documentation of non-profit status. The Commission has also found that the verification of CMRS fees is very costly and time consuming due to the need to verify the number of cellular telephones, PCS units and pagers associated with individual companies. Therefore, the FNPRM will also propose changes to this process as well as certain additional changes to improve the efficiency and accuracy of the fee collection process.

#### F. Schedule of Regulatory Fees

80. The Commission's Schedule of Regulatory Fees for FY 1997 is contained in Attachment F of this Report and Order.

#### G. Effect of Revenue Redistributions on Major Constituencies

81. The chart below illustrates the relative percentages of the revenue requirements borne by major constituencies since inception of regulatory fees in FY 1994.

## REVENUE REQUIREMENT PERCENTAGES BY CONSTITUENCIES

|   | FY 1994<br>(actual) | FY 1995<br>(actual) | FY 1996<br>(actual) | FY 1997<br>(proposed) |
|---|---------------------|---------------------|---------------------|-----------------------|
| Cable TV Operators (Inc. CARS Licenses) .....   | 41.4                | 24.0                | 33.4                | 23.3                  |
| Broadcast Licensees .....                       | 23.8                | 13.8                | 14.6                | 15.2                  |
| Satellite Operators (Inc. Earth Stations) ..... | 3.3                 | 3.6                 | 4.0                 | 3.9                   |
| Common Carriers .....                           | 25.0                | 44.5                | 40.9                | 45.8                  |
| Wireless Licensees .....                        | 6.5                 | 14.1                | 7.1                 | 11.8                  |
| Total .....                                     | 100.0               | 100.0               | 100.0               | 100.0                 |

#### H. Procedures for Payment of Regulatory Fees

##### 1. Installment Payments for Large Fees

82. Generally, we are retaining the procedures that we have established for the payment of regulatory fees. Section 9(f) requires that we permit "payment by installments in the case of fees in large amounts, and in the case of small amounts, shall require the payment of the fee in advance for a number of years not to exceed the term of the license held by the payer." See 47 U.S.C. 159(f)(1). Consistent with Section 9(f), we are again establishing three categories of fee payments, based upon the category of service for which the fee payment is due and the amount of the fee to be paid. The fee categories are (1) "standard" fees, (2) "large" fees, and (3) "small" fees.

83. We proposed in the NPRM that regulatees in any category of service with a liability of \$12,000 or more be eligible to make installment payments and that eligibility for installment payments be based upon the amount of either a single regulatory fee payment or combination of fee payments by the same licensee or regulatee. However, statutory constraints requiring notification to Congress prior to actual collection of the fees prevents us from allowing installment payments in FY 1997. The payment dates for each regulatory fee category will be announced by public notice and published in the **Federal Register** following termination of this proceeding. However, regulatees otherwise eligible to make installment payments may pay their fees on the last date that fee payments may be submitted, as established in our public notice.

##### 2. Annual Payments of Standard Fees

84. Standard fees are those regulatory fees that are payable in full on an annual basis. Payers of standard fees are not required to make advance payments for their full license term and are not eligible for installment payments. As in the past, all standard fees will be payable in full on the date we establish

for payment of fees in their regulatory fee category. The payment dates for each regulatory fee category will be announced by public notice and published in the **Federal Register** following termination of this proceeding.

##### 3. Advance Payment of Small Fees

85. As we have in the past, we are proposing to treat regulatory fee payments by certain licensees as "small" fees subject to advance payment consistent with the requirements of Section 9(f)(2). Advance payments will be required from licensees of those services that we identified would be subject to advance payments in our FY 1994 Report and Order, and to those additional payers set forth herein.<sup>33</sup> Payers of small fees must submit the entire fee due for the full term of their licenses when filing their initial, renewal, or reinstatement application. Regulatees subject to a payment of small fees shall pay the amount due for the current fiscal year multiplied by the number of years in the term of their requested license. In the event that the required fee is adjusted following their payment of the fee, the payer would not be subject to the payment of a new fee until filing an application for renewal or reinstatement of the license. Thus, payment for the full license term would be made based upon the regulatory fee applicable at the time the application is filed. The effective date of the FY 1997 small fees will be announced by public notice and published in the **Federal Register** following termination of this proceeding.

<sup>33</sup> Applicants for new, renewal and reinstatement licenses in the following services will be required to pay their regulatory fees in advance: Land Mobile Services, Microwave services, Marine (Ship) Service, Marine (Coast) Service, Private Land Mobile (Other) Services, Aviation (Aircraft) Service, Aviation (Ground) Service, General Mobile Radio Service (GMRS). In addition, applicants for Amateur Radio Vanity Call Signs will be required to submit an advance payment.

#### 4. Standard Fee Calculations and Payment Dates

86. As noted, the time for payment of standard fees will be published in the **Federal Register**. For licensees, permittees and holders of other authorizations in the Common Carrier, Mass Media<sup>34</sup> and Cable Services, fees should be submitted for any authorization held as of October 1, 1996. As in the past, this is the date to be used for establishing liability for payment of these fees since it is the first day of the federal government's fiscal year.

87. In the case of other regulatees whose fees are based upon a subscriber, unit or circuit count, the number of a regulatees' subscribers, units or circuits on December 31, 1996, will be used to calculate the fee payment.<sup>35 36</sup> As in the past, we have selected the last date of the calendar year because many of these entities file reports with us as of that date. Others calculate their subscriber numbers as of that date for internal purposes. Therefore, calculation of the regulatory fee as of that date will facilitate both an entity's computation of its fee payment and our verification that the correct fee payment has been submitted.

##### 5. Minimum Fee Payment Liability

88. Regulatees whose total fee liability amounts to less than \$10, including all categories of fees for which payment is due by an entity, are exempted from fee payment in FY 1997.

#### IV. Ordering Clause

89. Accordingly, it is ordered that the rule changes specified herein are adopted. It is further ordered that the

<sup>34</sup> Except AM/FM fees.

<sup>35</sup> Cable system operators are to compute their subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Cable system operators may base their count on "a typical day in the last full week" of December 1996, rather than on a count as of December 31, 1996.

<sup>36</sup> For FY 1997, AM/FM fees are assessed on licensees holding licenses as of December 31, 1996.

rule changes made herein will become effective September 15, 1997, which is 90 days from the date of notification to Congress.

#### V. Authority and Further Information

90. This action is taken pursuant to Sections 4(i), 4(j), 9 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 9 and 303(r).

91. Further information about this proceeding may be obtained by contacting the Fees Hotline at (202) 418-0192.

#### List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Radio, Telecommunications, Television.

Federal Communications Commission.

**William F. Caton,**  
*Acting Secretary.*

#### Rule Changes

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part 1 is revised to read as follows:

**Authority:** 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r).

2. Section 1.1152 is revised to read as follows:

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

| Exclusive use services (per license)  | Fee amount | Address   |
|---|------------|---|
| 1. Land Mobile (Above 470 MHz, Base Station and SMRS)(47 CFR Part 90):                            |            |   |
| (a) 800 MHz New, Renewal, Reinstatement (FCC 600) .....   | \$10.00    | FCC, 800 MHz, P.O. Box 358235, Pittsburgh, PA 15251-5235.         |
| (b) 900 MHz New, Renewal, Reinstatement (FCC 600) .....   | 10.00      | FCC, 900 MHz, P.O. Box 358240, Pittsburgh, PA 15251-5240.         |
| (c) 470-512,800,900, 220 MHz, 220 MHz Nationwide Renewal (FCC 574R, FCC 405A).                    | 10.00      | FCC, 470-512, P.O. Box 358245, Pittsburgh, PA 15251-5245          |
| (d) Correspondence Blanket Renewal (470-512,800,900,220 MHz) (Remittance Advice, Correspondence). | 10.00      | FCC, Corres., P.O. Box 358305, Pittsburgh, PA 15251-5305.         |
| (e) 220 MHz New, Renewal, Reinstatement (FCC 600) .....   | 10.00      | FCC, 220 MHz, P.O. Box 358360, Pittsburgh, PA 15251-5360.         |
| (f) 470-512 MHz New, Renewal, Reinstatement (FCC 600)   | 10.00      | FCC, 470-512, P.O. Box 358810, Pittsburgh, PA 15251-5810.         |
| (g) 220 MHz Nationwide New, Renewal, Reinstatement (FCC 600).                                     | 10.00      | FCC, Nationwide, P.O. Box 358820, Pittsburgh, PA 15251-5820.      |
| 2. Microwave (47 CFR Part 101):   |            |   |
| (a) Microwave New, Renewal, Reinstatement (FCC 415) ....  | 10.00      | FCC, Microwave, P.O. Box 358250, Pittsburgh, PA 15251-5250.       |
| (b) Microwave Renewal (FCC 402R) .....  | 10.00      | FCC, Microwave, P.O. Box 358255, Pittsburgh, PA 15251-5255.       |
| (c) Correspondence Blanket Renewal (Microwave) (Remittance Advice, Correspondence).               | 10.00      | FCC, Corres., P.O. Box 358305, Pittsburgh, PA 15251-5305.         |
| 3. Shared Use Services:   |            |   |
| (a) Land Transportation (LT) New, Renewal, Reinstatement (FCC 600).                               | 5.00       | FCC, Land Trans., P.O. Box 358215, Pittsburgh, PA 15251-5215.     |
| (b) Business (Bus.) New, Renewal, Reinstatement (FCC 600).  | 5.00       | FCC, Business, P.O. Box 358220, Pittsburgh, PA 15251-5220.        |
| (c) Other Industrial (OI) New, Renewal, Reinstatement (FCC 600).                                  | 5.00       | FCC, Other Indus., P.O. Box 358225, Pittsburgh, PA 15251-5225.    |
| (d) General Mobile Radio Service (GMRS) New, Renewal, Reinstatement (FCC 574).                    | 5.00       | FCC, GMRS, P.O. Box 358230, Pittsburgh, PA 15251-5230.            |
| (e) Business, Other Industrial, Land Transportation, GMRS Renewal (FCC 574R, FCC 405A).           | 5.00       | FCC, Bus.,OI,LT,GMRS, P.O. Box 358245, Pittsburgh, PA 15251-5245. |
| (f) Ground New, Renewal, Reinstatement (FCC 406) .....  | 5.00       | FCC, Ground, P.O. Box 358260, Pittsburgh, PA 15251-5260.          |
| (g) Coast New, Renewal, Reinstatement (FCC 503) .....   | 5.00       | FCC, Coast, P.O. Box 358265, Pittsburgh, PA 15251-5265.           |
| (h) Ground Renewal (FCC 452R) .....   | 5.00       | FCC, Ground, P.O. Box 358270, Pittsburgh, PA 15251-5270.          |
| (i) Coast Renewal (FCC 452R) .....  | 5.00       | FCC, Coast, P.O. Box 358270, Pittsburgh, PA 15251-5270.           |
| (j) Ship New, Renewal, Reinstatement (FCC 506) .....  | 5.00       | FCC, Ship, P.O. Box 358275, Pittsburgh, PA 15251-5275.            |
| (k) Aircraft New, Renewal, Reinstatement (FCC 404) .....  | 5.00       | FCC, Aircraft, P.O. Box 358280, Pittsburgh, PA 15251-5280.        |
| (l) Ship Renewal (FCC 405B) .....   | 5.00       | FCC, Ship, P.O. Box 358290, Pittsburgh, PA 15251-5290.            |
| (m) Aircraft Renewal (FCC 405B) .....   | 5.00       | FCC, Aircraft, P.O. Box 358290, Pittsburgh, PA 15251-5290.        |
| (n) Correspondence Blanket Renewal (Bus.,OI,LT,GMRS) (Remittance Advice, Correspondence).         | 5.00       | FCC, Corres., P.O. Box 358305, Pittsburgh, PA 15251-5305.         |
| (o) Correspondence Blanket Renewal (Ground) (Remittance Advice, Correspondence).                  | 5.00       | FCC, Corres., P.O. Box 358305, Pittsburgh, PA 15251-5305.         |
| (p) Correspondence Blanket Renewal (Coast) (Remittance Advice, Correspondence).                   | 5.00       | FCC, Corres., P.O. Box 358305, Pittsburgh, PA 15251-5305.         |
| (q) Correspondence Blanket Renewal (Aircraft) (Remittance Advice, Correspondence).                | 5.00       | FCC, Corres., P.O. Box 358305, Pittsburgh, PA 15251-5305.         |
| (r) Correspondence Blanket Renewal (Ship) (Remittance Advice, Correspondence).                    | 5.00       | FCC, Corres., P.O. Box 358305, Pittsburgh, PA 15251-5305.         |
| 4. Amateur Vanity Call Signs .....  | 5.00       | FCC, Amateur Vanity, P.O. Box 358924, Pittsburgh, PA 15251-5924.  |
| 5. CMRS Mobile Services (per unit) .....  | .24        | FCC, Cellular, P.O. Box 358835, Pittsburgh, PA 15251-5835.        |
| 6. CMRS Messaging Services (per unit) .....   | .03        | FCC, Messaging, P.O. Box 358835, Pittsburgh, PA 15251-5835.       |

3. Sec. 1.1153 is revised to read as follows:



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

|  | Fee amount | Address  |
|--|------------|--|
| I. Radio [AM and FM] (47 CFR Part 73:                                |            |  |
| 1. Group 1 .....   | \$2,000    | FCC, Radio, P.O. Box 358835, Pittsburgh, PA, 15251-5835.         |
| 2. Group 2 .....   | 1,800      |  |
| 3. Group 3 .....   | 1,600      |  |
| 4. Group 4 .....   | 1,400      |  |
| 5. Group 5 .....   | 1,200      |  |
| 6. Group 6 .....   | 1,000      |  |
| 7. Group 7 .....   | 800        |  |
| 8. Group 8 .....   | 600        |  |
| 9. Group 9 .....   | 400        |  |
| 10. Group 10 .....   | 200        |  |
| 11. AM Construction Permits .....                                    | 195        |  |
| 12. FM Construction Permits .....                                    | 950        |  |
| II. TV (47 CFR Part 73) VHF Commercial:                              |            |  |
| 1. Markets 1 thru 10 .....   | 35,025     | FCC, TV Branch, P.O. Box 358835, Pittsburgh, PA 15251-5835.      |
| 2. Markets 11 thru 25 .....  | 28,450     |  |
| 3. Markets 26 thru 50 .....  | 18,600     |  |
| 4. Markets 51 thru 100 .....   | 9,850      |  |
| 5. Remaining Markets .....   | 2,725      |  |
| 6. Construction Permits .....  | 4,800      |  |
| III. UHF Commercial:   |            |  |
| 1. Markets 1 thru 10 .....   | 16,850     | FCC, UHF Commercial, P.O. Box 358835, Pittsburgh, PA 15251-5835. |
| 2. Markets 11 thru 25 .....  | 13,475     |  |
| 3. Markets 26 thru 50 .....  | 8,750      |  |
| 4. Markets 51 thru 100 .....   | 4,725      |  |
| 5. Remaining Markets .....   | 1,350      |  |
| 6. Construction Permits .....  | 2,975      |  |
| IV. Satellite UHF/VHF Commercial:                                    |            |  |
| 1. All Markets .....   | 950        | FCC Satellite TV, P.O. Box 358835, Pittsburgh, PA 15251-5835.    |
| 2. Construction Permits .....  | 345        |  |
| V. Low Power TV, TV/FM Translator, & TV/FM Booster (47 CFR Part 74). | 220        | FCC, Low Power, P.O. Box 358835, Pittsburgh, PA 15251-5835.      |
| VI. Broadcast Auxiliary .....  | 25         | FCC, Auxiliary, P.O. Box 358835, Pittsburgh, PA 15251-5835.      |
| VII. Multipoint Distribution .....                                   | 215        | FCC, Multipoint, P.O. Box 358835, Pittsburgh, PA 15251-5835.     |

4. Sec. 1.1154 is revised to read as follows:

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

|  | Fee amount | Address  |
|--|------------|--|
| I. Radio Facilities:   |            |  |
| 1. Microwave (Domestic Public Fixed) .....                                       | \$10       | FCC, Common Carrier, P.O. Box 358680, Pittsburgh, PA 15251-5680. |
| II. Carriers:  |            |  |
| 1. Interstate Telephone Service Providers, (per dollar contributed to TRS Fund). | .000116    | FCC, Carriers, P.O. Box 358835, Pittsburgh, PA.                  |

5. Sec. 1.1155 is revised to read as follows:

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

|   | Fee amount | Address   |
|---|------------|---|
| 1. Cable Antenna Relay Service .....      | \$65       | FCC, Cable, P.O. Box 358835, Pittsburgh, PA 15251-5835. |
| 2. Cable TV System (per subscriber) ..... | .54        |   |

6. Section 1.1156 is revised to read as follows:

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

|   | Fee amount | Address  |
|---|------------|--|
| I. Radio Facilities:                            |            |  |
| 1. International (HF) Broadcast .....           | \$390      | FCC, International, P.O. Box 358835, Pittsburgh, PA 15251-5835.  |
| 2. International Public Fixed .....             | 310        |  |
| II. Space Stations (Geosynchronous Orbit) ..... | 97,975     | FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA 15251-5835. |
| III. Low Earth Orbit Satellite .....            | 135,675    | FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA 15251-5835. |

|   | Fee amount | Address   |
|---|------------|---|
| IV. Earth Stations; Transmit/Receive and Transmit Only (per authorization or registration). | 515        | FCC, Earth Station, P.O. Box 358835, Pittsburgh, PA 15251-5835. |
| V. Carriers:  |            |   |
| 1. International Bearer Circuits (per active 64KB circuit or equivalent).                   | 5.00       | FCC, International, P.O. Box 358835, Pittsburgh, PA 15251-5835. |

**Note:** Attachments A through L will not appear in the Code of Federal Regulations.

#### Attachment A—Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),<sup>37</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1997, 62 FR 10793 (March 10, 1997). The Commission sought written public comments on the proposals in its FY 1997 regulatory fees NPRM, including on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended.<sup>38</sup>

#### I. Need for and Objectives of This Report and Order

2. This rulemaking proceeding was initiated in order to collect regulatory fees in the amount of \$152,523,000, the amount that Congress has required the Commission to recover through regulatory fees in Fiscal Year 1997. The Commission seeks to collect the necessary amount through its revised regulatory fees, as contained in the attached Schedule of Regulatory Fees, in the most efficient manner possible and without undue burden on the public.

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

3. The American Mobile Telecommunications Association, Inc. ("AMTA") filed comments in response to the IRFA seeking clarification of the definition of small entity Specialized Mobile Radio (SMR) licensees who are subject to regulatory fee payments.<sup>39</sup> AMTA asserts that the IRFA indicates that the proposed fees in the NPRM apply only to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations.<sup>40</sup>

4. As AMTA points out, this is incorrect. All SMR providers are subject to payment of regulatory fees, unless qualified for special exemption (e.g., Public Safety). Private Mobile Radio Services (PMRS) licensees are subject to "small" fees payable in advance for the entire license term at the time of application for new, modification or renewal licenses. Commercial Mobile Radio Services (CMRS) licensees must pay "standard"

regulatory fees on an annual basis. (See paragraph 50 *infra*.)

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

5. The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>41</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>42</sup> 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 Small Business Administration (SBA).<sup>43</sup>

6. The RFA also includes nonprofit organizations and small governmental entities within the scope of regulatory flexibility analysis.<sup>44</sup> The definition of a small governmental entity is one with a population of fewer than 50,000.<sup>45</sup> There are approximately 85,006 governmental entities in the nation.<sup>46</sup> This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number have populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,566, or 96 percent, have populations of fewer than 50,000.<sup>47</sup> The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the approximately 85,006 governmental entities, we estimate that 96 percent, or 81,600, are small entities that may be affected by our rules.

#### Cable Services or Systems

7. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in revenue annually.<sup>48</sup> This definition includes

cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.<sup>49</sup>

8. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.<sup>50</sup> Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.<sup>51</sup> Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

9. The Communications Act also contains a definition of a small cable system operator, 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."<sup>52</sup> The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.<sup>53</sup> Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1,450.<sup>54</sup> We do not request nor do we collect information concerning whether cable

<sup>49</sup> 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

<sup>50</sup> 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393 (1995), 60 FR 10534 (February 27, 1995).

<sup>51</sup> Paul Kagan Associates, Inc., Cable TV Investor, February 29, 1996 (based on figures for December 30, 1995).

<sup>52</sup> 47 U.S.C. 543(m)(2).

<sup>53</sup> 47 CFR 76.1403(b).

<sup>54</sup> Paul Kagan Associates, Inc., Cable TV Investor, February 29, 1996 (based on figures for December 30, 1995).

<sup>37</sup> 5 U.S.C. 603.

<sup>38</sup> See 5 U.S.C. 604. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act (CWAAA), Public Law 104-121, 110 Stat. 847 (1996). Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

<sup>39</sup> See comments filed in MD Docket No. 96-186 dated March 25, 1997.

<sup>40</sup> IRFA at paragraph 48.

<sup>41</sup> 5 U.S.C. 601(6).

<sup>42</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

<sup>43</sup> Small Business Act, 15 U.S.C. 632.

<sup>44</sup> 5 U.S.C. 601(5).

<sup>45</sup> *Id.*

<sup>46</sup> 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

<sup>47</sup> *Id.*

<sup>48</sup> 13 CFR 121.201, SIC 4841.

system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,<sup>55</sup> and thus 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. It should be further noted that recent industry estimates project that there will be a total of 65,000,000 subscribers, and we have based our fee revenue estimates on that figure.

10. Other Pay Services. Other pay television services are also classified under SIC 4841, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS),<sup>56</sup> multipoint distribution systems (MDS),<sup>57</sup> satellite master antenna systems (SMATV), and subscription television services.

#### Common Carrier Services and Related Entities

11. According to the Telecommunications Industry Revenue: Telecommunications Relay Service Fund Worksheet Data (TRS Worksheet), there are 2,847 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

12. The SBA has defined a small business for Radiotelephone Communications (SIC 4812) and Telephone Communications, Except Radiotelephone (4813), to be small entities when they have fewer than 1,500 employees.<sup>58</sup> We first discuss generally the total number of small telephone companies falling within both of those SIC categories. Then, we discuss the number of small businesses within the two subcategories, and attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

13. Because the small incumbent LECs subject to these rules are either dominant in their field of operations or are not independently owned and operated, consistent with our prior practice, they are excluded from the definition of "small entity" and "small business concerns."<sup>59</sup>

<sup>55</sup> We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.1403(b) of the Commission's rules. See 47 CFR 76.1403(d).

<sup>56</sup> Direct Broadcast Services (DBS) are discussed in depth with the international services *infra*.

<sup>57</sup> Multipoint Distribution Services (MDS) are discussed in depth with the mass media services *infra*.

<sup>58</sup> 13 CFR 121.201.

<sup>59</sup> See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499 (1996), 61 FR 45476 (August 29, 1996), motion for stay of the FCC's rules pending judicial review denied, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Order, 11 FCC Rcd 11754 (1996), 61 FR 54099 (October 17, 1996), partial stay granted, Iowa Utilities Board v. FCC, No. 96-3321, 1996 WL 589204 (8th Cir. 1996) at paragraphs 1328-1330 and 1342.

Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small incumbent LECs within this analysis and use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by the SBA as "small business concerns."<sup>60</sup>

14. Total Number of Telephone Companies Affected. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.<sup>61</sup> This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications services providers, covered specialized mobile radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."<sup>62</sup> For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to tentatively conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent local exchange carriers.

15. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.<sup>63</sup> According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons.<sup>64</sup> All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. We do not have information on the number of carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 2,295 small telephone communications companies other than radiotelephone companies.

<sup>60</sup> *Id.*

<sup>61</sup> United States Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1-123 (1995) (1992 Census).

<sup>62</sup> 15 U.S.C. 632(a)(1).

<sup>63</sup> 1992 Census, *supra*, at Firm Size 1-123.

<sup>64</sup> 13 CFR 121.201, SIC Code 4812.

16. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.<sup>65</sup> The most reliable source of information regarding the number of LECs nationwide is the data that we collect annually in connection with the TRS Worksheet. According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.<sup>66</sup> We do not have information on the number of carriers that are not independently owned and operated, nor what carriers have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs.

17. Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies.<sup>67</sup> The most reliable source of information regarding the number of IXCs nationwide is the data that we collect annually in connection with the TRS Worksheet. According to our most recent data, 130 companies reported that they were engaged in the provision of interexchange services.<sup>68</sup> We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 130 small entity IXCs.

18. Competitive Access Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies.<sup>69</sup> The most reliable source of information regarding the number of CAPs nationwide is the data that we collect annually in connection with the TRS Worksheet. According to our most recent data, 57 companies reported that they were engaged in the provision of competitive access services.<sup>70</sup> We do not have information on the number of carriers that are not independently owned and operated,

<sup>65</sup> 13 CFR 121.201, SIC Code 4813.

<sup>66</sup> Federal Communications Commission, CCB, Industry Analysis Division, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Tbl. 1 (Average Total Telecommunications Revenue Reported by Class of Carrier) (December 1996) (TRS Worksheet).

<sup>67</sup> 13 CFR 121.201, SIC 4813.

<sup>68</sup> TRS Worksheet.

<sup>69</sup> 13 CFR 121.201, SIC 4813.

<sup>70</sup> TRS Worksheet.

nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 57 small CAPs.

19. Operator Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies.<sup>71</sup> The most reliable source of information regarding the number of operator service providers nationwide is the data that we collect annually in connection with the TRS Worksheet. According to our most recent data, 25 companies reported that they were engaged in the provision of operator services.<sup>72</sup> We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 25 small operator service providers.

20. Pay Telephone Operators. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies except radiotelephone (wireless) companies.<sup>73</sup> The most reliable source of information regarding the number of pay telephone operators nationwide is the data that we collect annually in connection with the TRS Worksheet. According to our most recent data, 271 companies reported that they were engaged in the provision of pay telephone services.<sup>74</sup> We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 271 small pay telephone operators.

21. Resellers (including debit card providers). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company except radiotelephone (wireless) companies.<sup>75</sup> However, the most reliable source of information regarding the number of resellers nationwide is the data that the Commission collects annually in connection with the TRS Worksheet. According to our most recent data, 260 companies reported

that they were engaged in the resale of telephone service.<sup>76</sup> We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus we are unable at this time to estimate with greater precision the number of resellers that would qualify as small entities or small incumbent LEC concerns under the SBA's definition. Consequently, we estimate that there are fewer than 260 small entity resellers.

22. 800 Subscribers.<sup>77</sup> Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 subscribers. The most reliable source of information regarding the number of 800 subscribers is data we collect on the number of 800 numbers in use.<sup>78</sup> According to our most recent data, at the end of 1995, the number of 800 numbers in use was 6,987,063. We do not have information on the number of carriers not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of 800 subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 6,987,063 small entity 800 subscribers.

#### International Services

23. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.<sup>79</sup> According to the Census Bureau, there were a total of 848 communications services, NEC in operation in 1992, and a total of 775 had annual receipts of less than \$9,999 million.<sup>80</sup> The Census report does not provide more precise data.

24. International Broadcast Stations. Commission records show that there are 20 international broadcast station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition. However, the Commission estimates that only six international broadcast stations are subject to regulatory fee payments.

25. International Public Fixed Radio (Public and Control Stations). There are 15 licensees in this service. We do not request nor collect annual revenue information, and thus are unable to estimate the number of

international broadcast licensees that would constitute a small business under the SBA definition.

26. Fixed Satellite Transmit/Receive Earth Stations. There are approximately 4200 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

27. Fixed Satellite Small Transmit/Receive Earth Stations. There are 4200 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of fixed satellite transmit/receive earth stations may constitute a small business under the SBA definition.

28. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems. These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single "blanket" application may be filed for a specified number of small antennas and one or more hub stations. The Commission has processed 377 applications. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of VSAT systems that would constitute a small business under the SBA definition.

29. Mobile Satellite Earth Stations. There are two licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

30. Radio Determination Satellite Earth Stations. There are four licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.

31. Space Stations (Geostationary). Commission records reveal that there are 37 space station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition.

32. Space Stations (Non-Geostationary). There are six Non-Geostationary Space Station licensees, of which only one system is operational. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of non-geostationary space stations that would constitute a small business under the SBA definition.

33. Direct Broadcast Satellites. Because DBS provides subscription services, DBS falls within the SBA definition of Cable and Other Pay Television Services (SIC 4841). This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.<sup>81</sup> As of December 1996,

<sup>71</sup> 13 CFR 121.201, SIC 4813.

<sup>72</sup> Id.

<sup>73</sup> 13 CFR 121.201, SIC 4813.

<sup>74</sup> TRS Worksheet.

<sup>75</sup> 13 CFR 121.201, SIC 4813.

<sup>76</sup> TRS Worksheet.

<sup>77</sup> We include all toll-free number subscribers in this category, including 888 numbers.

<sup>78</sup> Federal Communications Commission, CCB, Industry Analysis Division, FCC Releases, Study on Telephone Trends, Tbl. 20 (May 16, 1996).

<sup>79</sup> 13 CFR 120.121, SIC Code 4899.

<sup>80</sup> 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

<sup>81</sup> 13 CFR 121.201, SIC 4841.

there were eight DBS licensees. However, the Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. Although DBS service requires a great investment of capital for operation, we acknowledge that there are several new entrants in this field that may not yet have generated \$11 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

#### Mass Media Services

34. Commercial Radio and Television Services. The proposed rules and policies will apply to television broadcasting licensees and radio broadcasting licensees.<sup>82</sup> The SBA defines a television broadcasting station that has \$10.5 million or less in annual receipts as a small business.<sup>83</sup> Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.<sup>84</sup> Included in this

industry are commercial, religious, educational, and other television stations.<sup>85</sup> Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.<sup>86</sup> Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.<sup>87</sup> There were 1,509 television stations operating in the nation in 1992.<sup>88</sup> That number has remained fairly constant as indicated by the approximately 1,550 operating television broadcasting stations in the nation as of August, 1996.<sup>89</sup> For 1992,<sup>90</sup> the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.<sup>91</sup> Only commercial stations are subject to regulatory fees.

35. Additionally, the Small Business Administration defines a radio broadcasting station that has \$5 million or less in annual receipts as a small business.<sup>92</sup> A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.<sup>93</sup> Included in this industry are commercial, religious, educational, and other radio stations.<sup>94</sup> Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.<sup>95</sup> However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.<sup>96</sup> The 1992 Census indicates

that 96 percent (5,861 of 6,127) radio station establishments produced less than \$5 million in revenue in 1992.<sup>97</sup> Official Commission records indicate that 11,334 individual radio stations were operating in 1992.<sup>98</sup> As of August 1996, official Commission records indicate that 12,088 radio stations were operating.<sup>99</sup> Only commercial stations are subject to regulatory fees.

36. Thus, the NPRM adopted today will affect approximately 1,550 full power television stations; approximately 1,194 of those stations are considered small businesses,<sup>100</sup> and 12,088 full power radio stations, approximately 11,605 of which are small businesses.<sup>101</sup> These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 1,954 low power television stations (LPTV).<sup>102</sup> Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

#### Alternative Classification of Small Stations

37. An alternative way to classify small radio and television stations is the number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity Rule (EEO) for broadcasting.<sup>103</sup> Thus, radio or television stations with fewer than five full-time employees are exempted from certain EEO reporting and record keeping requirements.<sup>104</sup> We estimate that the total

<sup>82</sup> We tentatively conclude that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations. However, for purposes of this Policy Statement, we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply, but we reserve the right to adopt a more suitable definition of "small business" as applied to radio and television broadcast stations or other entities subject to this Policy Statement and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities in the future. See Report and Order in MM Docket No. 93-48 (Children's Television Programming), 11 FCC Rcd 10660, 10737-38 (1996), 61 FR 43981 (August 27, 1996), citing 5 U.S.C. 601(3). We have pending proceedings seeking comment on the definition of and data relating to small businesses. In our Notice of Inquiry in GN Docket No. 96-113 (Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses), FCC 96-216, released May 21, 1996, we requested commenters to provide profile data about small telecommunications businesses in particular services, including television, and the market entry barriers they encounter, and we also sought comment as to how to define small businesses for purposes of implementing Section 257 of the Telecommunications Act of 1996, which requires us to identify market entry barriers and to prescribe regulations to eliminate those barriers. Additionally, in our Order and Notice of Proposed Rule Making in MM Docket No. 96-16 (In the Matter of Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines), 11 FCC Rcd 5154 (1996), 61 FR 9964 (March 12, 1996), we invited comment as to whether relief should be afforded to stations: (1) Based on small staff and what size staff would be considered sufficient for relief, e.g., 10 or fewer full-time employees; (2) based on operation in a small market; or (3) based on operation in a market with a small minority work force.

<sup>83</sup> 13 CFR 121.201, SIC 4833.

<sup>84</sup> Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92-S-1, Appendix A-9 (1995).

<sup>85</sup> Id. See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes "Television Broadcasting Stations" (SIC Code 4833) as: Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

<sup>86</sup> Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications And Utilities, Establishment and Firm Size, Series UC92-S-1, Appendix A-9 (1995).

<sup>87</sup> Id. SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

<sup>88</sup> FCC News Release No. 31327, January 13, 1993; Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce.

<sup>89</sup> FCC News Release No. 64958, September 6, 1996.

<sup>90</sup> Census for Communications' establishments are performed every five years ending with a "2" or "7". See Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce.

<sup>91</sup> The amount of \$10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at \$9,999,999 and began at \$10,000,000. No category for \$10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

<sup>92</sup> 13 CFR 121.201, SIC 4832.

<sup>93</sup> Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce.

<sup>94</sup> Id.

<sup>95</sup> Id.

<sup>96</sup> Id.

<sup>97</sup> The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

<sup>98</sup> FCC News Release No. 31327, January 13, 1993.

<sup>99</sup> FCC News Release No. 64958, September 6, 1996.

<sup>100</sup> We use the 77 percent figure of TV stations operating at less than \$10 million for 1992 and apply it to the 1996 total of 1550 TV stations to arrive at 1,194 stations categorized as small businesses.

<sup>101</sup> We use the 96% figure of radio station establishments with less than \$5 million revenue from the Census data and apply it to the 12,088 individual station count to arrive at 11,605 individual stations as small businesses.

<sup>102</sup> FCC News Release, Broadcast Station Totals as of December 31, 1996, No. 71831, January 21, 1997.

<sup>103</sup> The Commission's definition of a small broadcast station for purposes of applying its EEO rules was adopted prior to the requirement of approval by the SBA pursuant to Section 3(a) of the Small Business Act, 15 U.S.C. 632 (a), as amended by Section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992, Public Law 102-366, section 222(b)(1), 106 Stat. 999 (1992), as further amended by the Small Business Administration Reauthorization and Amendments Act of 1994, Public Law 103-403, section 301, 108 Stat. 4187 (1994). However, this definition was adopted after the public notice and the opportunity for comment. See Report and Order in Docket No. 18244, 23 FCC 2d 430 (1970), 35 FR 8925 (June 6, 1970).

<sup>104</sup> See, e.g., 47 CFR 73.3612 (Requirement to file annual employment reports on Form 395 applies to licensees with five or more full-time employees); First Report and Order in Docket No. 21474 (Amendment of Broadcast Equal Employment

number of broadcast stations with 4 or fewer employees is approximately 4,239.<sup>105</sup>

*Auxiliary, Special Broadcast and Other Program Distribution Services*

38. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radio broadcasting stations (SIC 4832) and television broadcasting stations (SIC 4833).

39. There are currently 2,720 FM translators and boosters, 4,952 TV translators.<sup>106</sup> The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either \$5 million for a radio station or \$10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.<sup>107</sup>

40. Multipoint Distribution Service (MDS). This service involves a variety of transmitters, which are used to relay programming to the home or office, similar to that provided by cable television systems.<sup>108</sup> In connection with the 1996 MDS auction the Commission defined small businesses as entities who had annual average gross revenues for the three

preceding years not in excess of \$40 million.<sup>109</sup> This definition of a small entity in the context of MDS auctions has been approved by the SBA.<sup>110</sup> These stations were licensed prior to implementation of Section 309(j) of the Act. Licensees for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas.<sup>111</sup> The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business. There are 1,573 previously authorized and proposed MDS stations currently licensed. Thus, we conclude that there are 1,634 MDS providers that are small businesses as deemed by the SBA and the Commission's auction rules. It is estimated, however, that only 1,145 MDS licensees are subject to regulatory fees and the number which are small businesses is unknown.

**Wireless and Commercial Mobile Services**

41. Cellular Licensees. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The closest applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of cellular services carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS Worksheet.<sup>112</sup> According to the most recent data, 792 companies reported that they were engaged in the provision of cellular services.<sup>113</sup> Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular services carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 792 small cellular service carriers.

42. 220 MHz Radio Services. Since the Commission has not yet defined a small business with respect to 220 MHz radio services, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity employing less than 1,500 persons.<sup>114</sup> With respect to the 220 MHz services, the Commission has proposed a

two-tiered definition of small business for purposes of auctions: (1) For Economic Area (EA) licensees,<sup>115</sup> a firm with average annual gross revenues of not more than \$6 million for the preceding three years, and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than \$15 million for the preceding three years.<sup>116</sup> Since this definition has not yet been approved by the SBA, we will utilize the SBA's definition applicable to radiotelephone companies. Given the fact that nearly all radiotelephone companies employ fewer than 1,500 employees,<sup>117</sup> with respect to the approximately 3,800 incumbent licensees in this service, we will consider them as small businesses under the SBA definition.

43. Private and Common Carrier Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$15 million. Since the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing fewer than 1,500 persons.<sup>118</sup> At present, there are approximately 24,000 Private Paging licensees and 74,000 Common Carrier Paging licensees. We estimate that the majority of private and common carrier paging providers would qualify as small businesses under the SBA definition.

44. Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. The closest applicable definition under the SBA rules is for radiotelephone (wireless) companies. The most reliable source of information regarding the number of mobile service carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the TRS Worksheet. According to the most recent data, 117 companies reported that they were engaged in the provision of mobile

Opportunity Rules and FCC Form 395), 70 FCC 2d 1466 (1979), 50 FR 50329 (December 10, 1985). The Commission is currently considering how to decrease the administrative burdens imposed by the EEO rule on small stations while maintaining the effectiveness of our broadcast EEO enforcement. Order and Notice of Proposed Rule Making in MM Docket No. 96-16 (Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines), 11 FCC Rcd 5154 (1996), 61 FR 9964 (March 12, 1996). One option under consideration is whether to define a small station for purposes of affording such relief as one with ten or fewer full-time employees.

<sup>105</sup> Compilation of 1994 Broadcast Station Annual Employment Reports (FCC Form 395B), Equal Opportunity Employment Branch, Mass Media Bureau, FCC.

<sup>106</sup> FCC News Release, Broadcast Station Totals as of December 31, 1996, No. 71831, January 21, 1997.

<sup>107</sup> 15 U.S.C. 632.

<sup>108</sup> For purposes of this item, MDS also includes single channel Multipoint Distribution Service (MDS) and Multipoint Distribution Service (MMDS) application and authorizations collectively.

<sup>109</sup> See 47 CFR 1.2110 (a)(1).

<sup>110</sup> Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 10 FCC Rcd 9589 (1995), 60 FR 36524 (July 17, 1995).

<sup>111</sup> Id. A Basic Trading Area (BTA) is the geographic area by which the Multipoint Distribution Service is licensed. See Rand McNally 1992 Commercial Atlas and Marketing Guide, 123rd Edition, pp. 36-39.

<sup>112</sup> Federal Communications Commission. CCB Industry Analysis Division, Telecommunication Industry Revenue: TRS Worksheet Data, Tbl. 1 (Average Total Telecommunication Revenue Reported by Class of Carrier) (December 1996) (TRS Worksheet).

<sup>113</sup> Id.

<sup>114</sup> 13 CFR 121.201, SIC 4812.

<sup>115</sup> Economic Area (EA) licenses refer to the 60 frequencies in the 172 geographic areas as defined by the Bureau of Economic Analysis, Department of Commerce. See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, Second Memorandum Opinion and Order and Third Notice of Proposed Rule Making, GN Docket 93-252, 10 FCC Rcd 6880 (1995), 60 FR 26861 (May 19, 1995).

<sup>116</sup> Id.

<sup>117</sup> See U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Tbl. 5, Employment Size of Firms; 1992, SIC 4812 (issued May 1995).

<sup>118</sup> 13 CFR 121.201, SIC 4812.

services.<sup>119</sup> Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under the SBA's definition. Consequently, we estimate that there are fewer than 117 small entity mobile service carriers.

45. Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.<sup>120</sup> For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.<sup>121</sup> These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.<sup>122</sup> However, licenses for blocks C through F have not been awarded fully; therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by the SBA and the Commission's auction rules.

46. Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Those auctions, however, have not yet been scheduled. Given the facts that

nearly all radiotelephone companies have fewer than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

47. Rural Radiotelephone Service. The Commission has not adopted a definition of small business specific to the Rural Radiotelephone Service, which is defined in § 22.99 of the Commission's Rules.<sup>123</sup> A significant subset of the Rural Radiotelephone Service is BETRS, or Basic Exchange Telephone Radio Systems (the parameters of which are defined in §§ 22.757 and 22.759 of the Commission's Rules). Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing fewer than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA's definition of a small business.<sup>124</sup>

48. Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small business specific to the Air-Ground Radiotelephone Service, which is defined in § 22.99 of the Commission's Rules.<sup>125</sup> Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing fewer than 1,500 persons.<sup>126</sup> There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

49. Specialized Mobile Radio Licensees (SMR). Pursuant to 47 CFR 90.814(b)(1), the Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz Specialized Mobile Radio (SMR) licenses to firms that had revenues of less than \$15 million in each of the three previous calendar years. This regulation defining "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA.<sup>127</sup> Therefore, the regulatory fees in this item apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these

providers have annual revenues of less than \$15 million. We do know that one of these firms has over \$15 million in revenues. We assume that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected includes these 60 small entities.

50. In addition to those licensees described in paragraph 49 above, the regulatory fees apply to all SMR providers in the Private Mobile Radio Service (PMRS) and the Commercial Mobile Radio Service (CMRS), except for those licensees that are statutorily exempt. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of SMR users, the Commission has not developed nor would it be possible to develop a definition of small entities specifically applicable to SMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

51. Private Land Mobile Radio Licensees (PLMR). These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed nor would it be possible to develop a definition of small entities specifically applicable to PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

52. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs<sup>128</sup> indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Further, because any entity engaged in a commercial activity is eligible to hold a PLMR license, these rules could potentially impact every small business in the U.S.

53. Amateur Radio Service. We estimate that 10,000 applicants will apply for vanity call signs in FY 1997. All are presumed to be individuals. All other amateur licensees are exempt from payment of regulatory fees.

54. Aviation and Marine Radio Service. Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB), and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the Small Business Administration

<sup>123</sup> 47 CFR 22.9.

<sup>124</sup> 13 CFR 121.201, SIC 4812.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89–583, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693–702 (1995), 60 FR 48913 (September 21, 1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93–144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making, 11 FCC Rcd 1463 (1995), 61 FR 6212 (February 16, 1996).

<sup>128</sup> Federal Communications Commission, 60th Annual Report, Fiscal Year 1994 at 116.

<sup>119</sup> *Id.*

<sup>120</sup> See Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, FCC 96–278, WT Docket No. 96–59, paras. 57–60 (released June 24, 1996), 61 FR 33859 (July 1, 1996); see also 47 CFR 24.720(b).

<sup>121</sup> See Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, FCC 96–278, WT Docket No. 96–59, para. 60 (1996), 61 FR 33859 (July 1, 1996).

<sup>122</sup> FCC News, Broadband PCS, D, E and F Block Auction Closes, No. 71744 (released January 14, 1997).



rules applicable to water transportation and transportation by air. This definition provides that a small entity is any entity employing less than 500 persons for water transportation, and 1,500 for transportation by air.<sup>129</sup> The Commission is unable at this time to make a meaningful estimate of the number of potential small businesses.

55. Most applicants for individual recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of our evaluations and conclusions in this FRFA, we estimate that there may be at least 712,000 potential licensees which are small businesses, as that term is defined by the SBA. We estimate, however, that only 22,250 will be subject to FY 1997 regulatory fees.

56. Microwave Video Services. Microwave services includes common carrier,<sup>130</sup> private operational fixed,<sup>131</sup> and broadcast auxiliary radio services.<sup>132</sup> At present, there are 22,015 common carrier licensees, approximately 61,670 private operational fixed licensees and broadcast auxiliary radio licensees in the microwave services. Inasmuch as the Commission has not yet defined a small business with respect to microwave services, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with less than 1,500 persons.<sup>133</sup> As for estimates regarding small businesses within the broadcast service, we rely on our estimates as discussed under mass media services. Although some of these companies may have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of microwave service providers other than broadcast licensees that would qualify under the SBA's definition.

57. Public Safety Radio Services. Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.<sup>134</sup> There are a total of

approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. As we indicated in the introductory paragraph, all governmental entities with populations of less than 50,000 fall within the definition of a small business.<sup>135</sup> There are approximately 37,566 governmental entities with populations of less than 50,000.<sup>136</sup> All of these licensees are exempt from payment of regulatory fees.

58. Personal Radio Services. Personal radio services provide short-range, low power radio for personal communications, radio signalling and business communications not provided for in other services. These services include citizen band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).<sup>137</sup> Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition, however, only GMRS licensees are subject to regulatory fees.

59. Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.<sup>138</sup> At present,

through 90.27. The police service includes 26,608 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communication related to the actual delivery of emergency medical treatment. 47 CFR 90.15 through 90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33 through 90.55.

<sup>135</sup> 5 U.S.C. 601(5).

<sup>136</sup> United States Dept. of Commerce, Bureau of the Census, 1992 Census of Governments (1992 Census).

<sup>137</sup> Licensees in the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Family Radio Service (FRS) are governed by subpart D, subpart A, subpart C, and subpart B, respectively, of part 95 of the Commission's rules. 47 CFR 95.401 through 95.428; 95.1 through 95.181; 95.201 through 95.225; 47 CFR 95.191 through 95.194.

<sup>138</sup> These licensees are governed by subpart I of part 22 of the Commission's rules. 47 CFR 22.1001 through 22.1037.

there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition.

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

60. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159, "FCC Remittance Advice," and pay a regulatory fee based on the number of licenses or call signs.<sup>139</sup> Interstate telephone service providers must compute their annual regulatory fee based on their adjusted gross interstate revenue using information they already supply to the Commission in compliance with the TRS Fund, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (e.g., cellular telephones, pagers, cable TV subscribers) they have in service, complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. Licensees/regulatees that must pay on the basis of subscriber counts shall submit documentation which supports the number of units for which payment is submitted. Each licensee/regulatee shall provide certification by affixing their signature to the FCC Form 159 that all information submitted is true and accurate. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

61. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject

<sup>139</sup> The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (e.g., Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under Section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the licensee of any translator station that: (1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than \$10.

<sup>129</sup> See 13 CFR 121.201, SIC Major Group Code 44—Water Transportation (4491, 4492, 4493, 4499) and 45—Transportation by Air (4522, 4581).

<sup>130</sup> 47 CFR 101 et seq (formerly part 21 of the Commission's rules).

<sup>131</sup> Persons eligible under parts 80 and 90 of the Commission's rules can use private Operational Fixed Microwave services. See 47 CFR 80 et seq, 90 et seq. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use an operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

<sup>132</sup> Broadcast Auxiliary Microwave Service is governed by part 74 of title 47 of the Commission's rules. See 47 CFR 74 et seq. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points, such as a main studio and an auxiliary studio. The broadcast auxiliary microwave services also include mobile TV pickups which relay signals from a remote location back to the studio.

<sup>133</sup> 13 CFR 121.201, SIC 4812.

<sup>134</sup> With the exception of the special emergency service, these services are governed by subpart B of part 90 of the Commission's rules. 47 CFR 90.15

to the fee. As an option, licensees are permitted to file electronically or on computer diskette to minimize the burden of submitting multiple copies of the FCC Form 159. Although not mandatory, the latter procedure may require additional technical skills. Licensees who pay small fees in advance supply fee information as part of their application and do not need to use the FCC Form 159.

62. Licensees and regulatees that are exempt from payment of regulatory fees due to their status under Section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), shall submit a copy of their current IRS Determination Letter or equivalent certification from a governmental authority attesting to their non-profit status.

63. Licensees and regulatees are advised that failure to submit the required regulatory fee and/or the required supporting documentation in a timely manner will subject the licensee or regulatee to a late payment fee of an additional 25% in addition to the required fee.<sup>140</sup> Until payment is received, no new or pending applications will be processed, and existing authorizations may be subject to rescission.<sup>141</sup> Further, in accordance with the Debt Collection Improvement Act of 1996, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantees if that person or entity fails to pay a delinquent debt owed to any federal agency.<sup>142</sup> Thus, debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.<sup>143</sup>

64. The Commission's rules currently make provision for relief in exceptional circumstances. Persons or entities that believe they have been placed in the wrong regulatory fee category or are experiencing extraordinary and compelling financial hardship, upon a showing that such circumstances override the public interest in reimbursing the Commission for its regulatory costs, may request a waiver, reduction or deferment of payment of the regulatory fee.<sup>144</sup> However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will accept a petition to defer payment along with a waiver or reduction request.

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

65. *The Omnibus Consolidated Appropriation Act*, Public Law 104-208, requires the Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to Section 9(a) of the Communications Act, as amended, has required it to collect for Fiscal Year (FY) 1997. See 47 U.S.C. 159 (a). We have sought comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small business entities. The Commission agrees with the comments submitted by AMTA concerning inclusion of all SMR providers among licensees subject to payment of regulatory fees. Clarifying language has been added to this FRFA. (See paragraph 50 *infra*.)

66. With the introduction of actual cost accounting data for computation of regulatory fees, we found that some fees which were very small in previous years would have increased dramatically. The statute establishing regulatory fees provides for permitted amendments to be made to the schedule of fees in the public interest.<sup>145</sup> The methodology adopted in this Report and Order minimizes this impact by limiting the amount of increase and shifting costs to other services which, for the most part, are larger entities.

67. Conversely, we have found that our costs for regulating commercial microwave (domestic public fixed) services are significantly lower than previously thought. We are, therefore, eliminating the annual "large" regulatory fee for domestic public fixed services and combining this fee category with the private microwave service with a single "microwave" designation. The impact on domestic public fixed licensees will be a reduction of the fee to a "small" up front payment for the entire license term applied only to new, modification and renewal applicants. Current domestic public fixed licensees are exempt from payment of a regulatory fee until such time as they apply for a modification or renewal of their license.

68. We have developed and adopted an alternative methodology for assessing fees to recover the regulatory costs attributable to AM and FM radio stations. The radio industry has requested relief for small stations, and we have received two alternative proposals which we have evaluated. One would segment licensees by Arbitron radio markets in addition to station class.<sup>146</sup> The other proposal would segment licensees by service area population in addition to station class.<sup>147</sup> Although neither proposal was found workable in its proposed state, we have expanded upon the use of

population data to formulate our own schedule. The impact of adoption of our proposal will result in lower fees for smaller, less powerful stations relative to larger, more powerful stations in the same radio market; or stations potentially serving a larger population.

69. Several categories of licensees and regulatees are exempt from payment of regulatory fees. See Footnote 103 *supra*.

*Report to Congress:* The Commission shall include a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA (or summary thereof) will also be published in the **Federal Register**, along with this Report and Order.

## Attachment B—Sources of Payment Unit Estimates for FY 1997

In order to calculate individual service fees for FY 1997, we adjusted FY 1996 payment units for each service to more accurately reflect expected FY 1997 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. We tried to obtain verification for these estimates from multiple sources and, in all cases, we compared FY 1997 estimates with actual FY 1996 payment units to ensure that our revised estimates were reasonable. Where it made sense, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 1997 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical or other reasons. Therefore, when we note, for example, that our estimated FY 1997 payment units are based on FY 1996 actual payment units, it does not necessarily mean that our FY 1997 projection is exactly the same number as FY 1996. It means that we have either rounded the FY 1997 number or adjusted it slightly to account for these variables.

<sup>148</sup> The Wireless Telecommunications Bureau's staff advises that they do not anticipate receiving any applications for IVDS in FY 1997. Therefore, since there is no volume, there will be no regulatory fee in the IVDS category for FY 1997.

<sup>149</sup> Licensees in the PMRS were given until August of 1996 to decide whether to convert to CMRS. For FY 1997, we anticipate a substantial increase in the volume of licensees in the CMRS category and a corresponding decrease in the number of licensees remaining in the PMRS category.

<sup>140</sup> 47 U.S.C. 1.1164(a).

<sup>141</sup> 47 U.S.C. 1.1164(c).

<sup>142</sup> Public Law 104-134, 110 Stat. 1321 (1996).

<sup>143</sup> 31 U.S.C. 7701(c)(2)(B).

<sup>144</sup> 47 U.S.C. 1.1166.

<sup>145</sup> See 47 U.S.C. 159 (b)(1)(A) and (b)(3).

<sup>146</sup> See discussion of Montana Broadcasters Association Comments at NPRM paragraphs 29-32 *supra*.

<sup>147</sup> See discussion of NAB Comments at NPRM paragraphs 33-36 *supra*.

| Fee category   | Sources of payment unit estimates   |
|--|---|
| Land Mobile (All), Microwave, IVDS, <sup>148</sup> Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs. | Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases.   |
| CMRS Mobile Services (incl. Cellular/Public Mobile Radio Services). <sup>149</sup>   | Based on industry estimates of growth between FY 1996 and FY 1997 and WTB projections of new applications and average number of mobile units associated with each application.  |
| CMRS Messaging Services .....  | Based on industry estimates of the number of units in operation.  |
| AM/FM Radio Stations .....   | Based on Mass Media Bureau licensee data.   |
| UHF/VHF Television Stations .....  | Based on actual FY 1996 payment units.  |
| AM/FM/TV Construction Permits .....  | Based on actual FY 1996 payment units.  |
| LPTV, Translators and Boosters .....   | Based on actual FY 1996 payment units.  |
| Auxiliaries .....  | Based on actual FY 1996 payment units.  |
| MDS/MMDS .....   | Based on actual FY 1996 payment units.  |
| Cable Antenna Relay Service (CARS) .....   | Based on actual FY 1996 payment units.  |
| Cable Television System Subscribers .....  | Based on Cable Services Bureau and industry estimates of subscribership.  |
| IXCs/LECs,CAPs, Other Service Providers .....  | Based on actual FY 1996 interstate revenues associated with contributions to the Telecommunications Relay System (TRS) Fund, adjusted to take into consideration FY 1997 revenue growth in this industry as estimated by the Common Carrier Bureau. |
| Earth Stations .....   | Based on actual FY 1996 payment units.  |
| Space Stations & LEOs .....  | Based on International Bureau licensee data bases.  |
| International Bearer Circuits .....  | Based on International Bureau estimate.   |
| International HF Broadcast Stations, International Public Fixed Radio Service.   | Based on actual FY 1996 payment units.  |

## Attachment C—Calculation of Revenue Requirements

| Fee category  | FY 1997 payment units | × | FY 1996 fee | × | Payment years | = | Computed FY 1997 revenue requirement | Pro-rated revenue requirement** |
|---|-----------------------|---|-------------|---|---------------|---|--------------------------------------|---------------------------------|
| LM (220 MHz, ≤470 MHz-Base, SMRS) .....             | 14,175                |   | 7           |   | 5             |   | 496,125                              | 550,996                         |
| Private Microwave .....                             | 5,350                 |   | 7           |   | 10            |   | 374,500                              | 415,920                         |
| IVDS .....  | 0                     |   | 7           |   | 5             |   | 0                                    | 0                               |
| Marine (Ship) .....                                 | 19,400                |   | 3           |   | 10            |   | 582,000                              | 646,369                         |
| GMRS/Other LM .....                                 | 82,900                |   | 3           |   | 5             |   | 1,243,500                            | 1,381,031                       |
| Aviation (Aircraft) .....                           | 2,120                 |   | 3           |   | 10            |   | 63,600                               | 70,634                          |
| Marine (Coast) .....                                | 2,400                 |   | 3           |   | 5             |   | 36,000                               | 39,982                          |
| Aviation (Ground) .....                             | 2,760                 |   | 3           |   | 5             |   | 41,400                               | 45,979                          |
| Amateur Vanity Call Signs .....                     | 10,000                |   | 3           |   | 10            |   | 300,000                              | 333,180                         |
| AM Class A .....                                    | 75                    |   | 1,250       |   | 1             |   | 93,750                               | 104,119                         |
| AM Class B .....                                    | 1,717                 |   | 690         |   | 1             |   | 1,184,730                            | 1,315,761                       |
| AM Class C .....                                    | 1,013                 |   | 280         |   | 1             |   | 283,640                              | 315,011                         |
| AM Class D .....                                    | 2,016                 |   | 345         |   | 1             |   | 695,520                              | 772,445                         |
| AM Construction Permits .....                       | 38                    |   | 140         |   | 1             |   | 5,320                                | 5,908                           |
| FM Classes C, C1, C2, B .....                       | 2,609                 |   | 1,250       |   | 1             |   | 3,261,250                            | 3,621,944                       |
| FM Classes A, B1, C3 .....                          | 2,762                 |   | 830         |   | 1             |   | 2,292,460                            | 2,546,006                       |
| FM Construction Permits .....                       | 307                   |   | 690         |   | 1             |   | 211,830                              | 235,258                         |
| Satellite TV .....                                  | 101                   |   | 690         |   | 1             |   | 69,690                               | 77,398                          |
| Satellite TV Construction Permit .....              | 7                     |   | 250         |   | 1             |   | 1,750                                | 1,944                           |
| VHF Markets 1-10 .....                              | 43                    |   | 32,000      |   | 1             |   | 1,376,000                            | 1,528,186                       |
| VHF Markets 11-25 .....                             | 64                    |   | 26,000      |   | 1             |   | 1,664,000                            | 1,848,038                       |
| VHF Markets 26-50 .....                             | 78                    |   | 17,000      |   | 1             |   | 1,326,000                            | 1,472,656                       |
| VHF Markets 51-100 .....                            | 137                   |   | 9,000       |   | 1             |   | 1,233,000                            | 1,369,370                       |
| VHF Remaining Markets .....                         | 225                   |   | 2,500       |   | 1             |   | 562,500                              | 624,713                         |
| VHF Construction Permits .....                      | 5                     |   | 5,550       |   | 1             |   | 27,750                               | 30,819                          |
| UHF Markets 1-10 .....                              | 89                    |   | 25,000      |   | 1             |   | 2,225,000                            | 2,471,085                       |
| UHF Markets 11-25 .....                             | 86                    |   | 20,000      |   | 1             |   | 1,720,000                            | 1,910,232                       |
| UHF Markets 26-50 .....                             | 106                   |   | 13,000      |   | 1             |   | 1,378,000                            | 1,530,407                       |
| UHF Markets 51-100 .....                            | 163                   |   | 7,000       |   | 1             |   | 1,141,000                            | 1,267,195                       |
| UHF Remaining Markets .....                         | 165                   |   | 2,000       |   | 1             |   | 330,000                              | 366,498                         |
| UHF Construction Permits .....                      | 50                    |   | 4,425       |   | 1             |   | 221,250                              | 245,720                         |
| Auxiliaries .....                                   | 20,000                |   | 35          |   | 1             |   | 700,000                              | 777,420                         |
| International HF Broadcast .....                    | 6                     |   | 280         |   | 1             |   | 1,680                                | 1,866                           |
| LPTV/Translators/Boosters .....                     | 2,200                 |   | 190         |   | 1             |   | 418,000                              | 464,231                         |
| CARS .....  | 1,640                 |   | 325         |   | 1             |   | 533,000                              | 591,950                         |
| Cable Systems .....                                 | 65,000,000            |   | 0.55        |   | 1             |   | 35,750,000                           | 39,703,950                      |
| IXC, LECs, CAPS, Others .....                       | 59,685,000,000        |   | 0.00098     |   | 1             |   | 58,491,300                           | 64,960,438                      |
| CMRS Mobile Services (Cellular/Public Mobile) ..... | 47,300,000            |   | 0.17        |   | 1             |   | 8,041,000                            | 8,930,335                       |
| CMRS One-Way Paging .....                           | 40,850,000            |   | 0.02        |   | 1             |   | 817,000                              | 907,360                         |
| Domestic Public Fixed/Commercial Microwave .....    | 18,845                |   | 155         |   | 1             |   | 2,920,975                            | 3,244,035                       |
| MDS/MMDS .....                                      | 1,144                 |   | 155         |   | 1             |   | 177,320                              | 196,932                         |

| Fee category                            | FY 1997 payment units | × | FY 1996 fee | × | Payment years | = | Computed FY 1997 revenue requirement | Pro-rated revenue requirement ** |
|---|-----------------------|---|-------------|---|---------------|---|--------------------------------------|----------------------------------|
| International Circuits .....            | 164,000               |   | 4           |   | 1             |   | 656,000                              | 728,554                          |
| International Public Fixed .....        | 15                    |   | 225         |   | 1             |   | 3,375                                | 3,748                            |
| Earth Stations .....                    | 2,500                 |   | 370         |   | 1             |   | 925,000                              | 1,027,305                        |
| Space Stations (Geosynchronous) .....   | 41                    |   | 70,575      |   | 1             |   | 2,893,575                            | 3,213,604                        |
| Space Stations (Low Earth Orbit) .....  | 1                     |   | 97,725      |   | 1             |   | 97,725                               | 108,533                          |
| INTELSAT/INMARSAT Signatory .....       | 2                     |   | 233,425     |   | 1             |   | 466,850                              | 518,484                          |
| Total Estimated Revenue Collected ..... |                       |   |             |   |               |   | 137,334,365                          | 152,523,546                      |
| Total Revenue Requirement .....         |                       |   |             |   |               |   | 152,523,000                          | 152,523,000                      |
| Difference .....                        |                       |   |             |   |               |   | (15,188,635)                         | 546                              |

\*\* 1.1106 factor applied

## Attachment D—Calculation of Regulatory Costs

| Fee Category   | Actual FY 1996 regulatory costs | Overhead & other indirect pro rated | Total costs with overhead & other indirect pro rated | Total costs pro-rated to \$152 million ** | Adjusted pro-rated costs *** |
|--|---------------------------------|-------------------------------------|--|---|------------------------------|
| LM (220 MHz, >470 MHz—Base, SMRS) .....              | 536,985                         | 210,246                             | 747,231  | 792,718                                   | 792,718                      |
| Private Microwave .....                              | 897,318                         | 351,327                             | 1,248,645  | 1,324,655                                 | 1,324,655                    |
| IVDS .....   | 319,930                         | 125,262                             | 445,192  | 472,293                                   | 472,293                      |
| Marine (Ship) .....                                  | 4,010,683                       | 1,570,303                           | 5,580,986  | 5,920,722                                 | 5,920,722                    |
| GMRS/Other LM .....                                  | 4,534,058                       | 1,775,220                           | 6,309,278  | 6,693,348                                 | 6,693,348                    |
| Aviation (Aircraft) .....                            | 633,302                         | 247,957                             | 881,259  | 934,905                                   | 934,905                      |
| Marine (Coast) .....                                 | 495,912                         | 194,164                             | 690,077  | 732,084                                   | 732,084                      |
| Aviation (Ground) .....                              | 322,995                         | 126,462                             | 449,457  | 476,817                                   | 476,817                      |
| Amateur Vanity Call Signs .....                      | 166,171                         | 65,061                              | 231,232  | 245,308                                   | 245,308                      |
| AM Radio .....                                       | 3,107,681                       | 1,216,750                           | 4,324,431  | 4,587,676                                 | .....                        |
| AM Class A .....                                     |                                 |                                     |  |   | 189,930                      |
| AM Class B .....                                     |                                 |                                     |  |   | 2,401,649                    |
| AM Class C .....                                     |                                 |                                     |  |   | 574,836                      |
| AM Class D .....                                     |                                 |                                     |  |   | 1,409,793                    |
| AM Construction Permits .....                        |                                 |                                     |  |   | 11,010                       |
| FM Radio .....                                       | 5,734,251                       | 2,245,131                           | 7,979,382  | 8,465,118                                 | .....                        |
| FM Classes C, C1, C2, B .....                        |                                 |                                     |  |   | 4,787,871                    |
| FM Classes A, B1, C3 .....                           |                                 |                                     |  |   | 3,365,731                    |
| FM Construction Permits .....                        |                                 |                                     |  |   | 310,670                      |
| Satellite TV .....                                   |                                 |                                     |  |   | 97,164                       |
| Satellite TV Construction Permit .....               |                                 |                                     |  |   | 2,440                        |
| VHF Television .....                                 | 3,660,252                       | 1,433,099                           | 5,093,351  | 5,403,403                                 | .....                        |
| VHF Markets 1–10 .....                               |                                 |                                     |  |   | 1,187,582                    |
| VHF Markets 11–25 .....                              |                                 |                                     |  |   | 1,436,145                    |
| VHF Markets 26–50 .....                              |                                 |                                     |  |   | 1,144,429                    |
| VHF Markets 51–100 .....                             |                                 |                                     |  |   | 1,064,163                    |
| VHF Remaining Markets .....                          |                                 |                                     |  |   | 485,476                      |
| VHF Construction Permits .....                       |                                 |                                     |  |   | 23,950                       |
| UHF Television .....                                 | 2,549,806                       | 998,326                             | 3,548,132  | 3,764,121                                 | .....                        |
| UHF Markets 1–10 .....                               |                                 |                                     |  |   | 1,181,817                    |
| UHF Markets 11–25 .....                              |                                 |                                     |  |   | 913,584                      |
| UHF Markets 26–50 .....                              |                                 |                                     |  |   | 731,930                      |
| UHF Markets 51–100 .....                             |                                 |                                     |  |   | 606,046                      |
| UHF Remaining Markets .....                          |                                 |                                     |  |   | 175,281                      |
| UHF Construction Permits .....                       |                                 |                                     |  |   | 117,518                      |
| Auxiliaries .....                                    | 242,897                         | 95,1023                             | 37,9993  | 58,574                                    | 358,574                      |
| International HF Broadcast .....                     | 211,016                         | 82,619                              | 293,635  | 311,510                                   | 433,299                      |
| LPTV/Translators/Boosters .....                      | 258,297                         | 101,131                             | 359,427  | 381,307                                   | 380,729                      |
| CARS .....   | 56,147                          | 21,983                              | 78,131   | 82,887                                    | 82,761                       |
| Cable Systems .....                                  | 18,871,818                      | 7,388,882                           | 26,260,700   | 27,859,291                                | 27,859,291                   |
| IXC, LECs, CAPS, Others .....                        | 37,118,528                      | 14,533,016                          | 51,651,544   | 54,795,774                                | 54,795,774                   |
| CMRS Mobile Services (Cellular/Public Mobile)* ..... | 8,507,532                       | 3,330,954                           | 11,838,486   | 12,559,141                                | 12,559,141                   |
| CMRS One-Way Paging .....                            | 649,651                         | 254,358                             | 904,009  | 959,039                                   | 959,039                      |
| Domestic Public Fixed/Commercial Microwave .....     | 61,900                          | 24,236                              | 86,136   | 91,379                                    | 91,379                       |
| MDS/MMDS .....                                       | 798,729                         | 312,726                             | 1,111,455  | 1,179,114                                 | 1,179,114                    |
| International Circuits .....                         | 4,766,610                       | 1,866,270                           | 6,632,880  | 7,036,649                                 | 3,928,584                    |
| International Public Fixed .....                     | 22,621                          | 8,857                               | 31,478   | 33,394                                    | 101,103                      |
| Earth Stations .....                                 | 176,173                         | 68,977                              | 245,150  | 260,074                                   | 1,415,445                    |
| Space Stations (Geosynchronous) .....                | 4,595,562                       | 1,799,300                           | 6,394,862  | 6,784,142                                 | 5,055,163                    |
| Space Stations (Low Earth Orbit) .....               | 4,451                           | 1,743                               | 6,194  | 6,571                                     | 2,412,035                    |
| INTELSAT/INMARSAT Signatory .....                    | 7,441                           | 2,914                               | 10,355   | 10,985                                    | 1,097,692                    |
| Overhead & Other Indirect Costs .....                | 40,452,376                      |                                     |  |   |                              |

| Fee Category                    | Actual FY 1996<br>regulatory costs | Overhead &<br>other indirect<br>pro rated | Total costs with<br>overhead &<br>other indirect<br>pro rated | Total costs<br>pro-rated to<br>\$152 million** | Adjusted pro-<br>rated costs *** |
|---------------------------------|------------------------------------|---|---|--|----------------------------------|
| Total .....                     | 143,771,096                        | 40,452,376                                | 143,771,096   | 152,523,000                                    | 152,520,988                      |
| Total Revenue Requirement ..... | 152,523,000                        | .....                                     | 152,523,000   | 152,523,000                                    | 152,523,000                      |
| Difference .....                | (8,751,904)                        | .....                                     | (8,751,904)   | 0  | (2,012)                          |

\* CMRS actual FY 1996 regulatory costs have been reduced \$149,233 to exclude amounts inadvertently included in the NPRM.

\*\* 1.060873875 factor applied

\*\*\* The pro rated costs shown in the previous column needed to be adjusted to accurately reflect full-year costs attributable to each international fee category. This was necessary because certain cost accounting fee codes associated with international activities were utilized for only a small portion of FY 1996. This resulted in a skewed allocation of costs. Actual activity FTEs were utilized to make this adjustment. In making these adjustments to international fee costs, overall costs attributable to international activities did not change. Additionally, adjustments were made in this column to sub-allocate actual TV and radio costs to markets and station class, respectively. This was accomplished on a proportional basis by the same ratios between the markets and classes as those which exist between the pro-rated revenue requirements calculated for the FY 1997 TV and radio regulatory fees.

NOTE: Columns may not add due to rounding.

## Attachment E—Calculation of FY 1997 Regulatory Fees

| Fee category  | Pro-rated revenue requirement | Adjusted activity costs | Costs vs. revenue requirement difference (percent) | Pro-rated revenue requirement plus 25% ceiling | Round 1 target revenue | Round 1 adjustable target revenue | Round 1 pro-rated target revenue** | Round 2 target revenue | Round 2 adjustable target revenue | Round 2 pro-rated target revenue** | Com-pu- ted new FY 1997 regu- latory fee | Round- ed new FY 1997 regu- latory fee | Expected FY 1997 reve- nue |
|---|-------------------------------|-------------------------|--|--|------------------------|-----------------------------------|------------------------------------|------------------------|-----------------------------------|------------------------------------|--|--|----------------------------|
| LM (220 MHz, >470 MHz-Base, SMRS) .....             | 550,996                       | 792,718                 | 43.87  | 688,745  | 688,745                | .....                             | 688,745                            | 688,745                | .....                             | 688,745                            | 10                                       | 10                                     | 708,750                    |
| Private Microwave .....                             | 415,920                       | 1,324,655               | 218.49   | 519,900  | 519,900                | .....                             | 519,900                            | 519,900                | .....                             | 519,900                            | 10                                       | 10                                     | 536,000                    |
| IVDS .....  | 0                             | 472,293                 | .....  | 0  | 0                      | .....                             | 0                                  | 0                      | .....                             | 0                                  | .....                                    | .....                                  | .....                      |
| Marine (Ship) .....                                 | 646,369                       | 5,920,722               | 816.00   | 807,961  | 807,961                | .....                             | 807,961                            | 807,961                | .....                             | 807,961                            | 4  | 5                                      | 970,000                    |
| GNRS/Other LM .....                                 | 1,381,031                     | 6,693,348               | 384.66   | 1,726,289                                      | 1,726,289              | .....                             | 1,726,289                          | 1,726,289              | .....                             | 1,726,289                          | 4  | 5                                      | 2,072,500                  |
| Aviation (Aircraft) .....                           | 70,634                        | 934,905                 | 88.293   | 88,293   | 88,293                 | .....                             | 88,293                             | 88,293                 | .....                             | 88,293                             | 4  | 5                                      | 106,000                    |
| Marine (Coast) .....                                | 39,982                        | 732,084                 | 1731.03  | 49,978   | 49,978                 | .....                             | 49,978                             | 49,978                 | .....                             | 49,978                             | 4  | 5                                      | 60,000                     |
| Aviation (Ground) .....                             | 45,979                        | 476,817                 | 937.03   | 57,474   | 57,474                 | .....                             | 57,474                             | 57,474                 | .....                             | 57,474                             | 4  | 5                                      | 69,000                     |
| Amateur Vanity Call Signs .....                     | 333,180                       | 245,308                 | -26.37   | 416,475  | 245,308                | 245,308                           | 310,879                            | 310,879                | 310,879                           | 311,096                            | 3  | 5                                      | 500,000                    |
| AM Class A .....                                    | 104,119                       | 189,930                 | 82.42  | 130,149  | 130,149                | 130,149                           | 130,149                            | 130,149                | 130,149                           | 130,149                            | 1,735                                    | 1,725                                  | 129,375                    |
| AM Class B .....                                    | 1,315,761                     | 2,401,649               | 82.53  | 1,644,701                                      | 1,644,701              | 1,644,701                         | 1,644,701                          | 1,644,701              | 1,644,701                         | 1,644,701                          | 958                                      | 950                                    | 1,631,150                  |
| AM Class C .....                                    | 315,011                       | 574,836                 | 82.48  | 393,764  | 393,764                | .....                             | 393,764                            | 393,764                | .....                             | 393,764                            | 389                                      | 390                                    | 395,070                    |
| AM Class D .....                                    | 772,445                       | 1,409,793               | 82.51  | 965,556  | 965,556                | .....                             | 965,556                            | 965,556                | .....                             | 965,556                            | 479                                      | 480                                    | 967,680                    |
| AM Construction Permits .....                       | 5,908                         | 11,010                  | 86.36  | 7,385  | 7,385                  | .....                             | 7,385                              | 7,385                  | .....                             | 7,385                              | 194                                      | 195                                    | 7,410                      |
| FM Classes C,C1,C2,B .....                          | 3,621,944                     | 4,787,871               | 32.19  | 4,527,430                                      | 4,527,430              | .....                             | 4,527,430                          | 4,527,430              | .....                             | 4,527,430                          | 1,735                                    | 1,725                                  | 4,500,525                  |
| FM Classes A,B1,C3 .....                            | 2,546,006                     | 3,365,731               | 32.20  | 3,182,508                                      | 3,182,508              | .....                             | 3,182,508                          | 3,182,508              | .....                             | 3,182,508                          | 1,152                                    | 1,150                                  | 3,176,300                  |
| FM Construction Permits .....                       | 235,258                       | 310,670                 | 32.06  | 294,073  | 294,073                | .....                             | 294,073                            | 294,073                | .....                             | 294,073                            | 958                                      | 950                                    | 308,750                    |
| Satellite TV .....                                  | 77,398                        | 97,164                  | 25.54  | 96,748   | 96,748                 | .....                             | 96,748                             | 96,748                 | .....                             | 96,748                             | 958                                      | 950                                    | 95,950                     |
| Satellite TV Construction Permit .....              | 1,944                         | 2,440                   | 25.51  | 2,430  | 2,430                  | .....                             | 2,430                              | 2,430                  | .....                             | 2,430                              | 347                                      | 345                                    | 2,415                      |
| VHF Markets 1-10 .....                              | 1,528,186                     | 1,187,582               | -22.29   | 1,910,233                                      | 1,187,582              | 1,187,582                         | 1,505,023                          | 1,505,023              | 1,505,023                         | 1,506,076                          | 35,025                                   | 35,025                                 | 1,618,950                  |
| VHF Markets 11-25 .....                             | 1,848,038                     | 1,436,145               | -22.29   | 2,310,048                                      | 1,436,145              | 1,436,145                         | 1,820,027                          | 1,820,027              | 1,820,027                         | 1,821,301                          | 28,458                                   | 28,458                                 | 1,416,000                  |
| VHF Markets 26-50 .....                             | 1,472,656                     | 1,144,429               | -22.29   | 1,840,820                                      | 1,144,429              | 1,144,429                         | 1,450,335                          | 1,450,335              | 1,450,335                         | 1,451,350                          | 18,607                                   | 18,600                                 | 1,719,900                  |
| VHF Markets 51-100 .....                            | 1,369,370                     | 1,064,163               | -22.29   | 1,711,713                                      | 1,064,163              | 1,064,163                         | 1,348,614                          | 1,348,614              | 1,348,614                         | 1,349,558                          | 9,851                                    | 9,850                                  | 1,253,550                  |
| VHF Remaining Markets .....                         | 624,713                       | 485,476                 | -22.29   | 780,891  | 485,476                | 485,476                           | 615,244                            | 615,244                | 615,244                           | 615,674                            | 2,736                                    | 2,725                                  | 630,000                    |
| VHF Construction Permits .....                      | 30,819                        | 23,950                  | -22.29   | 38,524   | 23,950                 | 23,950                            | 38,524                             | 38,524                 | .....                             | 23,950                             | 4,790                                    | 4,800                                  | 38,500                     |
| UHF Markets 1-10 .....                              | 2,471,085                     | 1,181,817               | -52.17   | 3,088,856                                      | 1,181,817              | 1,181,817                         | 1,497,717                          | 1,497,717              | 1,497,717                         | 1,498,765                          | 16,840                                   | 16,850                                 | 1,524,125                  |
| UHF Markets 11-25 .....                             | 1,910,232                     | 913,584                 | -52.17   | 2,387,790                                      | 913,584                | 913,584                           | 1,157,785                          | 1,157,785              | 1,157,785                         | 1,158,595                          | 13,472                                   | 13,475                                 | 1,126,600                  |
| UHF Markets 26-50 .....                             | 1,530,407                     | 731,930                 | -52.17   | 1,913,009                                      | 731,930                | 731,930                           | 927,575                            | 927,575                | 927,575                           | 928,224                            | 8,757                                    | 8,750                                  | 792,350                    |
| UHF Markets 51-100 .....                            | 1,267,195                     | 606,046                 | -52.17   | 1,583,994                                      | 606,046                | 606,046                           | 768,042                            | 768,042                | 768,042                           | 768,580                            | 4,715                                    | 4,725                                  | 721,275                    |
| UHF Remaining Markets .....                         | 366,498                       | 175,281                 | -52.17   | 458,123  | 175,281                | 175,281                           | 222,134                            | 222,134                | 222,134                           | 222,289                            | 1,347                                    | 1,350                                  | 301,125                    |
| UHF Construction Permits .....                      | 245,720                       | 117,518                 | -52.17   | 307,150  | 117,518                | 117,518                           | 148,931                            | 148,931                | 148,931                           | 149,035                            | 2,981                                    | 2,975                                  | 248,750                    |
| Auxiliaries .....                                   | 777,420                       | 358,574                 | -53.88   | 971,775  | 358,574                | 358,574                           | 454,421                            | 454,421                | 454,421                           | 454,739                            | 23                                       | 25                                     | 500,000                    |
| International HF Broadcast .....                    | 1,866                         | 433,299                 | 23,120.74  | 2,333  | 2,333                  | .....                             | 2,333                              | 2,333                  | .....                             | 2,333                              | 389                                      | 390                                    | 2,340                      |
| LPTV/Translators/Boosters .....                     | 464,231                       | 380,729                 | -17.99   | 580,289  | 380,729                | 380,729                           | 482,498                            | 482,498                | 482,498                           | 482,836                            | 219                                      | 220                                    | 484,000                    |
| CARS .....  | 591,950                       | 82,761                  | -86.02   | 739,938  | 82,761                 | 82,761                            | 104,883                            | 104,883                | 104,883                           | 104,956                            | 64                                       | 65                                     | 106,000                    |
| Cable Systems .....                                 | 39,703,950                    | 27,859,291              | -29.83   | 49,629,938                                     | 27,859,291             | 27,859,291                        | 35,306,079                         | 35,306,079             | 35,306,079                        | 35,330,794                         | 0.54                                     | 0.54                                   | 35,100,000                 |
| IXC, LECs, CAPS, Others .....                       | 64,960,438                    | 54,795,774              | -15.65   | 81,200,548                                     | 54,795,774             | 54,795,774                        | 69,442,684                         | 69,442,684             | 69,442,684                        | 69,491,294                         | 0.00116                                  | 0.00116                                | 69,234,600                 |
| CMRS Mobile Services (Cellular/Public Mobile) ..... | 8,930,335                     | 12,559,141              | 40.63  | 11,162,919                                     | 11,162,919             | .....                             | 11,162,919                         | 11,162,919             | .....                             | 11,162,919                         | 0.24                                     | 0.24                                   | 11,352,000                 |
| CMRS One-Way Paging .....                           | 907,360                       | 959,039                 | 5.70   | 1,134,200                                      | 959,039                | 959,039                           | 1,215,390                          | 1,215,390              | 1,215,390                         | 1,134,200                          | 0.03                                     | 0.03                                   | 1,225,500                  |
| Domestic Public Fixed/Commercial Microwave .....    | 3,244,035                     | 91,379                  | -97.18   | 4,055,044                                      | 91,379                 | 91,379                            | 115,805                            | 115,805                | 115,805                           | 115,886                            | 6  | 5                                      | 94,225                     |
| MDS/MMDS .....                                      | 196,932                       | 1,179,114               | 498.74   | 246,165  | 246,165                | .....                             | 246,165                            | 246,165                | .....                             | 246,165                            | 215                                      | 215                                    | 245,960                    |
| International Circuits .....                        | 728,554                       | 3,928,584               | 439.23   | 910,693  | 910,693                | .....                             | 910,693                            | 910,693                | .....                             | 910,693                            | 6  | 5                                      | 820,000                    |
| International Public Fixed .....                    | 3,748                         | 101,103                 | 2,597.52   | 4,685  | 4,685                  | .....                             | 4,685                              | 4,685                  | .....                             | 4,685                              | 312                                      | 310                                    | 4,650                      |
| Earth Stations .....                                | 1,027,305                     | 1,415,445               | 37.78  | 1,284,131                                      | 1,284,131              | 1,284,131                         | 1,284,131                          | 1,284,131              | 1,284,131                         | 1,284,131                          | 514                                      | 515                                    | 1,287,500                  |
| Space Stations (Geosynchronous) .....               | 3,213,604                     | 5,085,163               | 57.31  | 4,017,005                                      | 4,017,005              | .....                             | 4,017,005                          | 4,017,005              | .....                             | 4,017,005                          | 97,975                                   | 97,975                                 | 4,016,975                  |
| Space Stations (Low Earth Orbit) .....              | 108,533                       | 2,412,035               | 2,122.40   | 135,666  | 135,666                | .....                             | 135,666                            | 135,666                | .....                             | 135,666                            | 135,666                                  | 135,675                                | 135,675                    |
| INTELSAT/INMARSAT Signatory .....                   | 518,484                       | 1,097,692               | 111.71   | 648,105  | 648,105                | .....                             | 648,105                            | 648,105                | .....                             | 648,105                            | 324,053                                  | 324,050                                | 648,100                    |
| Total Estimated Revenue Collected .....             | 152,523,549                   | 152,520,988             | .....  | 190,654,436                                    | 127,435,859            | 93,840,776                        | 152,519,498                        | 152,446,480            | 117,678,673                       | 152,514,281                        | .....                                    | .....                                  | 152,885,125                |
| Total Revenue Requirement .....                     | 152,523,000                   | 152,523,000             | .....  | 152,523,000                                    | 152,523,000            | .....                             | 152,523,000                        | 152,523,000            | .....                             | 152,523,000                        | .....                                    | .....                                  | 152,523,000                |
| Difference .....                                    | 549                           | (2,012)                 | .....  | 38,131,436                                     | (25,087,142)           | .....                             | (3,502)                            | (76,520)               | .....                             | (8,719)                            | .....                                    | .....                                  | 362,125                    |

\*\*1,2673 factor applied \*\*\* 1,0007 factor applied.

## Attachment F—FY 1997 Schedule of Regulatory Fees

| Fee category   | Annual regulatory fee |
|--|-----------------------|
| PMRS (per license) (Formerly Land Mobile—Exclusive Use at 220–222 MHz, above 470 MHz, Base Station and SMRS) (47 CFR Part 90) .....  | 10                    |
| Microwave (per license) (47 CFR Part 101) .....  | 10                    |
| Interactive Video Data Service (per license) (47 CFR Part 95) .....  | 1                     |
| Marine (Ship) (per station) (47 CFR Part 80) .....   | 5                     |
| Marine (Coast) (per license) (47 CFR Part 80) .....  | 5                     |
| General Mobile Radio Service (per license) (47 CFR Part 95) .....  | 5                     |
| Land Mobile (per license) (all stations not covered by PMRS and CMRS) .....  | 5                     |
| Aviation (Aircraft) (per station) (47 CFR Part 87) .....   | 5                     |
| Aviation (Ground) (per license) (47 CFR Part 87) .....   | 5                     |
| Amateur Vanity Call Signs (per call sign) (47 CFR Part 97) .....   | 5                     |
| CMRS Mobile Services (per unit) (47 CFR Parts 20, 22, 24, 80 and 90) .....   | .24                   |
| CMRS Messaging Services (per unit) (47 CFR Parts 20, 22 and 90) .....  | .03                   |
| Multipoint Distribution Services (per call sign) (47 CFR Part 21) .....  | 215                   |
| Radio—AM and FM (47 CFR Part 73): .....  |                       |
| Group 1 .....  | 2,000                 |
| Group 2 .....  | 1,800                 |
| Group 3 .....  | 1,600                 |
| Group 4 .....  | 1,400                 |
| Group 5 .....  | 1,200                 |
| Group 6 .....  | 1,000                 |
| Group 7 .....  | 800                   |
| Group 8 .....  | 600                   |
| Group 9 .....  | 400                   |
| Group 10 .....   | 200                   |
| AM Construction Permits .....  | 195                   |
| FM Construction Permits .....  | 950                   |
| TV (47 CFR Part 73) VHF Commercial: .....  |                       |
| Markets 1–10 .....   | 35,025                |
| Markets 11–25 .....  | 28,450                |
| Markets 26–50 .....  | 18,600                |
| Markets 51–100 .....   | 9,850                 |
| Remaining Markets .....  | 2,725                 |
| Construction Permits .....   | 4,800                 |
| TV (47 CFR Part 73) UHF Commercial: .....  |                       |
| Markets 1–10 .....   | 16,850                |
| Markets 11–25 .....  | 13,475                |
| Markets 26–50 .....  | 8,750                 |
| Markets 51–100 .....   | 4,725                 |
| Remaining Markets .....  | 1,350                 |
| Construction Permits .....   | 2,975                 |
| Satellite Television Stations (All Markets) .....  | 950                   |
| Construction Permits—Satellite Television Stations .....   | 345                   |
| Low Power TV, TV/FM Translators & Boosters (47 CFR Part 74) .....  | 220                   |
| Broadcast Auxiliary (47 CFR Part 74) .....   | 25                    |
| Cable Antenna Relay Service (47 CFR Part 78) .....   | 65                    |
| Cable Television Systems (per subscriber) (47 CFR Part 76) .....   | .54                   |
| Interstate Telephone Service Providers (per revenue dollar) .....  | .00116                |
| Earth Stations (47 CFR Part 25) .....  | 515                   |
| Space Stations (per operational station in geosynchronous orbit) (47 CFR Part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR Part 100) ..... | 97,975                |
| Low Earth Orbit Satellite (per operational system) (47 CFR Part 25) .....  | 135,675               |
| International Bearer Circuits (per active 64KB circuit) .....  | 5                     |
| International Public Fixed (per call sign) (47 CFR Part 23) .....  | 310                   |
| International (HF) Broadcast (47 CFR Part 73) .....  | 390                   |

<sup>1</sup> No fee.



## Attachment G

## COMPARISON BETWEEN FY 1996 & FY 1997 PROPOSED & FINAL REGULATORY FEES

| <b>Fee Category</b>   | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1996</b> | <b>NPRM<br/>Proposed<br/>Fee<br/>FY 1997</b> | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1997</b> |
|---|--|--|--|
| PMRS (per license) (Formerly Land Mobile-Exclusive Use at 220-222 Mhz, above 470 Mhz, Base Station and SMRS) (47 CFR Part 90) | 7  | 10   | 10   |
| Microwave (per license) (47 CFR Part 101)   | 7  | 10   | 10   |
| Interactive Video Data Service (per license) (47 CFR Part 95)   | 7  | No Fee                                       | No Fee   |
| Marine (Ship) (per station) (47 CFR Part 80)  | 3  | 5  | 5  |
| Marine (Coast) (per license) (47 CFR Part 80)   | 3  | 5  | 5  |
| General Mobile Radio Service (per license) (47 CFR Part 95)   | 3  | 5  | 5  |
| Land Mobile (per license) (all stations not covered by PMRS and CMRS)   | 3  | 5  | 5  |

| <b>Fee Category</b>  | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1996</b> | <b>NPRM<br/>Proposed<br/>Fee<br/>FY 1997</b> | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1997</b> |
|--|--|--|--|
| Aviation (Aircraft) (per station) (47 CFR Part 87)   | 3  | 5  | 5  |
| Aviation (Ground) (per license) (47 CFR Part 87)   | 3  | 5  | 5  |
| Amateur Vanity Call Signs (per call sign) (47 CFR Part 97)                                 | 3  | 5  | 5  |
| CMRS Mobile Services (per unit) (47 CFR Parts 20, 22, 24, 80 and 90)                       | .17  | .24  | .24  |
| CMRS Messaging Services [formerly One Way Paging] (per unit) (47 CFR Parts 20, 22, and 90) | .02  | .03  | .03  |
| Domestic Public Fixed Radio  | 155  | See<br>Microwave                             | See<br>Microwave                                 |
| Multipoint Distribution Services (per call sign) (47 CFR Part 21)                          | 155  | 215  | 215  |
| AM Radio (47 CFR Part 73)  |  |  |  |
| Class A  | 1,250  | 1,750  | See Radio  |
| Class B  | 690  | 965  | See Radio  |
| Class C  | 280  | 390  | See Radio  |
| Class D  | 345  | 480  | See Radio  |
| Construction Permits   | 140  | 195  | 195  |
| FM Radio (47 CFR Part 73)  |  |  |  |
| Classes C, C1, C2, B   | 1,250  | 1,750  | See Radio  |
| Classes A, B1, C3  | 830  | 1,050  | See Radio  |

| <b>Fee Category</b>  | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1996</b> | <b>NPRM<br/>Proposed<br/>Fee<br/>FY 1997</b> | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1997</b> |
|--|--|--|--|
| <b>Construction Permits</b>  | <b>690</b>                                       | <b>965</b>                                   | <b>950</b>                                       |
| <b>TV (47 CFR Part 73) VHF Commercial</b>                              |  |  |  |
| <b>Markets 1-10</b>  | <b>32,000</b>                                    | <b>44,700</b>                                | <b>35,025</b>                                    |
| <b>Markets 11-25</b>   | <b>26,000</b>                                    | <b>30,500</b>                                | <b>28,450</b>                                    |
| <b>Markets 26-50</b>   | <b>17,000</b>                                    | <b>16,350</b>                                | <b>18,600</b>                                    |
| <b>Markets 51-100</b>  | <b>9,000</b>                                     | <b>4,925</b>                                 | <b>9,850</b>                                     |
| <b>Remaining Markets</b>   | <b>2,500</b>                                     | <b>835</b>                                   | <b>2,725</b>                                     |
| <b>Construction Permits</b>  | <b>5,550</b>                                     | <b>7,750</b>                                 | <b>4,800</b>                                     |
| <b>TV (47 CFR Part 73) UHF Commercial</b>                              |  |  |  |
| <b>Markets 1-10</b>  | <b>25,000</b>                                    | <b>18,875</b>                                | <b>16,850</b>                                    |
| <b>Markets 11-25</b>   | <b>20,000</b>                                    | <b>15,625</b>                                | <b>13,575</b>                                    |
| <b>Markets 26-50</b>   | <b>13,000</b>                                    | <b>8,250</b>                                 | <b>8,750</b>                                     |
| <b>Markets 51-100</b>  | <b>7,000</b>                                     | <b>2,875</b>                                 | <b>4,725</b>                                     |
| <b>Remaining Markets</b>   | <b>2,000</b>                                     | <b>815</b>                                   | <b>1,350</b>                                     |
| <b>Construction Permits</b>  | <b>4,425</b>                                     | <b>5,950</b>                                 | <b>2,975</b>                                     |
| <b>Satellite Television Stations (All Markets)</b>                     | <b>690</b>                                       | <b>975</b>                                   | <b>950</b>                                       |
| <b>Construction Permits - Satellite Television Stations</b>            | <b>250</b>                                       | <b>350</b>                                   | <b>345</b>                                       |
| <b>Low Power TV, TV/FM Translators &amp; Boosters (47 CFR Part 74)</b> | <b>190</b>                                       | <b>225</b>                                   | <b>220</b>                                       |

| <b>Fee Category</b>   | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1996</b> | <b>NPRM<br/>Proposed<br/>Fee<br/>FY 1997</b> | <b>Annual<br/>Regulatory<br/>Fee<br/>FY 1997</b> |
|---|--|--|--|
| Broadcast Auxiliary (47 CFR Part 74)  | 35   | 25   | 25   |
| Cable Antenna Relay Service (47 CFR Part 78)  | 325  | 65   | 65   |
| Earth Stations (47 CFR Part 25)   | 370  | 515  | 515  |
| Cable Television Systems (per subscriber) (47 CFR Part 76)  | .55  | .55  | .54  |
| Interstate Telephone Service Providers (per revenue dollar)   | .00098   | .00119                                       | .00116   |
| Space Stations (per operational station in geosynchronous orbit) (47 CFR Part 25) also includes Direct Broadcast Satellite Service (per operational station) ( 47 CFR Part 100) | 70,575<br>70,575                                 | 98,575<br>98,575                             | 97,975<br>97,975                                 |
| Low Earth Orbit Satellite (per operational system) (47 CFR Part 25)   | 97,725   | 136,500                                      | 135,675  |
| INMARSAT/INTELSAT Signatory (per signatory)   | 233,425  | 326,025                                      | No Fee   |
| International Bearer Circuits (per active 64KB circuit)   | 4  | 5  | 5  |
| International Public Fixed (per call sign) (47 CFR Part 23)   | 225  | 315  | 310  |
| International (HF) Broadcast (47 CFR Part 73)   | 280  | 390  | 390  |
| Radio [AM & FM] (47 CFR Part 73)  |  |  |  |
| Group 1   |  |  | 2,000  |
| Group 2   |  |  | 1,800  |
| Group 3   |  |  | 1,600  |
| Group 4   |  |  | 1,400  |

| Fee Category | Annual<br>Regulatory<br>Fee<br>FY 1996 | NPRM<br>Proposed<br>Fee<br>FY 1997 | Annual<br>Regulatory<br>Fee<br>FY 1997 |
|--------------|--|------------------------------------|--|
| Group 5      |  |                                    | 1,200                                  |
| Group 6      |  |                                    | 1,000                                  |
| Group 7      |  |                                    | 800                                    |
| Group 8      |  |                                    | 600                                    |
| Group 9      |  |                                    | 400                                    |
| Group 10     |  |                                    | 200                                    |

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**Attachment H—Detailed Guidance on Who Must Pay Regulatory Fees**

1. The guidelines below provide an explanation of regulatory fee categories established by the Schedule of Regulatory Fees in section 9 (g) of the Communications Act, 47 U.S.C. 159(g) as modified in the instant Report and Order. Where regulatory fee categories need interpretation or clarification, we have relied on the legislative history of section 9, our own experience in establishing and regulating the Schedule of Regulatory Fees for Fiscal Years (FY) 1994, 1995, and 1996 and the services subject to the fee schedule, and the comments of the parties in our proceeding to adopt fees for FY 1997. The categories and amounts set out in the schedule have been modified to reflect changes in the number of payment units, additions and changes in the services subject to the fee requirement and the benefits derived from the Commission's regulatory activities, and to simplify the structure of the schedule. The schedule may be similarly modified or adjusted in future years to reflect changes in the Commission's budget and in the services regulated by the Commission. See 47 U.S.C. 159(b) (2), (3).

2. Exemptions. Governments and nonprofit entities are exempt from paying regulatory fees and should not submit payment. A nonprofit entity may be asked to submit a current IRS Determination Letter documenting that it is exempt from taxes under Section 501(c)(3) of the Internal Revenue Code or the certification of a governmental

authority attesting to its nonprofit status. The governmental exemption applies even where the government-owned or community-owned facility is in competition with a commercial operation. Other specific exemptions are discussed below in the descriptions of other particular service categories.

**1. Private Wireless Radio Services**

3. Two levels of statutory fees were established for the Private Wireless Radio Services—exclusive use services and shared use services. Thus, licensees who generally receive a higher quality communication channel due to exclusive or lightly shared frequency assignments will pay a higher fee than those who share marginal quality assignments. This dichotomy is consistent with the directive of Section 9, that the regulatory fees reflect the benefits provided to the licensees. See 47 U.S.C. 159(b)(1)(A). In addition, because of the generally small amount of the fees assessed against Private Wireless Radio Service licensees, applicants for new licenses and reinstatements and for renewal of existing licenses are required to pay a regulatory fee covering the entire license term, with only a percentage of all licensees paying a regulatory fee in any one year. Applications for modification or assignment of existing authorizations do not require the payment of regulatory fees. The expiration date of those authorizations will reflect only the unexpired term of the underlying license rather than a new license term.

**a. Exclusive Use Services**

4. *Private Mobile Radio Services (PMRS) (Formerly Land Mobile Services)*: Regulatees in this category include those authorized under part 90 of the Commission's Rules to provide limited access Wireless Radio service that allows high quality voice or digital communications between vehicles or to fixed stations to further the business activities of the licensee. These services, using the 220–222 MHz band and frequencies at 470 MHz and above, may be offered on a private carrier basis in the Specialized Mobile Radio Services (SMRS).<sup>150</sup> For FY 1997, PMRS licensees will pay a \$10 annual regulatory fee per license, payable for an entire five or ten year license term at the time of application for a new, renewal, or reinstatement license.<sup>151</sup> The total regulatory fee due is either \$50 for a license with a five year term or \$100 for a license with a 10 year term.

5. *Microwave Services*: These services include private and commercial microwave systems and private and commercial carrier systems authorized under part 101 of the

<sup>150</sup> This category only applies to licensees of shared-use private 220–222 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected not to change to the Commercial Mobile Radio Service (CMRS). Those who have elected to change to the CMRS are referred to paragraph 14 of this Attachment.

<sup>151</sup> Although this fee category includes licenses with ten-year terms, the estimated volume of ten-year license applications in FY 1997 is less than one-tenth of one percent and, therefore, is statistically insignificant.

Commission's Rules to provide telecommunications services between fixed points on a high quality channel of communications. Microwave systems are often used to relay data and to control railroad, pipeline, and utility equipment. Commercial systems typically are used for video or data transmission or distribution. For FY 1997, Microwave licensees will pay a \$10 annual regulatory fee per license, payable for an entire ten year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$100 for the ten year license term.

6. *Interactive Video Data Service (IVDS)*: The IVDS is a two-way, point-to-multi-point radio service allocated high quality channels of communications and authorized under part 95 of the Commission's Rules. The IVDS provides information, products, and services, and also the capability to obtain responses from subscribers in a specific service area. The IVDS is offered on a private carrier basis. The Commission does not anticipate receiving any applications in the IVDS during FY 1997. Therefore, for FY 1997, there is no regulatory fee for IVDS licensees.

#### b. Shared Use Services

7. *Marine (Ship) Service*: This service is a shipboard radio service authorized under part 80 of the Commission's Rules to provide telecommunications between watercraft or between watercraft and shore-based stations. Radio installations are required by domestic and international law for large passenger or cargo vessels. Radio equipment may be voluntarily installed on smaller vessels, such as recreational boats. The Telecommunications Act of 1996 gave the Commission the authority to license certain ship stations by rule rather than by individual license. Private boat operators sailing entirely within domestic U.S. waters and who are not otherwise required by treaty or agreement to carry a radio, are no longer required to hold a marine license, and they will not be required to pay a regulatory fee. For FY 1997, parties required to be licensed and those choosing to be licensed for Marine (Ship) Stations will pay a \$5 annual regulatory fee per station, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$50 for the ten year license term.

8. *Marine (Coast) Service*: This service includes land-based stations in the maritime services, authorized under part 80 of the Commission's Rules, to provide communications services to ships and other watercraft in coastal and inland waterways. For FY 1997, licensees of Marine (Coast) Stations will pay a \$5 annual regulatory fee per call sign, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$25 per call sign for the five-year license term.

9. *Private Land Mobile (Other) Services*: These services include Land Mobile Radio Services operating under parts 90 and 95 of the Commission's Rules. Services in this category provide one- or two-way communications between vehicles, persons or fixed stations on a shared basis and

include radiolocation services, industrial radio services, and land transportation radio services. For FY 1997, licensees of services in this category will pay a \$5 annual regulatory fee per call sign, payable for an entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$25 for the five-year license term.

10. *Aviation (Aircraft) Service*: These services include stations authorized to provide communications between aircraft and between aircraft and ground stations and include frequencies used to communicate with air traffic control facilities pursuant to part 87 of the Commission's Rules. The Telecommunications Act of 1996 gave the Commission the authority to license certain aircraft radio stations by rule rather than by individual license. Private aircraft operators flying entirely within domestic U.S. airspace and who are not otherwise required by treaty or agreement to carry a radio are no longer required to hold an aircraft license, and they will not be required to pay a regulatory fee. For FY 1997, parties required to be licensed and those choosing to be licensed for Aviation (Aircraft) Stations will pay a \$5 annual regulatory fee per station, payable for the entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$50 per station for the ten-year license term.

11. *Aviation (Ground) Service*: This service includes stations authorized to provide ground-based communications to aircraft for weather or landing information, or for logistical support pursuant to part 87 of the Commission's Rules. Certain ground-based stations which only serve itinerant traffic, i.e., possess no actual units on which to assess a fee, are exempt from payment of regulatory fees. For FY 1997, licensees of Aviation (Ground) Stations will pay a \$5 annual regulatory fee per license, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee is \$25 per call sign for the five-year license term.

12. *General Mobile Radio Service (GMRS)*: These services include Land Mobile Radio licensees providing personal and limited business communications between vehicles or to fixed stations for short-range, two-way communications pursuant to part 95 of the Commission's Rules. For FY 1997, GMRS licensees will pay a \$5 annual regulatory fee per license, payable for an entire five-year license term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is \$25 per license for the five-year license term.

#### c. Amateur Radio Vanity Call Signs

13. *Amateur Vanity Call Signs*: This fee covers voluntary requests for specific call signs in the Amateur Radio Service authorized under part 97 of the Commission's Rules. For FY 1997, applicants for Amateur Vanity Call-Signs will pay a \$5 annual regulatory fee per call sign, payable for an entire ten-year license term at the time of application for a vanity call sign. The total

regulatory fee due would be \$50 per license for the ten-year license term.<sup>152</sup>

#### d. Commercial Wireless Radio Services

14. *Commercial Mobile Radio Services (CMRS) Mobile Services*: The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing broadband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Mobile Services include certain licensees which formerly were licensed as part of the Private Radio Services (e.g., Specialized Mobile Radio Services) and others formerly licensed as part of the Common Carrier Radio Services (e.g., Public Mobile Services and Cellular Radio Service). While specific rules pertaining to each covered service remain in separate parts 22, 24, 80 and 90, general rules for CMRS are contained in part 20. CMRS Mobile Services will include: Specialized Mobile Radio Services (part 90);<sup>153</sup> Personal Communications Services (part 24), Public Coast Stations (part 80); Public Mobile Radio (Cellular, 800 MHz Air-Ground Radiotelephone, and Offshore Radio Services) (part 22). Each licensee in this group will pay an annual regulatory fee for each mobile or cellular unit (mobile or cellular call sign or telephone number), assigned to its customers, including resellers of its services. For FY 1997, the regulatory fee is \$24 per unit.

15. *Commercial Mobile Radio Services (CMRS) Messaging Services*: The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing narrowband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Messaging Services include certain licensees which formerly were licensed as part of the Private Radio Services (e.g., Private Paging, qualifying interconnected Business Radio Services, and 220-222 MHz Land Mobile Systems), licensees formerly licensed as part of the Common Carrier Radio Services (e.g., Public Mobile One-Way Paging), and licensees of Personal Communications Service (PCS) one-

<sup>152</sup> Section 9(h) exempts "amateur radio operator licenses under part 97 of the Commission's rules (47 CFR part 97)" from the requirement. However, Section 9(g)'s fee schedule explicitly includes "Amateur vanity call signs" as a category subject to the payment of a regulatory fee.

<sup>153</sup> This category does not include licensees of private shared-use 220 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected to remain non-commercial. Those who have elected not to change to the Commercial Mobile Radio Service (CMRS) are referred to paragraph 4 of this Attachment. Further, Congress provided for a three year transition period until August 10, 1996, for conversion to CMRS. See Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, Title VI section 6002(b), 107 Stat. 312,392. Therefore, licensees who had not converted to CMRS prior to December 31, 1995, are not subject to the CMRS Mobile Services fee for FY 1996.

way and two-way paging. While specific rules pertaining to each covered service remain in separate parts 22, 24 and 90, general rules for CMRS are contained in part 20. We have replaced the CMRS One-Way Paging regulatory fee category with a CMRS Messaging Services category for regulatory fee collection purposes. Each licensee in the CMRS Messaging Services will pay an annual regulatory fee for each unit (pager, telephone number, or mobile) assigned to its customers, including resellers of its services. For FY 1997, the regulatory fee is \$.03 per unit.

## 2. Mass Media Services

16. The regulatory fees for the Mass Media fee category apply to broadcast licensees and permittees. Noncommercial Educational Broadcasters are exempt from regulatory fees.

### a. Commercial Radio

17. These categories include licensed Commercial AM (Classes A, B, C, and D) and FM (Classes A, B, B1, C, C1, C2, and C3) Radio Stations operating under part 73 of the Commission's Rules.<sup>154</sup> In response to numerous requests, we have combined class of station and grade B contour population data to formulate a schedule of radio fees which differentiate between stations based on class of station and population served. In general, higher class stations and stations in metropolitan areas will pay higher fees than lower class stations and stations located in rural areas. The specific fee that a station must pay is determined by where it ranks after weighting its fee requirement (determined by class of station) with its population. The regulatory fee classifications for Radio Stations for FY 1997 are as follows:

|                |         |
|----------------|---------|
| Group 1 .....  | \$2,000 |
| Group 2 .....  | 1,800   |
| Group 3 .....  | 1,600   |
| Group 4 .....  | 1,400   |
| Group 5 .....  | 1,200   |
| Group 6 .....  | 1,000   |
| Group 7 .....  | 800     |
| Group 8 .....  | 600     |
| Group 9 .....  | 400     |
| Group 10 ..... | 200     |

18. Licensees may determine the appropriate fee payment by referring to the list provided at Attachment K to this Report and Order. This same information will be available on the FCC's internet world wide web site (<http://www.fcc.gov>), by calling the FCC's National Call Center (1-888-225-5322), and will be included in the Public Notices mailed to each licensee.

### b. Construction Permits—Commercial AM Radio

19. This category includes holders of permits to construct new Commercial AM Stations. For FY 1997, permittees will pay a fee of \$195 for each permit held. Upon issuance of an operating license, this fee

would no longer be applicable and licensees would be required to pay the applicable fee for the designated class of the station.

### c. Construction Permits—Commercial FM Radio

20. This category includes holders of permits to construct new Commercial FM Stations. For FY 1997, permittees will pay a fee of \$950 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a regulatory fee based upon the designated class of the station.

### d. Commercial Television Stations

21. This category includes licensed Commercial VHF and UHF Television Stations covered under part 73 of the Commission's Rules, except commonly owned Television Satellite Stations, addressed separately below. Markets are Nielsen Designated Market Areas (DMA) as listed in the Television & Cable Factbook, Stations Volume No. 65, 1997 Edition, Warren Publishing, Inc. The fees for each category of station are as follows:

|                             |          |
|-----------------------------|----------|
| VHF Markets 1-10 .....      | \$35,025 |
| VHF Markets 11-25 .....     | 28,450   |
| VHF Markets 26-50 .....     | 18,600   |
| VHF Markets 51-100 .....    | 9,850    |
| VHF Remaining Markets ..... | 2,725    |
| UHF Markets 1-10 .....      | 16,850   |
| UHF Markets 11-25 .....     | 13,475   |
| UHF Markets 26-50 .....     | 8,750    |
| UHF Markets 51-100 .....    | 4,725    |
| UHF Remaining Markets ..... | 1,350    |

### e. Commercial Television Satellite Stations

22. Commonly owned Television Satellite Stations in any market (authorized pursuant to Note 5 of § 73.3555 of the Commission's Rules) that retransmit programming of the primary station are assessed a fee of \$950 annually. Those stations designated as Television Satellite Stations in the 1997 Edition of the Television and Cable Factbook are subject to the fee applicable to Television Satellite Stations. All other television licensees are subject to the regulatory fee payment required for their class of station and market.

### f. Construction Permits—Commercial VHF Television Stations

23. This category includes holders of permits to construct new Commercial VHF Television Stations. For FY 1997, VHF permittees will pay an annual regulatory fee of \$4,800. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

### g. Construction Permits—Commercial UHF Television Stations

24. This category includes holders of permits to construct new UHF Television Stations. For FY 1997, UHF Television permittees will pay an annual regulatory fee of \$2,975. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

### h. Construction Permits—Satellite Television Stations

25. The fee for UHF and VHF Television Satellite Station construction permits for FY 1997 is \$345. An individual regulatory fee payment is to be made for each Television Satellite Station construction permit held.

### i. Low Power Television, FM Translator and Booster Stations, TV Translator and Booster Stations

26. This category includes Low Power UHF/VHF Television stations operating under part 74 of the Commission's Rules with a transmitter power output limited to 1 kW for a UHF facility and, generally, 0.01 kW for a VHF facility. Low Power Television (LPTV) stations may retransmit the programs and signals of a TV Broadcast Station, originate programming, and/or operate as a subscription service. This category also includes translators and boosters operating under part 74 which rebroadcast the signals of full service stations on a frequency different from the parent station (translators) or on the same frequency (boosters). The stations in this category are secondary to full service stations in terms of frequency priority. We have also received requests for waivers of the regulatory fees from operators of community based Translators. These Translators are generally not affiliated with commercial broadcasters, are nonprofit, non-profitable, or only marginally profitable, serve small rural communities, and are supported financially by the residents of the communities served. We are aware of the difficulties these Translators have in paying even minimal regulatory fees, and we have addressed those concerns in the ruling on reconsideration of the FY 1994 Report and Order. Community based Translators are exempt from regulatory fees. For FY 1997, licensees in low power television, FM translator and booster, and TV translator and booster category will pay a regulatory fee of \$220 for each license held.

### j. Broadcast Auxiliary Stations

27. This category includes licensees of remote pickup stations (either base or mobile) and associated accessory equipment authorized pursuant to a single license, Aural Broadcast Auxiliary Stations (Studio Transmitter Link and Inter-City Relay) and Television Broadcast Auxiliary Stations (TV Pickup, TV Studio Transmitter Link, TV Relay) authorized under part 74 of the Commission's Rules. Auxiliary Stations are generally associated with a particular television or radio broadcast station or cable television system. This category does not include translators and boosters (see paragraph 26 *infra*). For FY 1997, licensees of Commercial Auxiliary Stations will pay a \$25 annual regulatory fee on a per call sign basis.

### k. Multipoint Distribution Service

28. This category includes Multipoint Distribution Service (MDS), and Multichannel Multipoint Distribution Service (MMDS), authorized under part 21 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. For FY 1997, MDS

<sup>154</sup> The Commission acknowledges that certain stations operating in Puerto Rico and Guam have been assigned a higher level station class than would be expected if the station were located on the mainland. Although this results in a higher regulatory fee, we believe that the increased interference protection associated with the higher station class is necessary and justifies the fee.



and MMDS stations will pay an annual regulatory fee of \$215 per call sign.

### 3. Cable Services

#### a. Cable Television Systems

29. This category includes operators of Cable Television Systems, providing or distributing programming or other services to subscribers under part 76 of the Commission's Rules. For FY 1997, Cable Systems will pay a regulatory fee of \$.54 per subscriber.<sup>155</sup> Payments for Cable Systems are to be made on a per subscriber basis as of December 31, 1996. Cable Systems should determine their subscriber numbers by calculating the number of single family dwellings, the number of individual households in multiple dwelling units, e.g., apartments, condominiums, mobile home parks, etc., paying at the basic subscriber rate, the number of bulk rate customers and the number of courtesy or fee customers. In order to determine the number of bulk rate subscribers, a system should divide its bulk rate charge by the annual subscription rate for individual households. See FY 1994 Report and Order, Appendix B at Paragraph 31.

#### b. Cable Antenna Relay Service

30. This category includes Cable Antenna Relay Service (CARS) stations used to transmit television and related audio signals, signals of AM and FM Broadcast Stations, and cablecasting from the point of reception

to a terminal point from where the signals are distributed to the public by a Cable Television System. For FY 1997, licensees will pay an annual regulatory fee of \$65 per CARS license.

### 4. Common Carrier Services

#### a. Commercial Microwave (Domestic Public Fixed Radio Service)

31. This category includes licensees in the Point-to-Point Microwave Radio Service, Local Television Transmission Radio Service, and Digital Electronic Message Service, authorized under part 101 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. These services are now included in the Microwave category (see paragraph 5 *infra*).

#### b. Interstate Telephone Service Providers

32. This category includes Inter-Exchange Carriers (IXCs), Local Exchange Carriers (LECs), Competitive Access Providers (CAPs), domestic and international carriers that provide operator services, Wide Area Telephone Service (WATS), 800, 900, telex, telegraph, video, other switched, interstate access, special access, and alternative access services either by using their own facilities or by reselling facilities and services of other carriers or telephone carrier holding companies, and companies other than traditional local telephone companies that provide interstate access services to long

distance carriers and other customers. This category also includes pre-paid calling card providers. These common carriers, including resellers, must submit fee payments based upon their proportionate share of gross interstate revenues using the methodology that we have adopted for calculating contributions to the TRS fund. See Telecommunications Relay Services, 8 FCC Rcd 5300 (1993), 58 FR 39671 (July 26, 1993). In order to avoid imposing any double payment burden on resellers, we will permit carriers to subtract from their gross interstate revenues, as reported to NECA in connection with their TRS contribution, any payments made to underlying common carriers for telecommunications facilities and services, including payments for interstate access service, that are sold in the form of interstate service. For this purpose, resold telecommunications facilities and services are only intended to include payments that correspond to revenues that will be included by another carrier reporting interstate revenue. For FY 1997, carriers must multiply their adjusted gross revenue figure (gross revenue reduced by the total amount of their payments to underlying common carriers for telecommunications facilities or services) by the factor 0.00116 to determine the appropriate fee for this category of service. Ratepayers may want to use the following worksheet to determine their fee payment:

|   | Total | Interstate |
|---|-------|------------|
| (1) Revenue reported in TRS Fund worksheets .....                                 | ..... | .....      |
| (2) Less: Access charges paid .....   | ..... | .....      |
| (3) Less: Other telecommunications facilities and services taken for resale ..... | ..... | .....      |
| (4) Adjusted revenues (1)minus(2)minus(3) .....                                   | ..... | .....      |
| (5) Fee factor .....  | ..... | 0.00116    |
| (6) Fee due (4)times(5) .....   | ..... | .....      |

### 5. International Services

#### a. Earth Stations

33. Very Small Aperture Terminal (VSAT) Earth Stations, equivalent C-Band Earth Stations and antennas, and earth station systems comprised of very small aperture terminals operate in the 12 and 14 GHz bands and provide a variety of communications services to other stations in the network. VSAT systems consist of a network of technically-identical small Fixed-Satellite Earth Stations which often include a larger hub station. VSAT Earth Stations and C-Band Equivalent Earth Stations are authorized pursuant to part 25 of the Commission's Rules. Mobile Satellite Earth Stations, operating pursuant to part 25 of the Commission's Rules under blanket licenses for mobile antennas (transceivers), are smaller than one meter and provide voice or data communications, including position location information for mobile platforms such as cars, buses, or trucks.<sup>156</sup> Fixed-Satellite Transmit/Receive and Transmit-

Only Earth Station antennas, authorized or registered under part 25 of the Commission's Rules, are operated by private and public carriers to provide telephone, television, data, and other forms of communications. Included in this category are telemetry, tracking and control (TT&C) earth stations, and earth station uplinks. For FY 1997, licensees of VSATs, Mobile Satellite Earth Stations, and Fixed-Satellite Transmit/Receive and Transmit-Only Earth Stations will pay a fee of \$515 per authorization or registration as well as a separate fee of \$515 for each associated Hub Station.

34. Receive-only earth stations. For FY 1997, there is no regulatory fee for receive-only earth stations.

#### b. Space Stations (Geosynchronous)

35. Geosynchronous Space Stations are domestic and international satellites positioned in orbit to remain approximately fixed relative to the earth. Most are authorized under part 25 of the Commission's Rules to provide

communications between satellites and earth stations on a common carrier and/or private carrier basis. In addition, this category includes Direct Broadcast Satellite (DBS) Service which includes space stations authorized under part 100 of the Commission's rules to transmit or re-transmit signals for direct reception by the general public encompassing both individual and community reception. For FY 1997, entities authorized to operate geosynchronous space stations (including DBS satellites) will be assessed an annual regulatory fee of \$97,975 per operational station in orbit. Payment is required for any geosynchronous satellite that has been launched and tested and is authorized to provide service.

#### c. Low Earth Orbit Satellites (LEOs)

36. Low Earth Orbit Satellite Systems are space stations that orbit the earth in non geosynchronous orbit. They are authorized under part 25 of the Commission's rules to provide communications between satellites and earth stations on a common carrier and/

<sup>155</sup> Cable systems are to pay their regulatory fees on a per subscriber basis rather than per 1,000 subscribers as set forth in the statutory fee schedule. See FY 1994 Report and Order at Paragraph 100.

<sup>156</sup> Mobile earth stations are hand-held or vehicle-based units capable of operation while the operator or vehicle is in motion. In contrast, transportable units are moved to a fixed location and operate in

a stationary (fixed) mode. Both are assessed the same regulatory fee for FY 1997.

or private carrier basis. For FY 1997, entities authorized to operate Low Earth Orbit Satellite Systems will be assessed an annual regulatory fee of \$135,675 per operational system in orbit. Payment is required for any LEO System that has one or more operational satellites (launched, tested and providing service).

#### d. International Bearer Circuits

37. Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers (either domestic or international) activating the circuit in any transmission facility for the provision of service to an end user or resale carrier. Payment of the fee for bearer circuits by non-common carrier submarine cable operators is required for circuits sold on an indefeasible right of use (IRU) basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. Compare FY 1994 Report and Order at 5367. Payment of the international bearer circuit fee is also required by non-common carrier satellite operators for circuits sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. The fee is based upon active 64 Kbps circuits, or equivalent circuits. Under this formulation, 64 Kbps circuits or their equivalent will be assessed a fee. Equivalent circuits include the 64 Kbps circuit equivalent of larger bit stream circuits. For example, the 64 Kbps circuit equivalent of a 2.048 Mbps circuit is 30 64 Kbps circuits. Analog circuits such as 3 and 4 KHz circuits used for international service are also included as 64 Kbps circuits.

However, circuits derived from 64 Kbps circuits by the use of digital circuit multiplication systems are not equivalent 64 Kbps circuits. Such circuits are not subject to fees. Only the 64 Kbps circuit from which they have been derived will be subject to payment of a fee. For FY 1997, the regulatory fee is \$5.00 for each active 64 Kbps circuit or equivalent. For analog television channels we will assess fees as follows:

| Analog television channel size in MHz | No. of equivalent 64 Kbps circuits |
|---------------------------------------|------------------------------------|
| 36 .....                              | 630                                |
| 24 .....                              | 288                                |
| 18 .....                              | 240                                |

#### e. International Public Fixed

38. This fee category includes common carriers authorized under part 23 of the Commission's Rules to provide radio communications between the United States and a foreign point via microwave or HF troposcatter systems, other than satellites and satellite earth stations, but not including service between the United States and Mexico and the United States and Canada using frequencies above 72 MHz. For FY

1997, International Public Fixed Radio Service licensees will pay a \$310 annual regulatory fee per call sign.

#### f. International (HF) Broadcast

39. This category covers International Broadcast Stations licensed under part 73 of the Commission's Rules to operate on frequencies in the 5,950 KHz to 26,100 KHz range to provide service to the general public in foreign countries. For FY 1997, International HF Broadcast Stations will pay an annual regulatory fee of \$390 per station license.

### Attachment I—Description of FCC Activities

#### I. Activities That Are Not Included In Regulatory Fees

1. *Authorization of Service:* The authorization or licensing of radio stations, telecommunications equipment, and radio operators, as well as the authorization of common carrier and other services and facilities. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with authorization activities. Although Authorization of Service is described in this attachment, it is *not* one of the activities included as a feeable activity for regulatory fee purposes pursuant to Section 9(a)(1) of the Act. 47 U.S.C. § 159(a)(1).

#### II. Activities That Are Included In Regulatory Fees

2. *Policy and Rulemaking:* Formal inquiries, rulemaking proceedings to establish or amend the Commission's rules and regulations, action on petitions for rulemaking, and requests for rule interpretations or waivers; economic studies and analyses; spectrum planning, modeling, propagation-interference analyses, and allocation; and development of equipment standards. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with policy and rulemaking activities.

3. *Enforcement:* Enforcement of the Commission's rules, regulations and authorizations, including investigations, inspections, compliance monitoring, and sanctions of all types. Also includes the receipt and disposition of formal and informal complaints regarding common carrier rates and services, the review and acceptance/rejection of carrier tariffs, and the review, prescription and audit of carrier accounting practices. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with enforcement activities.

4. *Public Information Services:* The publication and dissemination of Commission decisions and actions, and related activities; public reference and library services; the duplication and dissemination of Commission records and databases; the receipt and disposition of public inquiries; consumer, small business, and public assistance; and public affairs and media relations. Includes policy direction, program

development, legal services, and executive direction, as well as support services associated with public information activities.

### Attachment J—FCC Cost Accounting Activity and Project Codes

#### Activity Codes

- 10 Authorization of Service
- 11 TeleCom Act—Authorization of Service
- 20 Policy and Rule Making
- 21 TeleCom Act—Policy and Rule Making
- 30 Enforcement
- 31 TeleCom Act—Enforcement
- 40 Public Information Services
- 41 TeleCom Act—Public Information Services
- 51 Spectrum Auction Direction & Support
- 70 Executive Direction & Support
- 80 Bureau/Office Direction & Support
- 91 Spectrum Auction—Authorization of Service
- 92 Spectrum Auction—Policy & Rule Making
- 93 Spectrum Auction—Enforcement
- 94 Spectrum Auction—Public Information Services

#### Project Codes

- N01 Land Mobile—Exclusive Use
- N02 Microwave
- N03 Interactive Video Data Service (IVDS)
- N04 Aviation (Aircraft)
- N05 Aviation (Ground)
- N06 Marine (Ship)
- N07 Marine (Coast)
- N08 General Mobile Radio Service (GMRS)
- N09 Land Mobile—Shared Use
- N10 Amateur Vanity Call Signs
- N11 Cable Antenna Relay Service (CARS)
- N12 Cable Television Systems
- N13 Domestic Public Fixed Radio
- N14 Cellular Radio
- N15 Public Mobile Radio/CMRS/two-way paging
- N16 Public Mobile Radio(one-way paging)
- N17 International Public Fixed Radio
- N18 Earth Stations
- N19 Space Stations
- N20 IXCS, LECS, and Other Providers
- N21 International Bearer Circuits
- N22 Personal Communication Services (PCS)
- N23 AM Radio
- N24 FM Radio
- N25 VHF Television
- N26 UHF Television
- N27 Broadcast Auxiliary
- N28 LPTV/Translators/Boosters
- N29 International Short Wave
- N30 Multipoint Distribution Service/MMDS
- N31 Amateur Radio
- N32 Direct Broadcast Satellite (DBS)
- N33 Commercial Radio Operators
- N34 Restricted Permits
- N35 Citizens' Band and Radio Control
- N36 Certification/Type Accept.& Approval/Notifications
- N37 Other
- N38 Low Earth Orbiting Satellites
- N39 Signatory to Inmarsat and Instelsat

#### Project Codes-Spectrum Auction Only

- N51 Cellular Unreserved
- N52 IVDS RSAs/Defaults
- N53 800 MHz SMR
- N54 PCS Narrowband

N55 PCS D, E, & F  
N56 LMDS 28 GHz  
N57 LMS (AVM)  
N58 DARS  
N59 220 MHz

**Project Codes-Reimbursable Agreements**

P01 Special Travel Initiatives  
P02 Travel Reimbursement Program—  
Section 1353  
P03 U.S. Department of Commerce  
P04 Bureau of Alcohol, Tobacco and  
Firearms  
P05 U. S. Customs Service  
P06 Office of Naval Research  
P07 VOA Computer Models  
P08 NTIS/ECAC  
P09 NTIS Tapes—Master Files  
P10 NTIS Tapes—Public Access  
P11 U.S. Coast Guard  
P12 Drug Enforcement Agency  
P13 Radio Marti  
P14 ITU Fellows  
P15 TV Marti  
P16 NTIS—Source Program  
P17 Miscellaneous Reimbursable

**Attachment K—AM/FM Fees**

**Note:** This attachment because of its size and cost is not being printed in the **Federal Register**. The information contained in this attachment is available by calling the FCC National Call Center at 1-888-225-5322 and is also available at the FCC web site (<http://www.fcc.gov>).

**Attachment L—Parties Filing Comments and Reply Comments****Parties Filing Comments on the Notice of Proposed Rule Making**

Ram Mobile Data USA Limited Partnership  
American Mobile Telecommunications  
Association, Inc.  
Paging Network, Inc.  
Personal Communications Industry  
Association  
IXC Carrier, Inc.  
Industrial Telecommunications Association,  
Inc.  
L/Q Licensee, Inc.  
National Association of Broadcasters  
Montana Broadcasters Association  
Arkansas Broadcasters Association  
Wright Broadcasting Systems, Inc.

PanAmSat Corporation  
GE American Communications, Inc.  
SBC Communications, Inc.  
Comsat Corporation  
American Radio Relay league, Inc.

**Parties Filing Comments on the Initial Regulatory Flexibility Analysis**

American Mobile Telecommunications  
Association, Inc.

**Parties Filing Reply Comments on the Notice of Proposed Rule Making**

Century Cellunet, Inc.  
Arch Communications Group, Inc.  
Personal Communications Industry  
Association  
PanAmSat Corporation  
GE American Communications, Inc.  
Hughes Communications, Inc./DIRECTV, Inc.  
(Joint)  
Columbia Communications Corporation  
S&S Communications  
Ameritech  
Missouri Broadcasters Association  
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