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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[IB Docket No. 98-96; FCC 16-179]

1998 Biennial Regulatory Review – Review of Accounts Settlement in the Maritime Mobile and Maritime Mobile-Satellite Radio Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to withdraw as an accounting authority and transition its functions and duties to private accounting authorities. The Commission seeks comment on a transition plan and a timetable to implement an orderly transition to the privatization of the accounts-settlement function.

DATES: Comments due on or before **[INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments due on or before **[INSERT DATE 90 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by IB Docket 98-96, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.
- E-mail: ecfs@fcc.gov. Include IB Docket No. 98-96 in the subject line of the message.

- Mail: Commercial overnight mail (other than U.S. Postal Service Express Mail, and Priority Mail, must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

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

FOR FURTHER INFORMATION CONTACT: Dana Shaffer, Office of Managing Director at (202) 418-0832.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking (Second FNPRM), FCC 16-179, IB Docket No. 98-96, adopted on December 22, 2016, and released on December 30, 2016. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY-A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, <http://www.bcpi.com>, or call 1-800-378-3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

I. PROCEDURAL MATTERS

A. Ex Parte Rules – Permit-But-Disclose

1. The proceeding this Second FNPRM initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules.¹ Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the

¹ 47 CFR 1.1200 et seq.

presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

B. Comment Period and Procedures

2. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the

Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: 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).

C. Initial Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act of 1980 (RFA),² the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this Second FNPRM. The IRFA is found near the end of this document. We request written public comment on the analysis. Comments must be filed in accordance with the same deadlines as comments filed in response to this Second FNPRM, and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Second FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

4. Copies to Private Accounting Authorities and Governmental Users. The Commission's

² See 5 U.S.C. 603.

Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Second Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the current U.S.-certified private accounting authorities: Mackay Communications, Inc., Astrium Services Business Communications Inc., Seven Seas Communications Inc., Omnet, Inc., KFS World Communications dba GLOBE WIRELESS, GMPCS Personal Communications, Inc., ShipCom, L.L.C. (formerly M M R Radio, L.L.C.), Stratos Mobile Networks Inc., Exxon Communications Company, Vizada, Inc., Raytheon Service Co., Telemar USA LLC, MVS USA Inc., A-N-D Group Plc, Selex ES Ltd, Selex ES Ltd, NSSLGlobal, Airtime Billing Department.

D. Initial Paperwork Reduction Analysis

5. This document does not contain a proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA, Public Law 104-13). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

II. INTRODUCTION

6. In this Second Further Notice of Proposed Rulemaking (2016 Accounting Authority Second FNPRM), we propose to transition the functions and duties performed by the Commission as an accounting authority to private accounting authorities. In doing so, we seek to revisit findings in the 1999 Report and Order and Further Notice of Proposed Rulemaking (1999 Accounting Authority Order & FNPRM),³ which included the Commission's decision that it should withdraw as an accounting authority in the maritime mobile and maritime mobile-satellite radio services.⁴ The Commission tentatively concluded that a three-year transition period following adoption of a Report and Order was appropriate to permit the preparation and implementation of a plan to ensure a smooth, non-disruptive transition to

³ 1998 Biennial Regulatory Review -- Review of Accounts Settlement in the Maritime Mobile and Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as an Accounting Authority in the Maritime Mobile and the Maritime Mobile-Satellite Radio Services, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 20703 (1999) (1999 Accounting Authority Order & FNPRM).

⁴ Id.

private accounting authorities, and to develop the transition plan.⁵ Although in that Order the Commission concluded that “the Commission shall cease operating as an accounting authority for settling accounts for maritime mobile, maritime satellite, aircraft,⁶ and handled terminal radio services,” and that “a transition period is necessary to allow for an orderly transition to a full privatization of the accounts-settlement function,” we stopped short of proscribing a transition plan, instead seeking further comment “on a number of proposals regarding how best to implement this transition.”⁷

7. The completion of a plan based on those comments, however, was subsequently delayed. Thus, no definitive timeline for the transition to implement our decision in the Order to withdraw as accounting authority has been established.

8. We continue to believe that it is in the public interest for the Commission to withdraw as an accounting authority. Given the passage of time, we now, in this 2016 Accounting Authority Second FNPRM, seek further comment on the appropriate transition plan and period to implement our decision in the 1999 Accounting Authority Order & FNPRM to withdraw as an accounting authority in the maritime mobile and maritime mobile-satellite radio services.

III. BACKGROUND

9. International maritime mobile communications are HF or VHF radio communications between a ship and a coast station operated by the telecommunications operator in the country in which the station is located, and international maritime mobile-satellite communications services are conducted by satellite. Payment for the services provided by the telecommunications operators involves interaction with an entity known as an “accounting authority,” which settles an account between the telecommunications operator and the customer. In practice, the telecommunications operator, the earth or coast station, sends its bill either to the accounting authority that the customer has designated to act for it

⁵ Id. at 20717

⁶ The focus of this FNPRM is the effect on maritime communications, as the Commission has not, for several years, settled aeronautical accounts. It is important to note, however, that our withdrawal as accounting authority of last resort would include a cessation in our settling of accounts for maritime mobile, maritime satellite, aircraft, and handled terminal radio services, as we previously concluded.

⁷ Id.

or to an “accounting authority of last resort,” which, as the name implies, settles accounts for customers that have not designated a particular accounting authority. The function of the accounting authority, also referred to as a “clearinghouse” or “settlement authority,” involves presenting the bill to the customer, accepting payment from the customer, and remitting the collected funds to the telecommunications operator.

10. Historically, most nations required individual ships to settle their accounts with their telecommunications provider; however, since 1934, the Commission has acted as an accounting authority in the United States, to settle accounts for maritime, aircraft, and hand-held terminal radio services to both private users and other U.S. federal government agencies. Over time, the Commission has reduced its accounting authority or clearinghouse function related to the maritime mobile radio services and the satellite-based services, including aeronautical and hand-held terminals. The primary reason for this reduction is that private accounting authorities provide similar account settlement services for U.S. users. Certification and operation of private accounting authorities are governed under part 3 of our rules, which ensure that qualified applicants are authorized as accounting authorities and that such authorities, once approved, have adequate guidance of the standard of conduct required of them by the Commission. We believe that this process has been working effectively.⁸ Currently, there are twenty-two entities certified as U.S. private accounting authorities.⁹

11. When the Commission last considered this matter more than fifteen years ago, it found no public policy reason for the Commission’s continued function as an accounting authority,¹⁰ and concluded in the Report and Order section of the decision, therefore, that the Commission should withdraw as a

⁸ See Letter from Bruce Henoeh, Inmarsat, to Accounting Authority Certification Office, Federal Communications Commission (dated April 20, 2015); Letter from Robert Swanson, Airbus Defense and Space, to Marlene Dortch, Federal Communications Commission (dated January 30, 2015); Letter from Steven Chernoff, Lukas, Nace, Gutierrez, and Sachs, LLP, to Accounting Authority Certification Officer, Federal Communications Commission (April 15, 2015) (providing inventories of accounting authority settlements).

⁹ Some of these private accounting authorities may not currently settle accounts for maritime services; however, our certification does not limit any certified U.S. accounting authority to the settlement of accounts for only one class of service.

¹⁰ 1999 Accounting Authority Order & FNPRM at 20709.

clearinghouse for the settlement of accounts in the maritime mobile radio, maritime mobile-satellite, and other satellite-based communications services.¹¹ The Commission tentatively concluded that it should not designate a new accounting authority of last resort,¹² and that a three year transition plan was sufficient to ensure a smooth transition.¹³ The Commission sought further comment on these tentative conclusions.¹⁴

IV. DISCUSSION

12. In the Order portion of the 1999 R&O and FNPRM, the Commission announced its decision to withdraw from the accounting authority function. Additionally, it revised section 3.10(e) to make explicit the authorities' obligations not to discriminate,¹⁵ grandfathered the accounting authority of EXXON to permit it to continue to settle accounts only for its ships, and provided guidance to allow applicants to amend their pending applications in light of the change to section 3.10(e). In the Second FNPRM, the Commission requested comments on two issues. First, the Commission sought comment on whether to appoint or allow an entity to take over the Commission's function as the accounting authority of last resort, require customers to pre-subscribe to an accounting authority or to designate an accounting authority on every message, or to develop a formula to spread undesignated messages among several private accounting authorities. Second, the Commission tentatively concluded that the appropriate phase-out period was three years following Federal Register publication of a final order, and invited comment.

A. Withdrawal by the Commission from the Accounting Authority Function

13. In the 1999 R&O and FNPRM, the Commission decided to withdraw from performing the functions of an accounting authority, and to leave the settlement of accounts to the private accounting authorities subject to part 3 of our rules. Although the Commission never implemented a transition plan, many users of the Commission's services subsequently have transitioned to one of these accounting authorities. We continue to believe that it is in the public interest for the Commission to withdraw as an

¹¹ Id. at 20723.

¹² Id. at 20715.

¹³ Id. at 20718.

¹⁴ Id. at 20715, 20723.

¹⁵ 47 CFR 3.10(e).

accounting authority and seek comment on our proposals to do so below. The function of an accounting authority is not necessarily a governmental function, but can be performed equally well by privately owned entities, subject to Commission oversight under our part 3 rules.¹⁶ Since the Commission last visited this issue, U.S. private accounting authorities have continued to succeed in providing these functions.¹⁷ We anticipate that our action to step away from the functions of an accounting authority will create further competition for the settlement of maritime and satellite accounts, and may thereby encourage the industry to provide the public with more choices in obtaining settlement of their accounts.

14. Since 1999, the number of users relying on the Commission to provide accounting authority services has decreased,¹⁸ even as the activity handled by other accounting authorities, in general, appears to have increased in scope. We recognize that an immediate departure of the Commission as an accounting authority will require those U.S. international ship and satellite operators currently handled by the Commission to select an alternative accounting authority. We also believe, unlike in 1999 when we suggested a three-year transition period, that maritime operators are far better prepared to adjust to the departure of the Commission as the accounting authority. First, the Commission possesses the ability to contact current users and thereby expedite transition. Second, through outreach and coordination with the maritime industry, Commission staff have learned that many of those entities using the Commission's accounting authority services have anticipated the change, and they have initiated a transition process in contracting with other accounting authorities. Consequently, we believe that most maritime mobile satellite users will be able to accommodate this change, and that they will act promptly

¹⁶ The FCC's withdrawal as an accounting authority will in no way change the rules by which we certify and monitor private entities serving as accounting authorities for maritime mobile and maritime satellite services. See 47 CFR 3.1 et seq.

¹⁷ See 1999 R&O and FNPRM, 15 FCC Rcd at 20706-09, paragraphs 7 – 12; See Letter from Bruce Henoch, Inmarsat, to Accounting Authority Certification Office, Federal Communications Commission (dated April 20, 2015); Letter from Robert Swanson, Airbus Defense and Space, to Marlene Dortch, Federal Communications Commission (dated January 30, 2015); Letter from Steven Chernoff, Lukas, Nace, Gutierrez, and Sachs, LLP, to Accounting Authority Certification Officer, Federal Communications Commission (dated April 15, 2015) (providing inventories of accounting authority settlements).

¹⁸ See supra n.5.

to select an alternative accounting authority. We therefore, recommend a one year transition period and seek comment on this recommendation.

15. We continue to believe that we should not designate a new accounting authority of last resort, but, rather, customers should designate an accounting authority for each call or should presubscribe for the services of an accounting authority.¹⁹ We seek further comment on this tentative conclusion.

B. Government Agencies

16. In the 1999 R&O and FNPRM we acknowledged that the Commission at that time acted as the accounting authority for the maritime and satellite communications of a majority of U.S. governmental agencies.²⁰ At the time, because we anticipated that Government agency users might have special needs that differ from other users, we requested the agencies to address this issue in their comments.²¹

17. In their 1998 comments, the United States Coast Guard urged the Commission to maintain a default accounting authority, provide ample notice to affected users and small vessel organizations, provide a smooth transition process to a new default accounting authority, and ensure the economic impact on small entities is non-significant.²² The National Telecommunications and Information Administration (NTIA), in coordination with the Interdepartment Radio Advisory Committee (which includes the Coast Guard), expressed concern that the Commission's withdrawal might lead to disruption or curtailment of communication services to federal users, as well as increased cost to the taxpayer.²³ They requested that the FCC retain its accounting authority, or, in the alternative, noted that most government agencies operate on a three year budget cycle, and asked that the FCC defer termination

¹⁹ See *id.* at 20715 (tentatively concluding not to designate a new accounting authority of last resort).

²⁰ See 1999 R&O and FNPRM, 15 FCC Rcd at 20709, para. 13.

²¹ See 1999 R&O and FNPRM, 15 FCC Rcd at 20709, para. 13.

²² Letter from J.D Hersey, Jr., Chief, Spectrum Management Division, to Magalie Roman Salas, FCC Secretary, August 21, 1998.

²³ See Comments of the National Telecommunications and Information Administration, filed August 24, 1998, at page 2.

of its accounting authority responsibility “until an [sic] alternative billing and payment arrangements ensuring uninterrupted service can be established.”²⁴ NTIA further urged that the FCC either retain its accounting authority, or designate an authority of last resort that would “not charge more than the Commission currently charges its accounts until users are notified and given a chance to select their own accounting authority or accept the terms offered.”²⁵

18. We agree that, as part of an effective plan for the Commission to withdraw as an accounting authority, U.S. Government agencies must have in place alternate arrangements upon the Commission’s withdrawal to ensure that critical communications are not disrupted. In the more than fifteen years, since our 1999 decision, Commission staff have contacted the various government agencies informing them of the Commission’s intent to terminate its accounting authority; as a result, many of these various agencies, have moved to alternative accounting authorities for some or all of their services.²⁶ In light of this trend, and the more than fifteen years impacted entities have had to transition to a new accounting authority, we seek comment on the appropriate time period to complete the Commission’s transition from serving as accounting authority for government agencies. Movement of government agencies anticipating our change in function suggests that a transition period shorter than the three-year period previously proposed is appropriate to accommodate these particular changes, including anticipated government budget planning changes. We propose that the transition period for government and non-government entities be the same. We seek comment on whether one year suffices for government agencies to transition to an alternative accounting authority. Alternatively, we invite comment on whether this period should be longer or shorter.

C. Accounting Authority of Last Resort

19. The Commission historically has served as the “accounting authority of last resort” for

²⁴ Id.

²⁵ Letter from William T. Hatch, Acting Associate Administrator, National Telecommunications and Information Administration, to Magalie Roman Salas, FCC Secretary, October 29, 1998.

²⁶ Commission staff have confirmed the removal of many of the terminals once billed to these agencies from the FCC as the accounting authority.

the United States, which resulted in the Commission receiving from foreign telecommunications operators all accounts for which the customer did not designate a specific accounting authority.²⁷ In 1999, we tentatively concluded that we should not designate a new accounting authority of last resort.²⁸ Instead, we found that customers should designate an accounting authority for each call or should presubscribe for the services of an accounting authority.²⁹ We noted, however, that in order to prevent a deleterious effect on safety communications, the Commission must take care to ensure a seamless transition to new accounting authorities.³⁰

20. We continue to believe that, although the functions of an accounting authority of last resort may still be necessary to address infrequent situations where an authority is or cannot be designated due to circumstances beyond the control of the user, it remains the basic responsibility of the user, whether a private or governmental entity, to provide for an accounting authority to handle its calls. However, as we withdraw as an accounting authority, we tentatively conclude, based on the commenters' urging us, in 1998, to either retain our accounting authority or ensure an alternative is in place before withdrawing,³¹ that it will be necessary to have an alternative arrangement in place that will eliminate the possibility of messages being sent without having an accounting authority necessary to settle accounts. We seek comment on possible approaches to ensure an alternative is in place: (1) requiring all customers to pre-subscribe to an accounting authority or to designate an accounting authority on every message; (2) developing a formula to spread undesignated messages among several private accounting authorities; and/or (3) appointing through comparative selection one of the private accounting authorities as the new authority of last resort.

²⁷ See 1999 R&O and FNPRM, 15 FCC Rcd at 20715, paragraph 25.

²⁸ Id. at para. 26.

²⁹ Id.

³⁰ Id. at para. 27 (citing Coast Guard Comments at 1).

³¹ Letter from J.D Hersey, Jr., Chief, Spectrum Management Division, to Magalie Roman Salas, FCC Secretary, August 21, 1998. See, also Comments of the National Telecommunications and Information Administration, filed August 24, 1998, at page 2 and Letter from William T. Hatch, Acting Associate Administrator, National Telecommunications and Information Administration, to Magalie Roman Salas, FCC Secretary, October 29, 1998.

TABLE 1
GOVERNMENT AGENCIES WHO USE THE COMMISSION
AS AN ACCOUNTING AUTHORITY

Defense Information Systems Agency

Department of Agriculture

Department of Air Force

Department of the Army

Department of Commerce

Department of Defense-Office of Secretary of Defense

Department of Energy

Department of Health and Human Services

Department of Homeland Security- United States Coast Guard

Department of Justice

Department of Justice - Federal Bureau of Investigation

Department of Justice – U.S. Drug Enforcement Administration

Department of the Interior

Department of the Navy

Department of State

Department of Transportation

Department of Treasury

Department of Veteran Affairs

Federal Aviation Administration

Federal Emergency Management Agency

National Aeronautics and Space Administration

National Science Foundation

On-Site Inspection Agency

U.S. Environmental Protection Agency

U.S. General Services Administration

United States Information Agency

U.S. Postal Service

21. Given the reduction of reliance on the FCC as an accounting authority and the resulting lower volume of customers³² who will be affected when we withdraw as accounting authority (see Table 1 above), we tentatively conclude that the best alternative is the first option noted above, to require all customers to pre-subscribe to an accounting authority or to designate an accounting authority on every message. We seek comment on this tentative conclusion as well as the merits of each of the three proposals. For example, is it technically feasible, for U.S. maritime and satellite radio traffic for which no accounting authority is designated and for which the customer is not able or willing to designate an accounting authority on every message, to allow the provider to bill for such traffic through a certified accounting authority of its choice? Is this feasible for a ship-to-shore radiotelephone call made through a foreign coast station? In the alternative, is it feasible to allow public coast stations to designate their own “default” accounting authority in order to send bills to mariners who have not chosen/designated a private accounting authority?³³ Is there a need for the Commission to adopt additional qualifying criteria for an existing accounting authority to serve as a designated accounting authority of last resort? If so, what should the additional criteria be? We also seek comment on any potential enforcement or authority issues that may arise from each of the proposed alternatives for providing an accounting authority of last resort. We also request that commenting parties propose any other viable alternatives that help ensure a smooth transition while relieving the Commission from performing this function.

³² We note that, for 2016, traffic billed by the FCC as accounting authority to private and/or third parties is exclusively satellite traffic, and ask commenters to address whether that fact, coupled with the potential to allow providers to choose a U.S. accounting authority to bill traffic for which no accounting authority has been designated by the customer, mitigates any concerns regarding a potential gap in service once the FCC withdraws as accounting authority of last resort.

³³ There are few users of maritime public coast stations now due to the closure worldwide of public coast stations; however, ensuring the safety of such users is important. We, therefore, seek comment on what different approaches may be necessary for radio communications via a foreign public coast station versus satellite communications via a mobile satellite communications provider.

22. We note that withdrawal of the Commission as an accounting authority without an effective transition plan could leave a gap for some U.S. maritime and satellite radio traffic for which no accounting authority is designated. Thus, during any transition period and subsequently, we intend to conduct outreach to make users aware of our decision and their options for ensuring that they continue to receive the services of an accounting authority.

23. In any event, we believe that an accounting authority, whether selected by the ship, the provider, or a competent default accounting authority, must be in place for distress and safety telecommunications on board ships, particularly when a maritime mobile satellite system is being used. We therefore seek comment on whether, if we decline to designate an accounting authority, we should designate an accounting authority of last resort specifically for Global Maritime Distress and Safety System (GMDSS) mobile satellite communications.³⁴ Although maritime distress and certain safety communications are provided at no charge, other types of safety communications do incur a charge. If neither the designated nor a competent default accounting authority exists, then foreign earth stations may have no way to bill the U.S. satellite user. As a result, the user may, through no fault of its own, find that its ship earth station has been barred for non-payment of bills. We understand that, although a ship mobile device has been “barred” from the network provider (e.g., foreign earth station), a ship can still initiate a ship-to-shore distress alert. In such a situation, however, it could not communicate further with the Coast Guard, even if those further communications are safety related. A ship on the high seas that has been barred from such communications may be a danger to itself and others, as well as a potential problem for the Coast Guard. We agree with commenters that any change in accounting authorities must ensure that critical communications are not disrupted. First, during any transition period that we adopt, we will notify users of GMDSS mobile satellite communications of our decision to withdraw as an accounting authority and of their need to select a new accounting authority. Moreover, we seek comment, not only on designation of an accounting authority of last resort for all users, including

³⁴ INMARSAT continues to be the only worldwide maritime mobile satellite system providing these safety communications. INMARSAT will commission a new ship terminal intended to carry distress and safety communications only if the application designates an accounting authority.

GMDSS mobile satellite and GMDSS maritime mobile communications, but also on whether there are other options to ensure that the Commission's withdrawal as accounting authority would not cause ship stations to become barred because they were unaware that they need to choose a new accounting authority.

24. We also invite comment whether advancements in technology and the business community could reduce the burdens associated with our proposal to withdraw as accounting authority of last resort. Technological changes may mitigate concerns that stem from the fact that the Commission's service as the accounting authority of last resort has made it unnecessary for users to be aware that they may select a private accounting authority. We can promptly notify users which relied on the Commission as accounting authority of last resort for the need to select an alternative accounting authority. In doing so, we seek comment on notifying users from the past seven years. Alternatively, should we make the period of users which relied on the Commission as carrier of last resort shorter or longer? In addition, the Commission could review on a periodic basis the plan it adopts to ensure that the need for accounting authority services is being met, including distress and safety communications on board ships, and determine whether further modifications are appropriate.

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),³⁵ the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Second Further Notice of Proposed Rulemaking (Second FNPRM). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this Second FNPRM. The Commission will send a copy of this Second FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).³⁶ In addition, this Second FNPRM and IRFA (or summaries thereof)

³⁵ 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 104-121, Title II, 110 Stat. 847 (1996).

³⁶ 5 U.S.C. 603(a).

will be published in the Federal Register.³⁷

A. Need for and Objectives of, the Notice

2. In this Second Further Notice of Proposed Rulemaking (Second FNPRM), we propose to transition the functions and duties performed by the Commission as an accounting authority to private accounting authorities. In doing so, we seek to revisit findings in the 1999 Report and Order and Further Notice of Proposed Rulemaking (1999 Accounting Authority Order & FNPRM),³⁸ which included the Commission's decision that it should withdraw as an accounting authority in the maritime mobile and maritime mobile-satellite radio services. The Commission tentatively concluded that a three-year transition period following adoption of a Report and Order was appropriate to permit the preparation and implementation of a plan to ensure a smooth, non-disruptive transition to private accounting authorities, and to develop the transition plan.³⁹ The completion of the plan was subsequently delayed and until now, the proceeding has been inactive.

3. In this 2016 Accounting Authority Second FNPRM, we now seek comment on whether the findings in the 1999 Accounting Authority Order & FNPRM remain in the public interest. As such, we seek input on whether the Commission should withdraw as an accounting authority in the maritime mobile and maritime mobile-satellite radio services. In doing so, we seek information on whether interested parties continue to support the Commission's 1999 decision and if not, why that decision should be revisited or amended.

³⁷ Id.

³⁸ 1998 Biennial Regulatory Review -- Review of Accounts Settlement in the Maritime Mobile and Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as an Accounting Authority in the Maritime Mobile and the Maritime Mobile-Satellite Radio Services, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 20703 (1999) (1999 R&O and FNPRM). The Commission as part of its Further Notice of Proposed Rulemaking sought comments to be filed by comments August 23, 1999, and replies by September 8, 1999.

³⁹ 1998 Biennial Regulatory Review -- Review of Accounts Settlement in the Maritime Mobile and Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as an Accounting Authority in the Maritime Mobile and the Maritime Mobile-Satellite Radio Services, Order, 14 FCC Rcd 13504 (1999). The order extended the deadline for filing comments to October 25, 1999 and reply comments to November 29, 1999. The extension of time was made to allow for a fuller record.

B. Legal Basis

4. This Second Further Notice of Proposed Rulemaking is adopted pursuant to Sections 1, 4(i), 4(j), 11, 201-205, 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 201-205, and 303(r).

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

5. 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.⁴⁰ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁴¹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁴² 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.⁴³

6. The rules proposed in this Second Notice of Proposed Rulemaking apply to entities providing account-settlement services for maritime mobile and maritime mobile-satellite radio services. Small businesses may be able to become accounting clearinghouses, as the establishment of such a function does not appear to involve high implementation costs. The rules also apply to existing maritime mobile and maritime satellite customers who have not presubscribed to a U.S. accounting authority and are, therefore, billed through the FCC as the accounting authority of last resort. An estimated thirty small entities have been billed for traffic by the FCC as an accounting authority in 2016. The proposed action in this Second Notice of Proposed Rulemaking does not appear to involve high implementation costs for such entities.

⁴⁰ 5 U.S.C. 603(b)(3).

⁴¹ 5 U.S.C. 601(6).

⁴² 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.”

⁴³ 15 U.S.C. 632.

D. Reporting, Recordkeeping, and Other Compliance Requirements

7. The proposed action in this Second Further Notice of Proposed Rulemaking would affect those entities already certified and those applying for certification as a private accounting authority in the maritime mobile, maritime mobile-satellite, aeronautical and other satellite-based radio services. The amended rule, however, merely clarifies an existing requirement imposed on accounting authorities. It, therefore, does not alter the reporting, recordkeeping or other compliance requirements of certified accounting authorities.

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

8. As stated above, we propose to transition the functions and duties performed by the Commission as an accounting authority to private accounting authorities. In doing so, we seek to revisit findings in 1999 Accounting Authority Order & FNPRM),⁴⁴ which included the Commission's decision that it should withdraw as an accounting authority in the maritime mobile and maritime mobile-satellite radio services. We seek comment on the impact of our proposals on small entities and on any possible alternatives that could minimize the impact of our rules on small entities.

F. Federal Rules that Overlap, Duplicate or Conflict with These Proposed Requirements

9. None.

V. ORDERING CLAUSES

10. IT IS ORDERED that pursuant to sections 4(i), 4(j), 11, 201-205 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 161, 201-205 and 303(r), this Second Further Notice of Proposed Rulemaking IS ADOPTED.

11. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Second Further Notice of

⁴⁴ 1998 Biennial Regulatory Review -- Review of Accounts Settlement in the Maritime Mobile and Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as an Accounting Authority in the Maritime Mobile and the Maritime Mobile-Satellite Radio Services, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 20703 (1999) (1999 R&O and FNPRM). The Commission as part of its Further Notice of Proposed Rulemaking sought comments to be filed by comments August 23, 1999, and replies by September 8, 1999.

Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

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