



This document is scheduled to be published in the Federal Register on 10/30/2015 and available online at <http://federalregister.gov/a/2015-27630>, and on FDsys.gov

6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket Nos. 12-201; 13-140; 14-92; FCC 14-88]

Assessment and Collection of Regulatory Fees for Fiscal Year 2014; Assessment and Collection of Regulatory Fees for Fiscal Year 2013; and Procedures for Assessment and Collection of Regulatory Fees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends language in its rules to reflect that regulatory fees must be paid electronically, and can no longer be paid by check or money order. Electronic payments are not only cost-effective, they are also efficient and can provide an electronic “paper trail”. As a result, in an effort to improve efficiency, the Commission discontinued the practice of paying regulatory fees with a check or money order.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418-0444.

SUPPLEMENTARY INFORMATION: These revisions to the Commission’s rules were first published as a proposed rule along with the Commission’s Assessment and Collection of Regulatory Fees for Fiscal Year 2014, Notice of Proposed Rulemaking, 79 FR 37982, July 3, 2014, but it is now being published as a final rule.

I. ADMINISTRATIVE MATTERS

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA),¹ the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is contained towards the end of this document.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The Commission submitted the PRA documents to the Office of Management and Budget (OMB) under section 3507(d) of the PRA, and obtained OMB approval on May 30, 2014. Consequently, the requirement to obtain OMB approval for new and modified information collection has been fulfilled. Finally, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission sought previous comment on how it might further reduce the information collection burden on small businesses with fewer than 25 employees.

C. Congressional Review Act.

3. The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act. 5 U.S.C. 801(a)(1)(A).

II. REGULATORY FLEXIBILITY ANALYSIS

4. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),² an Initial Regulatory Flexibility Analysis (IRFA) was included in the FY 2014 Notice of Proposed Rulemaking to

¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

² 5 U.S.C. 603. The RFA, 5 U.S.C. 601-612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104-121, Title II, 110 Stat. 847 (1996).

which this Order was attached.³ The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.⁴

A. Need for, and Objectives of, the Order

5. In this Order, the Commission amends language to sections 1.1112, 1.1158, 1.1161, and 1.1164 of its rules to note that regulatory fee payments must be made electronically, and payments by check and/or money order will no longer be accepted.

6. In various places within the Code of Federal Regulations (CFR), the Commission specifies the method of payment that can be made for various types of fees (e.g. regulatory fees, application fees, auction fees, etc.). The basic method of fee payment has historically been by check or money order, but in more recent times, electronic forms of payment (e.g. credit card, ACH Debit, and wire transfer) have dominated the payment process. Electronic payments are not only cost-effective, they are also efficient and can provide an electronic “paper trail”. As a result, in an effort to improve efficiency, the Commission discontinued the practice of paying regulatory fees with a check or money order. This Order amends the Commission’s rules to state that payment of regulatory fees must be electronic and checks and/or money orders will no longer be accepted as a form of payment.

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

7. None.

³ Assessment and Collection of Regulatory Fees for Fiscal Year 2014, Assessment and Collection of Regulatory Fees for Fiscal Year 2013, and Procedures for Assessment and Collection of Regulatory Fees, Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, MD Docket Nos. 14-92, 13-140, and 12-201, 29 FCC Rcd 6417 (2014) (FY 2014 NPRM).

⁴ 5 U.S.C. 604.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will

Apply:

8. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.⁵ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁶ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁷ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁸ Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.⁹

9. **Wired Telecommunications Carriers.** The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using

⁵ 5 U.S.C. 603(b)(3).

⁶ 5 U.S.C. 601(6).

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

⁸ 15 U.S.C. 632.

⁹ See SBA, Office of Advocacy, “Frequently Asked Questions,” http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.

facilities and infrastructure that they operate are included in this industry.”¹⁰ The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.¹¹ Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with less than 1,000 employees.¹² Thus, under this size standard, the majority of firms in this industry can be considered small.

10. **Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.¹³ According to Commission data, census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.¹⁴ The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

11. **Incumbent LECs.** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁵ According to Commission data, 3,188 firms operated in that year. Of this total, 3,144 operated with fewer than 1,000 employees.¹⁶

¹⁰ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹¹ See 13 CFR 120.201, NAICS Code 517110.

¹² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

¹³ 13 CFR 121.201, NAICS code 517110.

¹⁴ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

¹⁵ 13 CFR 121.201, NAICS code 517110.

¹⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

(continued....)

Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.¹⁷ Of this total, an estimated 1,006 have 1,500 or fewer employees.¹⁸

12. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁹ U.S. Census data for 2007 indicate that 3,188 firms operated during that year. Of that number, 3,144 operated with fewer than 1,000 employees.²⁰ Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.²¹ Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.²² In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.²³ Also, 72 carriers have reported that they are Other Local Service Providers.²⁴ Of this total,

(Continued from previous page) _____

[pid=ECN_2007_US_51SSSZ5&prodType=table.](#)

¹⁷ See Trends in Telephone Service, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (Trends in Telephone Service).

¹⁸ Id.

¹⁹ 13 CFR 121.201, NAICS code 517110.

²⁰ [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table)

²¹ See Trends in Telephone Service, at Table 5.3.

²² Id.

²³ Id.

70 have 1,500 or fewer employees.²⁵ Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by the rules adopted.

13. **Interexchange Carriers (IXCs).** Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.²⁶ U.S. Census data for 2007 indicates that 3,188 firms operated during that year. Of that number, 3,144 operated with fewer than 1,000 employees.²⁷ According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.²⁸ Of this total, an estimated 317 have 1,500 or fewer employees.²⁹ Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules adopted.

14. **Prepaid Calling Card Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS Code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Mobile virtual networks operators (MVNOs) are included in this

(Continued from previous page) _____

²⁴ Id.

²⁵ Id.

²⁶ 13 CFR 121.201, NAICS code 517110.

²⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

²⁸ See Trends in Telephone Service, at Table 5.3.

²⁹ Id.

industry.³⁰ Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.³¹ U.S. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.³² Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.³³ All 193 carriers have 1,500 or fewer employees.³⁴ Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by the rules adopted.

15. **Local Resellers.** The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.³⁵ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.³⁶ Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.³⁷ Of this total, an estimated 211 have 1,500 or fewer employees.³⁸ Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the rules adopted.

³⁰ <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

³¹ 13 CFR 121.201, NAICS code 517911.

³² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

³³ See Trends in Telephone Service, at Table 5.3.

³⁴ Id.

³⁵ 13 CFR 121.201, NAICS code 517911.

³⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

³⁷ See Trends in Telephone Service, at Table 5.3.

³⁸ Id.

16. **Toll Resellers.** The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.³⁹ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.⁴⁰ Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.⁴¹ Of this total, an estimated 857 have 1,500 or fewer employees.⁴² Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the rules adopted.

17. **Other Toll Carriers.** Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.⁴³ Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.⁴⁴ Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284

³⁹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

⁴⁰ Id.

⁴¹ Trends in Telephone Service, at Table 5.3.

⁴² Id.

⁴³ 13 CFR 121.201, NAICS code 517110.

⁴⁴ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

companies reported that their primary telecommunications service activity was the provision of other toll carriage.⁴⁵ Of these, an estimated 279 have 1,500 or fewer employees.⁴⁶ Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted.

18. **Wireless Telecommunications Carriers (except Satellite).** This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.⁴⁷ The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.⁴⁸ Of this total, an estimated 261 have 1,500 or fewer employees.⁴⁹ Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

⁴⁵ Trends in Telephone Service, at Table 5.3.

⁴⁶ Id.

⁴⁷ NAICS Code 517210. See <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

⁴⁸ Trends in Telephone Service, at Table 5.3

⁴⁹ Id.

19. **Cable Television and Other Subscription Programming.**⁵⁰ Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers. That category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.”⁵¹ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.⁵² Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 had fewer than 1,000 employees.⁵³ Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted.

⁵⁰ In 2014, “Cable and Other Subscription Programming,” NAICS Code 515210, replaced a prior category, now obsolete, which was called “Cable and Other Program Distribution.” Cable and Other Program Distribution, prior to 2014, was placed under NAICS Code 517110, Wired Telecommunications Carriers. Wired Telecommunications Carriers is still a current and valid NAICS Code Category. Because of the similarity between “Cable and Other Subscription Programming” and “Cable and other Program Distribution,” we will, in this proceeding, continue to use Wired Telecommunications Carrier data based on the U.S. Census. The alternative of using data gathered under Cable and Other Subscription Programming (NAICS Code 515210) is unavailable to us for two reasons. First, the size standard established by the SBA for Cable and Other Subscription Programming is annual receipts of \$38.5 million or less. Thus to use the annual receipts size standard would require the Commission either to switch from existing employee based size standard of 1,500 employees or less for Wired Telecommunications Carriers, or else would require the use of two size standards. No official approval of either option has been granted by the Commission as of the time of the release of the FY 2015 NPRM. Second, the data available under the size standard of \$38.5 million dollars or less is not applicable at this time, because the only currently available U.S. Census data for annual receipts of all businesses operating in the NAICS Code category of 515210 (Cable and other Subscription Programming) consists only of total receipts for all businesses operating in this category in 2007 and of total annual receipts for all businesses operating in this category in 2012. The data do not provide any basis for determining, for either year, how many businesses were small because they had annual receipts of \$38.5 million or less. See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51I2&prodType=table.

⁵¹ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers” (partial definition), (Full definition stated in paragraph 6 of this IRFA) available at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁵² 13 CFR 121.201, NAICS code 517110.

⁵³ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=Table.

20. **Cable Companies and Systems.** The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide.⁵⁴ Industry data indicate that there are currently 4,600 active cable systems in the United States.⁵⁵ Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.⁵⁶ In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.⁵⁷ Current Commission records show 4,600 cable systems nationwide.⁵⁸ Of this total, 3,900 cable systems have less than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.⁵⁹ Thus, under this standard as well, we estimate that most cable systems are small entities.

21. **Cable System Operators (Telecom Act Standard).** The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."⁶⁰ There are approximately 52,403,705 cable video subscribers in the United States today.⁶¹ Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its

⁵⁴ 47 CFR 76.901(e)

⁵⁵ August 15, 2015 Report from the Media Bureau based on data contained in the Commission's Cable Operations And Licensing System (COALS). See www.fcc.gov/coals

⁵⁶ See SNL KAGAN at <https://snl.com/interactivex> top cable MSOs.aspx?period2015Q1&sortcol=subscribersbasic&sortorder=desc

⁵⁷ 47 CFR 76.901(c)

⁵⁸ See footnote 2, supra.

⁵⁹ August 5, 2015 report from the Media Bureau based on its research in COALS. See www.fcc.gov/coals

⁶⁰ 47 CFR 901 (f) and notes ff. 1, 2, and 3.

⁶¹ See SNL KAGAN at <https://www.snl.com/interactivex/MultichannelIndustryBenchmarks.aspx>

affiliates, do not exceed \$250 million in the aggregate.⁶² Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.⁶³ We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.⁶⁴ Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

22. **All Other Telecommunications.** “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.⁶⁵ The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less.⁶⁶ For this category, census data for 2007 show that there were 2,383 firms that operated for the entire year. Of these firms, a total of 2,346 had gross annual

⁶² 47.901(f) and notes ff. 1, 2, and 3.

⁶³ See SNL KAGAN at www.snl.com/Interactivex/TopCable MSOs.aspx

⁶⁴ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to 76.901(f) of the Commission's rules. See 47 CFR 76.901(f).

⁶⁵ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁶⁶ 13 CFR 121.201; NAICS Code 517919

receipts of less than \$25 million.⁶⁷ Thus, a majority of “All Other Telecommunications” firms potentially affected by the rules adopted can be considered small.

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

23. This Report and Order does not adopt any new reporting, recordkeeping, or other compliance requirements.

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

24. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.⁶⁸

25. This Order does not adopt any new reporting requirements. Therefore no adverse economic impact on small entities will be sustained based on reporting requirements. There will be a regulatory fee instituted on DBS providers due to the adoption of a new fee category, but we anticipate that the two primary DBS companies required to pay these fees are not small entities. Similarly, a new regulatory fee for Responsible Organizations (Resp. Org) has also been instituted in FY 2015 for the toll free number fee category that was previously adopted--the fee rate adopted is 12 cents per year. This is

⁶⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

⁶⁸ 5 U.S.C. 603(c)(1) through(c)(4).

not a new reporting requirement, and should not have any adverse economic impact on small Resp. Org. entities because they are able to recover these assessed fees from their customers.

26. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, beginning in FY 2015 the Commission has increased the de minimis threshold from under \$10 to \$500 (the total of all regulatory fees), which will impact many small entities that pay regulatory fees for ITSP, paging, cellular, cable, and Low Power Television/FM Translators. Historically, many of these small entities have been late in making their fee payments to the Commission by the due date. This increase in the de minimis threshold to \$500 will relieve regulatees both financially and administratively. Finally, regulatees may also seek waivers or other relief on the basis of financial hardship. See 47 CFR 1.1166.

F. Federal Rules that May Duplicate, Overlap, or Conflict

27. None.

III. ORDERING CLAUSES

28. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, and 303(r), this Order **IS HEREBY ADOPTED**.

29. **IT IS FURTHER ORDERED** that this Order **SHALL BE EFFECTIVE** [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

30. **IT IS FURTHER ORDERED** that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch.

Secretary.

Rule Changes

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

PART 1 – PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79, et seq.; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455.

2. Section 1.1112 is amended by revising paragraphs (a) and (b), redesignating paragraphs (e) and (f) as paragraphs (f) and (g), and by adding new paragraph (e) to read as follows:

§ 1.1112 Form of payment.

(a) Annual and multiple year regulatory fees must be paid electronically as described in paragraph (e) of this section. Fee payments, other than annual and multiple year regulatory fee payments, should be in the form of a check, cashier's check, or money order denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission or by a Visa, MasterCard, American Express, or Discover credit card. No other credit card is acceptable. Fees for applications and other filings paid by credit card will not be accepted unless the credit card section of FCC Form 159 is completed in full. The Commission discourages applicants from submitting cash and will not be responsible for cash sent through the mail. Personal or corporate checks dated more than six months prior to their submission to the Commission's lockbox bank and postdated checks will not be accepted and will be returned as deficient. Third party checks (i.e., checks with a third party as maker or endorser) will not be accepted.

(1) Although payments (other than annual and multiple year regulatory fee payments) may be submitted in the form of a check, cashier's check, or money order, payors of these fees are encouraged to submit these payments electronically under the procedures described in paragraph (e) of this section.

(2) Specific procedures for electronic payments are announced in Bureau/Office fee filing guides.

(3) It is the responsibility of the payer to insure that any electronic payment is made in the manner required by the Commission. Failure to comply with the Commission's procedures will result in the return of the application or other filing.

(4) To insure proper credit, applicants making wire transfer payments must follow the instructions set out in the appropriate Bureau Office fee filing guide.

(b) Applicants are required to submit one payment instrument (check, cashier's check, or money order) and FCC Form 159 with each application or filing; multiple payment instruments for a single application or filing are not permitted. A separate Fee Form (FCC Form 159) will not be required once the information requirements of that form (the Fee Code, fee amount, and total fee remitted) are incorporated into the underlying application form.

* * * * *

(e) Annual and multiple year regulatory fee payments shall be submitted by online ACH payment, online Visa, MasterCard, American Express, or Discover credit card payment, or wire transfer payment denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission. No other credit card is acceptable. Any other form of payment for regulatory fees (e.g., paper checks) will be rejected and sent back to the payor.

* * * * *

3. Section 1.1158 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 1.1158 Form of payment for regulatory fees.

Any annual and multiple year regulatory fee payment must be submitted by online Automatic Clearing House (ACH) payment, online Visa, MasterCard, American Express, or Discover credit card payment, or wire transfer payment denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission. No other credit card is acceptable. Any other form of payment for annual and multiple year regulatory fees (e.g., paper checks, cash) will be rejected and sent back to the payor. The Commission will not be responsible for cash, under any circumstances, sent through the mail.

(a) Payors making wire transfer payments must submit an accompanying FCC Form 159-E via facsimile.

* * * * *

4. Section 1.1161 is amended by revising paragraph (a) to read as follows:

§ 1.1161 Conditional license grants and delegated authorizations.

(a) Grant of any application or an instrument of authorization or other filing for which an annual or multiple year regulatory fee is required to accompany the application or filing will be conditioned upon final payment of the current or delinquent regulatory fees. Current annual and multiple year regulatory fees must be paid electronically as described in § 1.1112(e). For all other fees, (e.g., application fees, delinquent regulatory fees) final payment shall mean receipt by the U.S. Treasury of funds cleared by the financial institution on which the check, cashier's check, or money order is drawn. Electronic payments are considered timely when a wire transfer was received by the Commission's bank no later than 6:00 pm on the due date; confirmation to pay.gov that a credit card payment was successful no

later than 11:59 pm (EST) on the due date; or confirmation an ACH was credited no later than 11:59 pm (EST) on the due date.

* * * * *

5. Section 1.1164 is amended by revising the introductory text to read as follows:

§ 1.1164 Penalties for late or insufficient regulatory fee payments.

Electronic payments are considered timely when a wire transfer was received by the Commission's bank no later than 6:00 pm on the due date; confirmation to pay.gov that a credit card payment was successful no later than 11:59 pm (EST) on the due date; or confirmation an ACH was credited no later than 11:59 pm (EST) on the due date. In instances where a non-annual regulatory payment (i.e., delinquent payment) is made by check, cashier's check, or money order, a timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or by the Managing Director. Where a non-annual regulatory fee payment is made by check, cashier's check, or money order, a timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or the Managing Director. Any late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee of installment payment which was not paid in a timely manner.

* * * * *

[FR Doc. 2015-27630 Filed: 10/29/2015 8:45 am; Publication Date: 10/30/2015]