



PUBLIC NOTICE

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FCC ENFORCEMENT ADVISORY

FCC FORM 477 FILING REQUIREMENTS

PROVIDERS ARE REMINDED THAT THEY MUST FILE COMPLETE AND ACCURATE FORM 477 REPORTS EVERY SIX MONTHS

To promote compliance with the Commission's Form 477 filing rules, the FCC's Enforcement Bureau is issuing this Enforcement Advisory reminding all providers subject to the Form 477 filing requirement, particularly broadband providers, of the March 1, 2012 deadline for the next round of filings and providing guidance on how to file Form 477.¹ The collection of accurate broadband information is a critical tool for the Commission to meet its statutory obligations and to promote the availability of broadband to every American. Accordingly, the Commission reminds all broadband providers subject to Form 477 filing requirements of their obligations and warns that it will take appropriate enforcement action against non-compliant companies.

Who is Required to File Form 477? Four types of entities must file semi-annual Form 477 reports with the Commission: (1) facilities-based providers of broadband connections to end user locations; (2) providers of wired or fixed wireless local exchange telephone service; (3) providers of interconnected Voice over Internet Protocol service; and (4) providers of mobile telephony service.²

What Recurring Problems Have We Noticed? We have become aware that, in particular, not all facilities-based broadband providers are complying with their filing obligations. Recurring deficiencies include:

- (1) failing to file data in a timely fashion, if at all;
- (2) failing to have an official of the filing entity (rather than an agent) certify that all statements of fact contained in the Form 477 are true and correct, and failing to include the official's required contact information; and
- (3) filing incomplete or inaccurate data, including failing to geocode subscriber data into the correct Census Tract, and re-submitting the same Form 477 filings in successive reporting periods without updating the data.

¹ By this Enforcement Advisory, the FCC's Enforcement Bureau highlights certain obligations under the Commission's Form 477 filing rules. Failure to receive this notice does not absolve a provider of the obligation to meet the requirements of the Communications Act of 1934, as amended, or the Commission's rules and orders. Companies should read the full text of the relevant Form 477 filing rules at 47 C.F.R. §§ 1.7001, 43.11, as well as the corresponding instructions at FCC FORM 477 INSTRUCTIONS FOR LOCAL TELEPHONE COMPETITION AND BROADBAND REPORTING (2011) (regarding filings due March 1, 2012), available at <http://www.fcc.gov/Forms/Form477/477inst.pdf> (FCC Form 477 Instructions). We attach a list of Frequently Asked Questions to provide guidance for the most common filing concerns.

² See 47 C.F.R. §§ 1.7001, 43.11; FCC Form 477 Instructions at 5, 14-16, 19.

Broadband providers should have robust programs to collect and report the required information. The Bureau will take appropriate enforcement action when companies fail to comply with their Form 477 obligations.

What Are the Penalties that Apply? Companies are reminded that failure to comply with the Form 477 reporting requirements may subject them to monetary forfeitures of up to \$150,000 for each violation or each day of a continuing violation, up to a maximum of \$1,500,000.³ False statements or misrepresentations to the Commission may be punishable by fine or imprisonment under Title 18 of the U.S. Code.

Need More Information? For more information on how to fill out or file Form 477, please contact Ellen Burton in the Industry Analysis and Technology Division, Wireline Competition Bureau, at 202-418-0958 or ellen.burton@fcc.gov, contact 477INFO@fcc.gov by e-mail, or link to <http://transition.fcc.gov/form477/>. For further information regarding compliance and enforcement of the Form 477 filing requirements, contact William Kehoe in the Investigations and Hearings Division, Enforcement Bureau, at 202-418-7122 or william.kehoe@fcc.gov. Media inquiries should be directed to David Fiske at 202-418-0513 or david.fiske@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), (202) 418-0432 (TTY). You may also contact the Enforcement Bureau on its TTY line at (202) 418-1148 for further information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-TELL-FCC (1-888-835-5322) for further information about the Form 477 filing requirements.

Attachment: Frequently Asked Questions.

Issued by: Chief, Enforcement Bureau

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³ 47 U.S.C. § 503(b)(2)(B); 47 C.F.R. § 180(b); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 23 FCC Rcd 9845 (2008).

ATTACHMENT

FREQUENTLY ASKED QUESTIONS

The following frequently asked questions are addressed in this Enforcement Advisory:

- **What is Form 477, and where can I find it?**
- **Who is required to file?**
- **Is there an exemption for small companies?**
- **When must my company file Form 477?**
- **How do I fill out and file Form 477?**

What is Form 477, and where can I find it?

FCC Form 477 is the Commission's primary tool for collecting data about broadband and local telephone networks and services. Form 477 collects information about broadband connections to end user locations, wired and wireless local telephone services, and interconnected Voice over Internet Protocol (VoIP) services, in individual states. Form 477 can be found at <https://specialreports.fcc.gov/wcb/Form477/>, and the Form 477 rules are found at 47 C.F.R. § 1.7001.

Who is required to file?

Four types of entities must file Form 477: (1) facilities-based providers of broadband connections to end user locations; (2) providers of wired or fixed wireless local exchange telephone service; (3) providers of VoIP service; and (4) providers of mobile telephony service.

For the purposes of Form 477 and the definition of facilities-based providers of broadband connections to end user locations:

- an entity is a "**facilities-based**" **provider** of broadband connections to end user locations if any of the following conditions are met: (1) it owns the portion of the physical facility that terminates at the end user location; (2) it obtains unbundled network elements (UNEs), special access lines, or other leased facilities that terminate at the end user location and provisions/equips them as broadband, or (3) it provisions/equips a broadband wireless channel to the end user location over licensed or unlicensed spectrum.
- **broadband connections** are wired "lines" or wireless "channels" that enable the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kbps in at least one direction.
- a **broadband "end user"** is a residential, business, institutional, or government entity that uses broadband services for its own purposes and does not resell such services to other entities or incorporate such services into retail Internet-access services. For purposes of Part I of Form 477, an Internet Service Provider (ISP) is not an "end user" of a broadband connection.

A non-exhaustive list of entities that must file Form 477 includes incumbent and competitive local exchange carriers (LECs), cable system operators, fixed wireless service providers (including "wireless ISPs"), terrestrial and satellite mobile wireless service providers, broadband radio service (BRS) providers, electric utilities, municipalities, and other entities. Such entities do not include equipment suppliers unless the equipment supplier uses the equipment to provision a broadband connection that it offers to the public for sale. Such entities also do not include providers of terrestrial fixed wireless services (e.g., "Wi-Fi" and other wireless Ethernet, or wireless local area network, applications) that only enable local distribution and sharing of a premises broadband facility and do not include air-to-ground services.

Is there an exemption for small companies?

No, there is no exemption for small companies.

When must my company file Form 477?

Semi-annually. By March 1st of each year, providers must file data as of December 31 of the preceding year. By September 1st of each year, providers must file data as of June 30 of the same year.

How do I fill out and file Form 477?

FCC Form 477 must be filed electronically using the Form 477 graphical user interface that is available on the Internet at the following address: <http://www.fcc.gov/formpage.html>. The interface also may be reached via the “Electronic Filing” link on the left-hand side of the “Form 477 Resources for Filers” page at <http://www.fcc.gov/form477/>. A tutorial on completing and filing Form 477 is also available at <http://www.fcc.gov/Forms/Form477/477tutorial.pdf>.