(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 X $ .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 & 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.[26]

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 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

[26] Signatory oversight activities represent approximately 7.8% of all international costs.

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.[27] 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).[28] 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

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[27] 47 U.S.C. §158 (1996).

[28] 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).

common carriers.[29] 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.[30] 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.[31] Finally, we eased the ban on connecting their circuits to the public switched network and, effective January 1, 1997, we eliminated the restriction altogether.[32] 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 circuits and use them to calculate the bearer circuit

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[29] 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).

[30] 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).

[31] See 9 FCC Rcd 1282,1286 (1994).

[32] 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).

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 Qualcom, 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 Section 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 (Actual)	FY 1995 (Actual)	FY 1996 (Actual)	FY 1997 (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.[33] 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.

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[34] and Cable Services, fees should be submitted for any authorization held

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[33] 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.

[34] Except AM/FM fees.

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.[35] [36] 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 rule changes made herein will become effective 60 days from date of publication in the Federal Register, except that changes to the Schedule of Regulatory Fees, made pursuant to Section 9(b)(3) of the Communications Act, and incorporating regulatory fees for FY 1997, 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.

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[35] 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.

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

List of Subjects in 47 CFR Part 1

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

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton

William F Caton
Acting Secretary

RULE CHANGES

Parts 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 continues to read as follows:

AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Sec. 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 & 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 Pt. 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

Amateur Vanity Call Signs	$5.00	FCC, Amateur Vanity P.O. Box 358924 Pittsburgh, PA 15251-5924
CMRS Mobile Services (per unit)	$ .24	FCC, Cellular P.O. Box 358835 Pittsburgh, PA 15251-5835
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.

Radio [AM and FM] (47 CFR, Part 73)	**Fee Amount**	**Address**
1. Group 1	$2,000	FCC, Radio
2. Group 2	$1,800	P.O. Box 358835
3. Group 3	$1,600	Pittsburgh, PA
4. Group 4	$1,400	15251-5835
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	

TV (47 CFR, Part 73)
VHF Commercial

1. Markets 1 thru 10	$35,025	FCC, TV Branch
2. Markets 11 thru 25	$28,450	P.O. Box 358835
3. Markets 26 thru 50	$18,600	Pittsburgh, PA
4. Markets 51 thru 100	$ 9,850	15251-5835

5.	Remaining Markets	$ 2,725	
6.	Construction Permits	$ 4,800	

UHF Commercial

1.	Markets 1 thru 10	$16,850	FCC, UHF Commercial
2.	Markets 11 thru 25	$13,475	P.O. Box 358835
3.	Markets 26 thru 50	$ 8,750	Pittsburgh, PA
4.	Markets 51 thru 100	$ 4,725	15251-5835
5.	Remaining Markets	$ 1,350	
6.	Construction Permits	$ 2,975	

Satellite UHF/VHF Commercial

1.	All Markets	$950	FCC Satellite TV
2.	Construction Permits	$345	P.O. Box 358835 Pittsburgh, PA 15251-5835

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
Broadcast Auxiliary	$ 25	FCC, Auxiliary P.O. Box 358835 Pittsburgh, PA 15251-5835
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.

Radio Facilities	**Fee Amount**	**Address**
1. Microwave (Domestic Public Fixed)	$10	FCC, Common Carrier P.O. Box 358680 Pittsburgh, PA

			15251-5680

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
2.	Cable TV System (per subscriber)	$ .54	P.O. Box 358835 Pittsburgh, PA 15251-5835

6. Section 1.1156 is revised to read as follows:

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

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

Earth Stations Transmit/Receive & Transmit Only (per authorization or registration)	$515	FCC, Earth Station P.O. Box 358835 Pittsburgh, PA 15251-5835

Carriers

1.	International Bearer Circuits (per active 64KB circuit or equivalent)	$ 5.00	FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835

FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act (RFA),[37] 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.[38]

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.[39] 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.[40]

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.)

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[37] 5 U.S.C. § 603.

[38] 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).

[39] See comments filed in MD Docket No. 96-186 dated March 25, 1997.

[40] IRFA at paragraph 48.

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."[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 Small Business Administration (SBA).[43]

6. The RFA also includes nonprofit organizations and small governmental entities within the scope of regulatory flexibility analysis.[44] The definition of a small governmental entity is one with a population of fewer than 50,000.[45] There are approximately 85,006 governmental entities in the nation.[46] 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.[47] 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.[48] This definition includes cable systems operators, closed circuit television services,

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[41] 5 U.S.C. § 601(6).

[42] 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."

[43] Small Business Act, 15 U.S.C. § 632.

[44] 5 U.S.C. § 601(5).

[45] Id.

[46] 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

[47] Id.

[48] 13 CFR §121.201, SIC 4841.

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.[49]

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.[50] 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.[51] 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."[52] 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.[53] Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1,450.[54] We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000,[55] and thus are

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[49] 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).

[50] 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).

[51] Paul Kagan Associates, Inc., Cable TV Investor, Feb. 29, 1996 (based on figures for December 30, 1995).

[52] 47 U.S.C. § 543(m)(2).

[53] 47 CFR § 76.1403(b).

[54] Paul Kagan Associates, Inc., Cable TV Investor, February 29, 1996 (based on figures for December 30, 1995).

[55] 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).

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 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),[56] multipoint distribution systems (MDS),[57] 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.[58] 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."[59] 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

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[56] Direct Broadcast Services (DBS) are discussed in depth with the international services infra.

[57] Multipoint Distribution Services (MDS) are discussed in depth with the mass media services infra.

[58] 13 CFR § 121.201.

[59] 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.

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."[60]

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.[61] 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."[62] 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.[63] According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons.[64] 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.

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[60] See id.

[61] 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).

[62] 15 U.S.C. § 632(a)(1).

[63] 1992 Census, supra, at Firm Size 1-123.

[64] 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.[65] 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.[66] 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.[67] 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.[68] 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.[69] 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

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[65] 13 CFR § 121.201, SIC Code 4813.

[66] 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).

[67] 13 CFR § 121.201, SIC 4813.

[68] TRS Worksheet.

[69] 13 CFR § 121.201, SIC 4813.