

APPENDIX A - RULES AMENDED
AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

PART 1 -- PRACTICE AND PROCEDURE

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

AUTHORITY: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, and 303(r).

2. Subpart U of Part 1 is created to read as follows:

Subpart U -- Implementation of Section 706 of the Telecommunications Act of 1996; Commission Collection of Advanced Telecommunications Capability Data

§ 1.6000 Purpose

The purpose of this Part is to set out the terms by which certain commercial and government-controlled entities report data to the Commission concerning the deployment of advanced telecommunications capability, defined pursuant to 47 U.S.C. § 157 as "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology," and the deployment of services that are competitive with advanced telecommunications capability.

§ 1.6001 Scope and Content of Filed Reports

- (a) Definitions: Terms used in this Subpart have the following meanings:
- (1) "Full broadband lines or wireless channels" is defined as lines or wireless channels with information carrying capability in excess of 200 Kbps in both directions simultaneously.
 - (2) "One-way broadband lines or wireless channels" is defined as lines or wireless channels with information carrying capability in excess of 200 Kbps in at least one direction, but not both.
 - (3) "Facilities-based providers" is defined as those entities that provide broadband services over their own facilities or over Unbundled Network Elements (UNEs), special access lines, and other leased lines and wireless channels that the entity obtains from a communications service provider and equips as broadband.
 - (4) "Own facilities" is defined as lines and wireless channels the entity actually owns and facilities that it obtained the right to use from other entities as dark fiber or satellite transponder capacity.
- (b) All commercial and government-controlled entities, including but not limited to common carriers and their affiliates (as defined in 47 U.S.C. § 153 (1)), cable television companies, Multichannel Multipoint Distribution Service (MMDS/MDS) "wireless cable" carriers, other

fixed wireless providers, terrestrial and satellite mobile wireless providers, utilities and others, which are facilities-based providers and are providing at least 250 full or one-way broadband lines or wireless channels in a given state, or provide full or one-way broadband service to at least 250 end-user consumers in a given state, shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they exceed this threshold.

(c) Respondents identified in subsection (b) shall file the FCC Form 477 on diskette or via e-mail, as directed in the instructions to the FCC Form 477. Upon submission of each report, an original certification letter (as contained in the instructions to FCC Form 477) signed by the responsible official shall be mailed to the Commission.

(d) Respondents may make requests for Commission non-disclosure of provider-specific data contained in FCC Form 477 under § 0.459 of this chapter by so indicating on Form 477 at the time that the subject data are submitted. The Commission shall make all decisions regarding non-disclosure of provider-specific information, except that the Chief of the Common Carrier Bureau may release provider-specific information to a state commission, provided that the state commission has protections in place that would preclude disclosure of any confidential information.

(e) Respondents identified in subsection (b) shall file a revised version of FCC Form 477 if and when they discover a significant error in their filed FCC Form 477. For counts, a difference amounting to 5 percent of the filed number is considered significant. For percentages, a difference of 5 percentage points is considered significant.

(f) Failure to file the FCC Form 477 in accordance with the Commission's rules and the instructions to the Form 477 may lead to enforcement action pursuant to the Act and any other applicable law.

§ 1.6002 Frequency of Reports

Entities subject to the provisions of § 1.6001 shall file reports semi-annually. Reports shall be filed each year on or before March 1st (reporting data about the status of their broadband deployment as of December 31 of the prior year) and September 1st (reporting data about the status of their broadband deployment as of June 31 of the current year). Entities becoming subject to the provisions of § 1.6001 for the first time within a calendar year shall file data for the reporting period in which they become eligible and semi-annually thereafter. Entities subject to the provisions of § 1.6001 shall make an initial filing of the FCC Form 477 on May 15, 2000 (reporting data about the status of their broadband deployment as of December 31, 1999).

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PART 20 -- COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for Part 20 is amended to read as follows:

AUTHORITY: 47 U.S.C. 154, 157, 160, 251-254, 303, and 332 unless otherwise noted.

2. Subsection 20.15(b) of the Commission's rules is amended to read as follows:

§ 20.15 Requirements under Title II of the Communications Act

(b) Commercial mobile radio service providers are not required to:

(1) File with the Commission copies of contracts entered into with other carriers or comply with other reporting requirements, or with §§ 1.781 - 1.814 and 43.21 of this chapter; except that commercial radio service providers that offer broadband service, as described in §1.6001(a) or mobile telephony are required to file reports pursuant to Subpart U of Part 1 and 43.11 of this chapter to the extent that they meet the thresholds as set out in §§ 1.6001(b) and 43.11(a). For purposes of this Subpart, "mobile telephony" is defined as real-time, two-way switched voice service that is interconnected with the public switched network utilizing an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls.

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**PART 43 - REPORTS OF COMMUNICATION COMMON
CARRIERS AND CERTAIN AFFILIATES**

Part 43 of Title 47 of the Code of Federal Regulations (C.F.R.) is amended as follows:

1. The authority citation for Part 43 continues to read as follows:

AUTHORITY: 47 U.S.C. § 154; Telecommunications Act of 1996, Pub. L. 104-104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

2. Section 43.01 of the Commission's rules is amended to read as follows:

§ 43.01 Applicability

(a) * * *

(b) Except as provided in paragraphs (c) and (d) of this section, carriers becoming subject to the provisions of the several sections of this part for the first time, shall, within thirty (30) days of becoming subject, file the required data as set forth in the various sections of this part.

(c) * * *

(d) Common carriers subject to the provisions of § 43.11 of this Chapter shall file data semi-annually. Reports shall be filed each year on or before March 1st (reporting data about their

deployment of local exchange services as of December 31 of the prior year) and September 1st (reporting data about their deployment of local exchange services as of June 31 of the current year). Common carriers becoming subject to the provisions of § 43.11 for the first time within a calendar year shall file data for the reporting period in which they become eligible and semi-annually thereafter. Common carriers subject to the provisions of § 43.11 shall make an initial filing of the FCC Form 477 on May 15, 2000 (reporting data about their deployment of local exchange services as of December 31, 1999).

3. Section 43.11 of the Commission's rules is added to read as follows:

§ 43.11 Reports of Local Exchange Competition Data

(a) All common carriers and their affiliates (as defined in 47 U.S.C. §153 (1)) providing telephone exchange or exchange access service (as defined in 47 U.S.C. §153 (16) and (47)) or commercial mobile radio service (CMRS) providers offering mobile telephony (as defined in section 20.15(b)(1) of this chapter), which provide at least 10,000 voice-grade equivalent lines or wireless channels or have at least 10,000 end-user consumers in a given state, shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they exceed this threshold.

(b) Respondents identified in subsection (a) shall file the FCC Form 477 on diskette or via e-mail, as directed in the instructions to the FCC Form 477. Upon submission of each report, an original certification letter (as contained in the instructions to FCC Form 477) signed by the responsible official shall be mailed to the Commission.

(c) Respondents may make requests for Commission non-disclosure of provider-specific data contained in the Form 477 under § 0.459 of this chapter by so indicating on the Form 477 at the time that the subject data are submitted. The Commission shall make all decisions regarding non-disclosure of provider-specific information, except that the Chief of the Common Carrier Bureau may release provider-specific information to a state commission, provided that the state commission has protections in place that would preclude disclosure of any confidential information.

(d) Respondents identified in subsection (b) shall file a revised version of FCC Form 477 if and when they discover a significant error in their filed FCC Form 477. For counts, a difference amounting to 5 percent of the filed number is considered significant. For percentages, a difference of 5 percentage points is considered significant.

(e) Failure to file FCC Form 477 in accordance with the Commission's rules and the instructions to Form 477 may lead to enforcement action pursuant to the Act and any other applicable law.

APPENDIX B - LOCAL COMPETITION AND BROADBAND REPORTING FORM

All filers must complete this section.

File data as of:

Please review instructions before completing form.

1. Company
2. Indicate the category that best describes the operations covered by this filing.
3. Filers must report separate data for ILEC and non-ILEC operations. Use the following drop-down box to indicate whether this worksheet contains data for ILEC or for non-ILEC operations.
4. Use the following drop-down box to select your company, parent or controlling entity name. Select "not shown" if it is not in the list. Incorporate this name into the file name for each data file that you and all affiliates submit. See instructions, Section IV-B-1 for information on preparing file names.

If you selected "not shown" above, then provide the following:

Name of company, parent or controlling entity.

5. State.
6. Contact person (person who prepared the data contained below).
7. Contact person telephone number and e-mail address.
phone
e-mail
8. Indicate whether this is an original or revised filing.
9. Indicate whether you request non-disclosure of some or all of the information in this file because you believe that this information is privileged and confidential and public disclosure of such information would likely cause substantial harm to the competitive position of the filer.
10. If you requested non-disclosure in line 9, indicate whether this is your complete or redacted filing.

Reminders:

- 1) Virus check your diskettes before you mail them. Virus check your files before you e-mail them.
- 2) Use the correct version of the form. If you are not filing data for December 31, 1999, then obtain the correct version from www.fcc.gov/broadband/data/forms.
- 3) You may not insert or delete columns or rows, move cells, or edit text or numbers outside the cells provided for data entries. Files that cannot be opened in EXCEL97, files whose structure has been altered, and files with improper names will be returned for refiling.
- 4) If you have questions about the form, contact the Common Carrier Bureau, Industry Analysis Division at (202) 418-0940; via e-mail at 477INFO@fcc.gov; or via TTY at (202) 418-0484.
- 5) You must include a Certification statement signed by an officer of your company. A single statement will cover all files included on the diskette.
- 6) If you request non-disclosure of some data, you must file a public version of the form with such information redacted. See Sections IV-B and IV-C of the instructions for information on preparing a redacted file.
- 7) In addition to filing data on diskette, please submit data files via e-mail to: FCC477@fcc.gov



Complete Part I if you and all affiliates (including commonly controlled entities) provide 250 or more broadband lines or wireless channels in the state over your own facilities or over lines you provisioned as broadband. See instructions for definitions of "own facilities", "broadband", "end user", and "residential and small business".

If you provide data in Part I, you must provide in Part V a list containing the 5-digit zip codes of the end-user locations in which you provide the broadband services reported herein. See instructions.

Data as of December 31, 1999:

A. Lines and wireless channels of broadband service that you provided over your own facilities, or over UNE loops or other lines and wireless channels that you obtained from other service providers and equipped as broadband, categorized by technology at the end-user location.

(a) Total one-way and two-way (full) broadband lines and wireless channels	Percentages of lines and wireless channels reported in (a)				
	(b) % of (a) used by residential & small business customers	(c) % of (a) provided over your own facilities	(d) % of (a) provided (i.e. billed directly) to end users	(e) % of (a) providing customers greater than 200 kbps in both directions	(f) % of (a) providing customers greater than 2 mbps in both directions
I - 1. Asymmetric xDSL.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
I - 2. Other traditional wireline including symmetric xDSL.	<input type="text"/>	<input type="text"/>	<input type="text"/>	100%	<input type="text"/>
I - 3. Coaxial carrier systems including hybrid fiber-coaxial systems.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
I - 4. Optical carrier (fiber to the end user).	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
I - 5. Satellite.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
I - 6. Terrestrial wireless fixed.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
I - 7. Terrestrial wireless mobile.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
I - 8. All other technologies, such as distribution over electric power lines.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Complete Part II if you and all affiliates (including commonly controlled entities) provide 10,000 or more voice-grade equivalent lines or wireless voice-grade equivalent channels used for local exchange or exchange access service in the state. See instructions for definitions of "voice telephone service", "voice-grade equivalent lines", "residential and small business", "owned facilities", "COLO switching centers", and "end users".

If you provide data in Part II, you must provide in Part V a list containing the 5-digit zip codes of the end-user locations in which you provide the wireline or fixed wireless voice grade services reported herein. See instructions.

Data as of December 31, 1999:

	(a) Total voice-grade equivalent lines and voice-grade equivalent wireless channels in service	Percentages of lines and wireless channels reported in (a)			
		(b) % of (a) used for residential & small business service	(c) % of (a) provided over your own facilities	(d) % of (a) provided over UNE loops	(e) % of (a) in ILEC COLO switching centers
A. Voice telephone service provided to end users.					
II - 1. Total lines and channels you provided to end users.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
B. Voice telephone service provided to other communications carriers, categorized by:					
II - 2. Lines and channels that you provided under a Total Service Resale arrangement. See instructions.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
II - 3. Lines and channels you provided under other resale arrangements, such as resold centrex.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
C. UNE loops, special access lines, and those private lines that connect to carriers, categorized by:	(a) Total lines and wireless channels				
II - 4. Lines and channels that you provided under a UNE loop arrangement, where you do not provide switching for the line.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
II - 5. Lines and channels that you provided under a UNE loop arrangement, where you also provided switching for the line.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
II - 6. Special access lines not provided as broadband.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
II - 7. Private lines that connect an end-user premises to a telecommunications common carrier and not provided as broadband.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

D. Total wireline voice-grade equivalent lines & fixed wireless voice-grade equivalent channels in service.	Percentage of channels reported in (a), carried over the following types of facilities categorized by the technology used in the part of the line or wireless channel at the end-user location		
	(f) cable coaxial	(g) wireless	(h) all other
II - 8. Total lines and channels provided. [line II-1+line II-2 + line II-3]	<input type="text"/>	<input type="text"/>	<input type="text"/>



Complete Part III if you and all affiliates (including commonly controlled entities) serve 10,000 or more mobile voice telephony subscribers in the state over your own facilities. See instructions for definitions of "mobile voice telephony subscribers" and "owned facilities".

Data as of December 31, 1999:

A. Mobile voice telephony subscribers in service and served over your own facilities.

(a) Network telephone service: subscribers	(b) Percentage of (a) provided (i.e. billed directly) to end users
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III - 1. Cellular, PCS & other mobile telephony.



Filers completing Part I or Part II must supply a list of 5 digit Zip Codes corresponding to filer's service territory.
Do not provide customer counts by Zip Code.

Data as of December 31, 1999:

V - 1. 5 digit zip codes in the state in which you provide to end-user locations:

	(a) Broadband Service	(b) Wireline & Fixed Wireless Exchange Telephone
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FCC Form 477, March 2000

Approved by OMB 3060-xxxx

Estimated Average Burden Hours Per Response: ___ Hours

Instructions for the Local Competition and Broadband Reporting Form (FCC Form 477)**I. PURPOSE**

The FCC Form 477 collects information on the deployment of broadband, local telephone and mobile telephony services from providers of these services. Data obtained from this form will be used to describe competition for local telecommunications services and deployment of broadband services. See *Local Competition and Broadband Reporting*, Order, FCC 00-114 (rel. March 30, 2000) for additional information about this collection.

II. WHO MUST FILE THIS FORM?

Three types of communications service providers must file this form:

- **Providers of Broadband Services:**

Facilities-based providers of broadband services (including incumbent and competitive LECs, cable companies, fixed wireless providers, terrestrial and satellite mobile wireless providers, MMDS providers, utilities, and others) must complete and file the applicable portions of this form for **each state** in which they provide **250 or more** “full or one-way broadband” lines (or wireless channels) or provide “full or one-way broadband” service to **250 or more** end user consumers. The applicable portions of the form are: 1) the Cover Page; 2) Part I; 3) Part IV (if necessary); and Part V.

Note: an entity is considered a “facilities-based broadband provider” if it provides broadband services over facilities that it owns or provisions/equips as broadband. More specifically, “facilities-based providers” include entities that provide broadband services over their own facilities, or over unbundled network elements (UNEs), special access lines, and other leased lines and wireless channels that they equip as broadband.

- **Providers of Local Telephone Services:**

Incumbent and competitive local exchange carriers (LECs) must complete and file the applicable portions of the form for **each state** in which they provide **10,000 or more** “voice-grade equivalent lines (or wireless channels).” For purposes of this threshold, filers need only consider the number of voice-grade equivalent lines (or wireless channels) that would be reported in Line D.II-8(a) of the form. The applicable portions of the form are: 1) the Cover Page; 2) Part II; 3) Part IV (if necessary); and Part V.

- **Providers of Mobile Telephony Services:**

Facilities-based providers of mobile telephony services (see 47 C.F.R. 20.15(b)(1)) must complete and file the applicable portions of this form for **each state** in which they serve **10,000 or more** mobile telephony subscribers. Firms providing mobile telephony services using spectrum obtained via lease or other agreement with a Band Manager must also complete the

applicable portions of this form. The applicable portions of the form are: 1) the Cover Page; 2) Part III; 3) Part IV (if necessary).

Note: Mobile telephony is defined as real-time, two-way switched voice service that is interconnected with the public switched network using an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls.

Important Note for All Providers about Calculating Reporting Thresholds: Reporting thresholds are calculated based collectively on all commonly-owned and commonly-controlled affiliates operating in a given state. [See 47 U.S.C. § 153(1) (establishing a 10% equity interest as indicia of ownership).] That is, a provider must report for each state in which it and all affiliates collectively meet reporting thresholds. Such affiliates are, nevertheless, permitted to file forms for such states either combined or separately -- at their discretion.

III. LINE-BY-LINE INSTRUCTIONS FOR COMPLETING FORM FCC 477

A. Cover Page – Name and Contact Information (All Filers)

Line 1: Provide the name of the entity whose data is contained in the form.

Line 2: Select the category that best describes the type of technology that you use to provide services. Choose from Cable Coaxial, Fiber, Fixed Wireless, Mobile Wireless, Reseller, Satellite, Wireline Local Exchange Carrier, or Other.

Line 3: In general, you can combine operations in a state or report them separately. However, entities that are, or are affiliated with, an incumbent LEC must complete and file separate forms for their incumbent LEC and non-incumbent LEC operations. All filers should indicate whether this filing is for an incumbent LEC filing or a non-incumbent LEC filing.

Line 4: You must provide a single name, such as a holding company name, so that all affiliated or commonly operated companies can be identified. See “Important Note for All Providers about Calculating Reporting Thresholds” for more information on which companies should be considered to be affiliated or commonly-controlled. The Excel 97 spreadsheet version of the form (preferred) has a drop down box with standardized names. The Lotus 123 spreadsheet version of the form has a list of standardized names. If your company’s name is not in the list, enter a name in the space provided.

Line 5: File a separate form for each state in which you meet the filing threshold. In this line, indicate the state for which you are filing data. For this purpose, treat the District of Columbia, Puerto Rico, and the U.S. Virgin Islands as states.

Line 6: Provide a contact name for the person who prepared this filing.

Line 7: Provide the telephone number and e-mail address for the contact person listed in Line 6.

Line 8: File a revised form if you discover mistakes. Use Line 8 to indicate whether this filing is an original or a revised filing.

Line 9: Indicate whether you request non-disclosure of some or all of the information reported in the Form 477. You may request non-disclosure if you believe that this information is privileged and

confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the filer. Note that if you request non-disclosure of some or all of the data, you must also file a public version of the form with such information redacted, as explained below in Sections IV-B and IV-C of the instructions.

Line 10: If you requested non-disclosure in Line 9, indicate whether the file is your complete or redacted filing. See Sections IV-B and IV-C of the instructions for information on preparing a redacted file.

B. Part I: Broadband (Broadband Providers Only)

INCLUDE in Part I: In this section, broadband providers report information about their **full and one-way broadband lines/wireless channels** (for purposes of this section “lines”) in service to end-users. **Full broadband lines** are lines with information carrying capability in excess of 200 Kbps in both directions, simultaneously. **One-way broadband lines** are lines with information carrying capacity in excess of 200 Kbps in one direction (typically downstream) and less than or equal to 200 Kbps in the other direction (typically upstream). For purposes of this information collection, the information carrying capacity of a line or wireless circuit is the customer's authorized maximum usage (“speed”) on that line or wireless circuit. Filers must report broadband lines that they provide over their own facilities as well as those provided over unbundled network elements (UNEs), special access lines, and other leased lines that the filer equips as broadband.

EXCLUDE in Part I: broadcast cable television service and other multi-channel video programming; video-on-demand type service unless it is bundled with Internet-type access or uses Internet-type delivery protocols; and channelized services which restrict the customer to both transmitting and receiving data at 200 Kbps or less. Exclude lines that connect two locations of the same customer (not to be reported anywhere on FCC Form 477) and special access and private line services that you believe are used for exchange telephone service (to be reported in Part II-C). Where a provider does not know whether a high capacity line or wireless channel is being used as a broadband line or as a telephone service line, it should report that line in Part II-C (either Line C.II-6 or C.II-7, as appropriate). If you provide a line to another filer who is likely to include services provided over that line in its own report (for example, because the other filer equips the line or UNE as broadband), then that line should be reported in Part II-C of your filing.

Report broadband lines on Lines I-1 through I-8 based on the technology employed by the part of the line that actually connects to the customer's premises. If different technologies are used in different directions, then report the line based on the direction for which you provide the greatest bandwidth.

Lines

Important note about categorizing services to provide line counts: In general, a single service offering should be reported in only one part of the form by a single reporter. In categorizing lines, base your response on the portion of the line or channel that connects to the customer's premise and the type of service that is provided. **Count only lines that are in service**, including lines that you provide to end users and lines that you provide to companies that in turn use those lines to provide broadband or telephone service to end users.

Line A.I-1: Report the number of broadband lines/wireless channels used to provide asymmetric xDSL service.

Line A.I-2: Report the number of broadband lines/wireless channels provided over other traditional wireline facilities including symmetric xDSL service.

Line A.I-3: Report the number of broadband lines/wireless channels provided over coaxial carrier systems (including hybrid fiber-coaxial systems).

Line A.I-4: Report the number of broadband lines/wireless channels provided over optical carrier (fiber to the end user).

Line A.I-5: Report the number of broadband lines/wireless channels provided over satellite.

Line A.I-6: Report the number of broadband lines/wireless channels provided over terrestrial fixed wireless.

Line A.I-7: Report the number of broadband lines/wireless channels provided over terrestrial mobile wireless.

Line A.I-8: Report the number of broadband lines/wireless channels provided over all other technologies.

Columns

Note about Reporting Percentage Breakouts: Parts I, II, and III of Form 477 direct filers to provide percentages breakouts for specific line/wireless channel counts. If disaggregated counts exist for another purpose, then these must be used to calculate the requested percentage breakouts. However, filers are not expected to calculate percentages based on exhaustive counts performed solely for this task. Rather, where disaggregated counts do not exist, filers may provide good faith estimates of percentages based on the best information available to the filer. For example, if there is a pricing distinction between services provided to residential, small business and large business customers, then billing information should be used to estimate the percentage of lines provided to residential and small business customers. In the absence of such counts, however, filers should rely on studies done for other purposes, such as marketing and business plan information, demographic data, etc. A filer should conduct limited special studies only in the event that it cannot provide estimates that it reasonably expects to be accurate within plus or minus five percentage points.

Column (a): Report the number of total one-way and full-broadband lines/wireless channels in service that are used to provide service for each of the lines described above (Lines A.I-1 through A.I-8).

Column (b): Report the percentage of total lines from column (a) that are used by residential and small business customers (as opposed to large business, institutional, or other customers). In Part I, classify service provided to customers as residential and small business if they take broadband services normally associated with residential customers. Such lines could be classified as residential and small business based on marketing information, such as demographics associated with the geographic area where the lines are provided.

Column (c): Report the percentage of broadband lines and wireless channels from column (a) that are provided over your own facilities. Count as your own facilities, those facilities that you actually owned as well as facilities that you obtained the right to use from other entities as dark fiber or satellite transponder capacity (and that you used as part of your own system).

Column (d): Report the percentage of total lines from column (a) that are provided – that is, billed – directly to end users by the filer. End-users are residential, business, institutional and government customers who use the services for their own purposes and do not resell them to other entities. Classify lines/wireless channels as end-user lines if they are billed or marketed by your agents. For example, do not classify as end user, broadband lines/channels provided to Internet Service Providers that are incorporated into their premium Internet service options for provision to their end-user consumers.

Column (e): Report the percentage of total lines from column (a) that deliver to the end user consumer greater than 200 Kbps in both directions, simultaneously.

Column (f): Report the percentage of total lines from column (a) that deliver to the end-user consumer greater than 2 Mbps in both, directions simultaneously. Note that every line reported in this column would, by definition, also be reported in column (e). Thus, column (f) should not contain a greater percentage than column (e).

C. Part II: Wireline and Fixed Wireless Local Telecommunications (Local Telephone Service Providers Only)

INCLUDE in Part II: Report all **voice-grade equivalent local exchange service lines** and all lines that are used for exchange access services that you do not report in Part I. Include lines you provide using wireline as well as fixed wireless technologies. Include lines (or wireless channels) that you reported as broadband in Part I, but that your customer can switch between broadband and local exchange or exchange access service without you changing how the line (or wireless channel) is provisioned.

EXCLUDE in Part II: Do not report in Part II lines not yet in service, lines used for interoffice trunking, lines that connect two locations of the same customer, company official lines, or lines that you provide as a broadband service reported in Part I. Do not report in Part II transport lines between your switching center and Internet protocol, ATM or circuit switched networks, where you already are reporting the portion of the line between the end user and your switching center, even if you multiplexed those lines and provided higher capacity lines between your switching center and those networks.

Note for reporting channelized service: In Part II-A and Part II-B, providers are to report voice-grade equivalent lines. Count as one voice-grade equivalent line: traditional analog POTS lines, Centrex-CO extensions, and Centrex-CU trunks. Count lines based on how they are charged to the customer rather than how they are physically provisioned. For example, count Basic Rate (BRI) Integrated Services Digital Network (ISDN) lines as two voice-grade equivalent lines. Report 8 voice-grade equivalent lines if a customer buys 8 trunks that happen to be provisioned over a DS1 circuit. If a customer buys a DS1 circuit that is provided as channelized service, report 24 voice-grade equivalent lines, even if there is some indication that the customer is only using 8 of the derived lines. Lines reported in Part II, section C, however, should not be reported in voice-grade equivalents, but should reflect actual circuit counts.

Note for competitive LECs providing local exchange service over hybrid fiber-coaxial cable television systems: If you cannot determine the number of lines from your records, you are permitted to report the number of subscribers.

Lines

Important note about categorizing services to provide line counts: see this note, above, at page 3.

In **Lines A.II-1** (service provided to end users) and **Lines B.II-2 through B.II-3** (service provided to

other carriers), report voice-grade equivalent lines (or wireless channels) used to provide voice telephone service. By “voice telephone service,” we mean local exchange or exchange access services that allow end users to originate and terminate local telephone calls on the public switched network, whether used by the end user for voice telephone calls or for other types of calls carried over the public switched network (for example, lines used for facsimile equipment). Filers report voice telephone service in terms of voice-grade equivalent lines or wireless channels. Thus, a voice-grade equivalent line (or wireless channel) is a line or channel that directly connects an end user to a carrier and allows the end user to originate and terminate local telephone calls on the public switched network. Voice-grade equivalent lines include high capacity lines that are channelized to provide voice-grade service. See “Note for reporting channelized service,” above, at page 5.

Line A.II-1: Report total voice-grade equivalent lines/wireless channels you provided directly to end-user consumers. Include lines provided to end users by your agents or under traditional marketing arrangements. For example, include lines provided to shared tenant service providers.

Line B.II-2: Report total lines/wireless channels you provided to other communications carriers under a Total Service Resale arrangement (i.e., provided pursuant to section 251(c)(4) of the Communications Act of 1934, as amended).

Line B.II-3: Report total lines/wireless channels you provided to other communications carriers under other resale arrangements.

In **Lines C.II-4 through C.II-7**, report the actual number of lines billed to the customer. Note that in Lines C.II-6 and C.II-7, the customer may be either an end user or another telecommunications carrier. Do not convert high capacity lines into voice-grade equivalent counts. Include high capacity lines that would meet the definition of broadband, but that are provided to another entity who is likely to report as broadband any services provided over those lines.

Line C.II-4: Report lines/wireless channels that you provided under a UNE loop arrangement, where you do not provide switching for the line. Include the high frequency portion of the loop if sold as a UNE.

Line C.II-5: Report lines/wireless channels that you provided under a UNE loop arrangement, where you also provide switching for the line.

Line C.II-6: Report special access lines that you do not provide as broadband.

Line C.II-7: Report private lines that connect an end-user premise to a telecommunications carrier and that you do not provide as broadband.

Line D.II-8: Report the total lines/wireless channels reported in Lines A.II-1, B.II-2, and B.II-3.

Columns

Column (a): For **Lines A.II-1** (service provided to end users), **Lines B.II-2 through B.II-3** (service provided to other carriers), and **Line D.II-8** (total voice-grade equivalent lines in service), report voice-grade equivalent lines used to provide local exchange services. For **Lines C.II-4 through C.II-7** (UNEs, special access lines, and private lines), report the number of lines or wireless channels (*i.e.*, not the voice-grade equivalent of those lines or wireless channels) that are used for exchange access services that you do not report in Part I.

Note: See note above, page 4, about reporting data on percentages.

Column (b): Report percentage of column (a) used for service billed to residential and small business customers. In Part II, classify lines provided to other carriers as residential and small business if the lines are ordered in quantities of fewer than four (4) voice-grade equivalent lines, if they are ordered as services rated as residential or small business, or based on marketing information, such as demographic information associated with the geographic areas where the lines are provided. Include as residential lines that you provide to a shared tenant service provider in an apartment building.

Column (c): Report percentage of lines and wireless channels in column (a) provided over your own facilities. Count as your own facilities, those facilities that you actually owned as well as facilities that you obtained the right to use from other entities as dark fiber or satellite transponder capacity (and that you used as part of your own system).

Column (d): Report percentage of column (a) provided over UNE loops.

Column (e): Report percentage of column (a) provided through incumbent LEC switching centers in which there is at least one collocation arrangement. In this column, incumbent LECs should estimate the percentage of their voice-grade equivalent lines and channels offered through such offices. Other reporting carriers should estimate the percentage of their voice-grade equivalent lines that are provided through use of a collocation arrangement. Thus, a CLEC providing lines on a pure resale basis would report 0% of lines offered in ILEC COLO offices, even if some of the resold lines were in offices in which some other entity had a collocation arrangement.

Note: For the purposes of completing Part II, an "ILEC COLO switching center" is an ILEC switching center in which one or more competing local exchange carriers (CLECs) has an operational collocation arrangement as defined in 47 C.F.R. §51.5. A switching center is a location containing one or more switches. Do not consider separate three-digit telephone prefixes as separate switching centers. Consider a remote as a separate switching center if a competing carrier could obtain a UNE loop **only** at the remote switch rather than at the host switch. This definition of a switching center is different from wire center based definitions of switching centers, which include all remote switch locations as switching centers. If collocation occurs only at a remote switch, treat all lines served at the remote as being provided at a COLO switch and treat lines at the host switch as not being provided at a COLO switch.

Column (f): For Line D.II-8, report percentage of column (a) carried over cable coaxial facilities used in the part of the line/wireless channel at the end user location.

Column (g): For Line D.II-8, report percentage of column (a) carried over fixed wireless facilities used in the part of the line/wireless channel at the end user location.

Column (h): For Line D.II-8, report percentage of column (a) carried over all other facilities, including but not limited to twisted copper pair, used in the part of the line/wireless channel at the end user location.

D. Part III: Mobile Local Telephone (Mobile Telephony Providers Only)

Line A. III-1: Report all mobile telephone subscribers served over your own facilities that give customers the ability to place or receive calls from the public switched telephone network. Include: satellite, cellular, and PCS telephone service & other terrestrial mobile services; and, units in service that combine voice telephone with other services. Report only mobile telephony subscribers that you serve

using spectrum licenses you own or manage, and not subscribers that you serve via resale of another firm's facilities.

Note: Exclude mobile services that customers cannot use to directly place calls to subscribers of ordinary telephone service, such as dispatch services and one-way or two-way paging services. Also exclude voice services that permit communications between only a narrow range of locations such as automobile units that permit drivers to communicate only with a specific road service.

Column (a): Report the total number of subscribers, as described above, in the state. Count as a subscriber a mobile handset, car-phone or other activated voice unit that has a unique phone number and that can place and receive calls from the public switched network. Mobile telephony subscriber counts by state should be based on billing addresses, not area codes of telephone numbers provided to subscribers.

Column (b): Report the percentage of subscribers in column (a) that you bill directly to end users (as opposed to those units in service that were provided through resellers or distributors for pre-paid service).

E. Part IV: Explanations and Comments (All Filers, only if necessary)

Complete Part IV if you wish to furnish any explanatory information with your data. Filers should identify the Part and Line to which their comment applies in the columns provided.

F. Part V: Zip Code Listings (Broadband Providers and Local Telephone Service Providers)

Line V-1: Report the 5 digit Zip Codes -- for this state -- in which you provide service to end-user locations.

Column (a): If you file broadband information in Part I, you must provide a list of Zip Codes in the state in which you provide broadband service.

Column (b): If you file local exchange service information in Part II, then you must provide a list of Zip Codes in the state in which you provide local exchange service. Providers of mobile telephony services need not provide this information.

Note: These Zip Code lists should correspond to areas in which service is actually being used by customers, rather than authorized territory, planned build-out, location of facilities, etc. The list can be based on engineering information (such as maps showing actual service territory) or on billing information, such as the Zip Codes of actual customers. If the latter approach is selected, please review the resulting list and delete any Zip Codes which clearly are out of your service territory and which appear only because the billing address is likely different from the service address.

IV. GENERAL INFORMATION

A. Where and When to File

1. When to File

Service providers that meet the reporting thresholds must file the FCC Form 477 semi-annually:

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

2. Where to File

Mail the Certification Statement and 3.5 inch floppy disk (containing your completed Form 477) to: Industry Analysis Division, Room, 6-A220, 445 12th St., S.W., Washington, D.C. 20554.

Also, please also send a copy of the transmittal letter and files via e-mail to FCC477@fcc.gov. You need not file via e-mail if you do not believe e-mail adequately protects data you consider proprietary. In the future, if e-mail submission proves satisfactory, we may eliminate the requirement to physically mail files.

B. How to File

1. Preparation of Data Files

You must file your local competition and broadband deployment data using the electronic version available at <http://www.fcc.gov/formpage.html> or by contacting International Transcription Services (ITS) at (202) 857-3800. Form 477 will change over time, so filers must obtain the latest version of this spreadsheet each filing period.

The electronic version of Form 477 is provided in two formats: Excel 97 and Lotus 123 Version 5. The Excel 97 version contains drop-down boxes and some edit checks. The Lotus version should be usable in most spreadsheet programs. **Once you complete a filing, rename the file in accordance with instructions provided below.** If you wish to assert confidentiality for any information provided in the filing, you must provide a redacted version of the file, renamed in accordance with the instructions provided below. If you do not provide a redacted version of the file using the proper file names, you risk having confidential information released.

You may not move cells, insert or delete rows, or change the validation or formatting characteristics of any cell. **If the FCC cannot load your files into its databases as a result of modifications to the file, the file will be returned to you for correction and resubmission.** When a filer submits multiple Form 477s, the filer may place multiple spreadsheet files on a single 3.5 inch IBM format diskette. However, filers must save each Form 477 as a separate spreadsheet file. Do not submit multiple Form 477 worksheets within a single Excel 97 workbook or as multiple levels in a single Lotus file.

Each file name must adhere to the following convention:

SSTH#name.XLS or SSTH#name.WK4; where:

SS is the two letter post office abbreviation for the state.

T is a single character representing principal filing type. Since ILEC data must be filed separately from non-ILEC data, this convention distinguishes the files. In addition, this character is used to distinguish refiled and redacted data. Use the following codes:

- A = original filing for non-ILEC operations
- B = original filing for ILEC operations
- C = original redacted filing for non-ILEC operations
- D = original redacted filing for ILEC operations
- E = revised filing for non-ILEC operations
- F = revised filing for ILEC operations
- G = revised redacted filing for non-ILEC operations
- H = revised redacted filing for ILEC operations

H is the half of year, use:
 “J” for data as of June 30
 “D” for data as of December 31

is a sequence number if a filer chooses to submit more than one file for a type of operations in a state. Use “1” if only one filing is made for the state.

name is the common name identified on Line 4 of the Cover Page. If you use software that limits file names to 8 characters plus a three character file extension, then use a three character name abbreviation and identify that name in the Certification Statement.

Example: MDAJ1Bell Atlantic.XLS

2. Additional Directions for Filing

Filers must send a transmittal letter and the attached certification statement to the Industry Analysis Division, Common Carrier Bureau¹ and to the Commission’s contract copier². **The Certification statement must be signed in ink by an officer of the filer or one of the legal entities whose data is included.** An officer is a person who occupies a position specified in the articles of incorporation (or partnership agreement), and would typically be president, vice president for operations, vice-president for finance, comptroller, treasurer or a comparable position. If the filer is a sole proprietorship, the owner must sign the certification

C. Requesting Confidentiality

Some information from the FCC Form 477 may be made publicly available. Any respondent to this form may submit a request that information on the FCC Form 477 not be made routinely available for public inspection by so indicating on Line 9 of the form and on the Certification Statement. See also 47 C.F.R. §§0.457, 0.459, 1.6001(d), 43.11(c); *Examination of the Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, FCC 98-184 (rel. Aug. 4, 1998). Respondents seeking confidential treatment should provide a separate diskette containing a redacted version of all files. Note that these redacted files must be given different names from the complete filings, as specified above. Redacted data should be replaced with “xxxxxx” in the redacted data file.

¹ Industry Analysis Division; Rm. 6-A220; 445 12th St, SW; Washington, D.C. 20554.

² Currently International Transcription Services; 1231 20th St, NW; Washington D.C. 20036.

D. Obligation to File Revisions

Filers must submit a revised form if the filer discovers a significant error in the data. For counts, a difference amounting to 5 percent of the filed number must be refiled. For percentages, a difference of 5 percentage points is significant and must be refiled.

Revisions should consist of a certification statement and one or more electronic files. Carriers should refile all data for a state if one or more data element must be revised. A refiled Form 477 spreadsheet should contain all appropriate data for the state, not just the corrected figures. Note that files containing revisions must be given different names from the original filings, as specified above, Section IV-B.1.

E. Compliance

Service providers that are required to file the Form 477 but fail to do so may be subject to the enforcement provisions of the Communications Act and any other applicable law.³

³ 47 U.S.C. §§ 502, 503.

V. CERTIFICATION STATEMENT

**FCC Form 477 Local Competition and Broadband Reporting
Transmittal Letter and Certification Statement**

Mail to Industry Analysis Division
Rm. 6-A220
445 12th St, SW
Washington, D.C. 20554

This filing is an (check one) original filing revised filing

Organization name as it appears in all file names: _____

Number of files provided for this reporting period: _____

Year: _____ Data as of: [Check one: June 30___; December 31 ___]

I certify that I am an officer of _____; that I have examined the information contained in the data files either attached herein or transmitted electronically and that to the best of my knowledge, information and belief, all statements of fact contained in such files are true and that said files represent an accurate statement of the affairs of the above named respondent as of the following date: _____

If I have requested non-disclosure of some or all of the information in FCC Form 477 by so indicating on Line 9 of the form, I certify that this information is privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the respondent.

PRINTED NAME: _____

POSITION: _____

SIGNATURE _____

DATE _____

Persons making willful false statements in the report form can be punished by fine or imprisonment under the Communications Act, 47 U.S.C. 220(e).

CONTACT PERSON _____

TELEPHONE NUMBER _____

VI. DISCLOSURE, PRIVACY ACT, PAPERWORK REDUCTION ACT NOTICE

The Privacy Act of 1974 and the Paperwork Reduction Act of 1995 require that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory under the law. See Privacy Act of 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. § 552a (e)(3), and the Paperwork Reduction Act of 1995, P.L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

Our legal right to ask for this information is sections 1.6000-1.6002, 20.15, 43.01, 43.11 of the Federal Communications Commission's rules require. 47 C.F.R. §§ 1.6000-1.6002, 20.15, 43.01, 43.11. Your response is mandatory.

This collection of information stems from the Commission's authority under Sections 4(i), 201, 218-220, 251-252, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 201, 218-220, 251-252, 303(r), 332, and 403, and section 706 of the Telecommunications Act of 1996. The data in the worksheet will be used to monitor the deployment of broadband services and the development of local telephone service competition. Selected information provided in the worksheet will be made available to the public in a manner consistent with the Commission's rules and orders.

We have estimated that each response to this collection of information will take, on average, __ hours. Note that many companies will file multiple responses and that this estimated average reflects the fact that many companies will be required to file only a single service count that should be readily available from internal company records. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, enter the data in a Form 477 spreadsheet, prepare a diskette and certification for each state, and actually file the report. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PER, Washington, D.C. 20554, Paperwork Reduction Project (3060-0855). We also will accept your comments via the Internet if you send them to jboley@fcc.gov. Please DO NOT SEND COMPLETED WORKSHEETS TO THIS ADDRESS.

Remember -- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060-0816.

The Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. If we believe there may be a violation or potential violation of a statute or a Commission regulation, rule, or order, your filing may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your worksheet may be disclosed to the Department of Justice, court, or other adjudicative body when (a) the Commission; or (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

Reporting entities failing to file the worksheet in a timely fashion may be subject to penalties under the Communications Act, including Sections 502 and 503 (b).



APPENDIX C – FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act (RFA),¹ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Local Competition and Broadband Reporting Notice*. The Commission sought written public comment on the proposal in the Notice, including comment on the IRFA. The comments received are discussed below. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.²

I. Need for, and Objectives of, the Local Competition and Broadband Reporting Order:

2. The Commission initiated this proceeding to determine whether it should require certain providers of communications services to report a limited amount of information about the development of local telephone competition and the deployment of broadband services as mandated by the Telecommunications Act of 1996. In this Order, we adopt rules to collect basic information about two important aspects of communications: the status of local telephone service competition and the deployment of "advanced telecommunications capability." The 1996 Act -- in particular, sections 251 and 271 -- tasked this Commission and the states with important roles in opening local telephone markets to competition. Moreover, the Commission needs timely and reliable information on broadband deployment given that section 706 of the 1996 Act requires the Commission to issue periodic reports on the state of broadband deployment. The information collected pursuant to this program will materially improve our ability to develop, evaluate, and revise policy in these critical areas and will provide valuable benchmarks not only for this Commission but for other policy makers and consumers.³ Further, the information collection program adopted in this Order is the least burdensome means available to fulfill these statutory obligations.

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

3. In the IRFA, we stated that we would seek to minimize the burden imposed on smaller entities by establishing thresholds for reporting that balanced the needs of the Commission to receive data on the development of local competition and deployment of broadband against the burden such reporting places on smaller entities. In response to the Notice, the Commission received comments from 37 parties and held a series of *ex parte* meetings with potential respondents to the information collection adopted in this Order. Among those parties, only the Office of Advocacy, United States Small Business Administration (SBA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), commented specifically on the IRFA. We note that many other commenters raised issues about the proposed rules and we encourage readers of this FRFA to

¹ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² See 5 U.S.C. § 604.

³ For example, we expect that data gathered about the state of broadband deployment will assist us in our determination under section 706 about whether the deployment of advanced telecommunications services is reasonable and timely. Similarly, we expect that data about the state of competition for local telecommunications services will assist the Commission in evaluating whether it can eliminate, modify, or forbear from applying its rules designed to promote local competition. *See* Order, Section III. Local Competition and Broadband Reporting.

consult the complete text of this Order, which describes in detail our analysis of commenter proposals.

4. In its comments to the IRFA, SBA expresses concern that the proposed threshold for reporting broadband data (1,000 broadband lines nationwide) may be set too low and, therefore, include a number of smaller entities that would be unduly burdened by the reporting requirement. As a result, SBA recommends that the Commission raise the reporting threshold to at least 5,000 lines nationwide⁴ or “significantly reduce the burden on the small businesses that would be replying.” OPASTCO, in its comments, commends the Commission for its efforts to exempt smaller entities and urges the Commission to adopt an existing SBA definition of small companies: those with fewer than 1,500 employees.⁵ We note that other commenters, while not in direct response to the IRFA, disagree with SBA and OPASTCO and urge the Commission to adopt its proposed reporting threshold.⁶

5. In an effort to balance the needs of the Commission with the costs our data gathering may place on smaller entities, the Commission has modified the thresholds for reporting and the frequency of filing reports, and other aspects of the requirements. We believe that these modifications satisfy SBA’s request that we significantly reduce the burdens for those small entities that must comply.⁷ For example, by adopting a state level threshold (250 broadband lines in a given state), we ensure that reporting entities have a significant presence in a given state, before having to complete the form for that state. Moreover, we conclude that this threshold is set to allow the Commission to comply with Congress’ charge in section 706 of the 1996 Act to determine whether advanced telecommunications capability, commonly known as “broadband,” is being deployed to *all* Americans. In order to gain the comprehensive understanding -- as called for in section 706 -- of the broadband market, particularly in rural and inner-city areas and among demographic groups that are traditionally underserved, it is necessary to gather data from entities that are most likely to serve these areas and groups, which includes some smaller entities.

6. Among the other actions taken to reduce the overall burden on small entities, we decouple the broadband and local competition reporting thresholds.⁸ In the Notice, the Commission tentatively concluded that any provider meeting the threshold requirement for the broadband part of the form would be required to complete the local competition part of the form, whether or not the entity met the threshold for that part, if the entity provides services listed in that part of the form. We note that the representatives of traditionally smaller providers opposed this linkage of reporting thresholds.⁹ By eliminating this linkage, we reduce reporting burdens on these traditionally smaller providers.

⁴ SBA Reply Comments at 4. We note that SBA asks us to consider the comments of other commenters that oppose the proposed reporting threshold and we have done so. *See* ALTS Comments at 5; OPATSCO Comments at 3; PCIA Comments at 5. *See also* Order, Section III.B. Exempting Smaller Entities.

⁵ OPASTCO Comments at 4, 8-9.

⁶ *See, e.g.*, USTA Comments at 4-5; American Library Association Reply Comments at 5; Competition Policy Institute at 6-8.

⁷ We have coordinated our size standards with the Small Business Administration.

⁸ *R&O* at ¶36.

⁹ *See, e.g.*, OPASTCO Comments at 4.

7. To further reduce the potential burden this data gathering program may place on smaller entities the Commission, in this Order, has also reduced the frequency of reporting from quarterly to semi-annually. In this regard, we accept the suggestions of many commenters that reducing the frequency of reporting is a measurable way to decrease the burden placed on reporting entities.¹⁰ We necessarily decline SBA's invitation to adopt an annual filing basis, because we conclude that the rapidly changing nature of the local competition and broadband markets necessitate more regular data collections.¹¹

8. Supporting the proposal in the Notice, SBA further encourages the Commission to collect information on a statewide basis. In this Order, we adopt our proposal and require providers to report data on a state-by-state basis.¹² To supplement this data, we ask providers of broadband and local exchange services to provide a list of the Zip Codes in which they serve at least one customer. We conclude that reporting scheme best balances our need to achieve geographically disaggregated information while minimizing burdens on all entities, including small entities.

9. Finally, we note SBA's suggestion that small carrier be allowed to file data on a voluntary basis. While the Commission concludes that it is necessary to adopt a mandatory reporting mechanism, we agree with SBA that smaller, exempted providers should be invited to file data on a voluntary basis. Thus, we encourage small providers to file the new FCC Form 477 even if they do not meet the reporting thresholds for mandatory reporting.¹³

10. Overall, we believe that our approach (*e.g.*, changing thresholds to the state level, decoupling the thresholds for different parts of the form, and reducing the reporting frequency to semi-annually) will result in a program that is not overly burdensome on reporting entities, and thus balances the concerns raised by SBA and other commenters with the Commission's need to gain a better understanding of developments in these markets.

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

11. In the IRFA, the Commission included a description and estimate of the number of small entities to which its proposed rules would apply. No commenters addressed the issue. In this Order, the Commission decides that local exchange carriers and providers of mobile telephony services that serve 10,000 or more voice-grade equivalent lines or wireless channels (or mobile telephony subscribers) in a given state and any entity that provides 250 or more full or one-way broadband lines or channels in a given state, must report data about those services provided in that state.¹⁴ Based on data available to it at present, the Commission estimates that approximately 200 of the nation's local exchange carriers and between 100-200 mobile telephony providers will be required to comply with the requirement. We do not have concrete data on which to base a precise estimate of the number of broadband providers that may be required to report. We set out below, however, a detailed description of the types of entities that

¹⁰ See Order, Section III.D. Frequency of Reports.

¹¹ See Order, Section III.D. Frequency of Reports.

¹² See Order, Section III.C. Definition of Reporting Area.

¹³ See Order, Section III.I. Outreach and Enforcement.

¹⁴ R&O at ¶¶39, 41.

may be required to comply with the reporting requirement and we detail our understanding of the number of small entities within each of these categories.

12. To estimate the number of small entities that will be affected by the rules, we first consider the statutory definition of "small entity" under the RFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction."¹⁵ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.¹⁶ Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).¹⁷ The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.¹⁸ We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

13. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS).¹⁹ According to data in the most recent report, there are 4,144 interstate carriers.²⁰ 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.

14. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."²¹ The SBA's Office of Advocacy contends that, for RFA purposes, small

¹⁵ 5 U.S.C. § 601(6).

¹⁶ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 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 in the Federal Register."

¹⁷ 15 U.S.C. § 632. See, *e.g.*, *Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

¹⁸ 13 C.F.R. § 121.201.

¹⁹ FCC, *Carrier Locator: Interstate Service Providers*, Figure 1 (Jan. 2000) (*Carrier Locator*). See also 47 C.F.R. § 64.601 et seq.

²⁰ *Carrier Locator* at Fig. 1.

²¹ 5 U.S.C. § 601(3).

incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.²² We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

15. *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.²³ 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, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not "independently owned and operated."²⁴ 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 conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms that may be affected by the decisions and rules in the Order.

16. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.²⁵ According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.²⁶ 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. Although it seems certain that some of these carriers are not independently owned and operated, we 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 SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules in the Order.

²² Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, e.g., *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996).

²³ 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").

²⁴ 15 U.S.C. § 632(a)(1).

²⁵ 1992 Census, *supra*, at Firm Size 1-123.

²⁶ 13 C.F.R. § 121.201, SIC Code 4813.

17. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers.* Neither the Commission nor SBA has developed a definition of small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.²⁷ The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).²⁸ According to our most recent data, there are 1,560 LECs and CAPs, 171 IXCs, 24 OSPs, and 388 resellers.²⁹ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs, 151 IXCs, 129 CAPs, 32 OSPs, and 351 resellers that may be affected by the decisions and rules in the Order.

18. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.³⁰ According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons.³¹ The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules in the Order.

19. *Cellular, PCS, SMR and Other Mobile Service Providers.* In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the rules adopted herein, we consider the data that we collect annually in connection with the TRS for the subcategories Wireless Telephony (which includes Cellular, PCS, and SMR) and Other Mobile Service Providers. We will utilize the closest applicable definition under SBA rules -- which, for both categories, is for telephone companies other than radiotelephone (wireless) companies,³² however, to the extent that the Commission has adopted definitions for small entities providing PCS and SMR services, we discuss those definitions below. According to our most recent TRS data, 732 companies reported that they are engaged in the

²⁷ 13 C.F.R. § 121.210, SIC Code 4813.

²⁸ See 47 C.F.R. § 64.601 *et seq.*; *Carrier Locator* at Fig. 1.

²⁹ *Carrier Locator* at Fig. 1. The total for resellers includes both toll resellers and local resellers.

³⁰ 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").

³¹ 13 C.F.R. § 121.201, SIC Code 4812.

³² *Id.*

provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services.³³ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Wireless Telephony Providers and Other Mobile Service Providers, except as described below, that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 732 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that may be affected by the decisions and rules in the Order.

20. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.³⁴ For Block F, an additional classification for "very small business" was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.³⁵ These regulations defining "small entity" in the context of broadband PCS auctions have been approved by SBA.³⁶ No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we estimate that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by SBA and the Commissioner's auction rules.

21. *SMR Licensees.* Pursuant to 47 C.F.R. § 90.814(b)(1), the Commission has defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than \$15 million in the three previous calendar years. The definition of a "small entity" in the context of 800 MHz SMR has been approved by the SBA,³⁷ and approval for the 900 MHz SMR definition has been sought. The rules may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation

³³ *Carrier Locator* at Fig. 1.

³⁴ See Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, FCC 96-278, WT Docket No. 96-59, ¶¶ 57-60 (June 24, 1996), 61 FR 33859 (July 1, 1996); see also 47 C.F.R. § 24.720(b).

³⁵ *Id.* at ¶ 60.

³⁶ *Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 (1994).

³⁷ See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89-583, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693-702 (1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995).

authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. Consequently, we estimate, for purposes of this FRFA, that all of the extended implementation authorizations may be held by small entities, some of which may be affected by the decisions and rules in the Order.

22. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we estimate that the number of geographic area SMR licensees that may be affected by the decisions and rules in the Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we conclude, for purposes of this FRFA, that all of the licenses may be awarded to small entities, some of which may be affected by the decisions and rules in the Order.

23. *220 MHz Radio Service -- Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies.³⁸ According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.³⁹ Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition, some of which may be affected by the decisions and rules in the Order.

24. *220 MHz Radio Service -- Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.⁴⁰ We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not

³⁸ 13 C.F.R. § 121.201, SIC Code 4812. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.

³⁹ U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

⁴⁰ 220 MHz Third Report and Order, 12 FCC Rcd 10943, 11068-70, at paras. 291- 295 (1997). The SBA has approved these definitions. See Letter from A. Alvarez, Administrator, SBA, to D. Phythyon, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1998).

more than \$3 million for the preceding three years.⁴¹ An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.⁴² 908 licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of October 7, 1999, the Commission had granted 681 of the Phase II 220 MHz licenses won at a first auction and an additional 221 Phase II licenses won at a second auction.⁴³

25. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

26. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.⁴⁴ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).⁴⁵ We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.⁴⁶ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

27. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.⁴⁷ Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500

⁴¹ 220 MHz Third Report and Order, 12 FCC Rcd at 11068-69, para. 291.

⁴² See generally Public Notice, "220 MHz Service Auction Closes," Report No. WT 98-36 (Wireless Telecom. Bur. Oct. 23, 1998).

⁴³ See Wireless Telecommunications Bureau Grants 654 Phase II 220 MHz Licenses, Public Notice, DA 99-583 (rel. Mar 24, 1999); Wireless Telecommunications Bureau Conditionally Grants 23 Phase II 220 MHz Licenses and Announces It is Prepared to Grant Four Additional Phase II 220 MHz Licenses After Final Payment is Made, Public Notice, DA 990746 (rel. April 16, 1999); Wireless Telecommunications Bureau Grants One Phase II 220 MHz License and Conditionally Grants Three Phase II 220 MHz Licenses, Public Notice, DA 99-1111 (rel. Jun 7, 1999); Wireless Telecommunications Bureau Grants 221 Phase II 220 MHz Licenses, Public Notice, DA 99-2104 (rel. Oct. 7, 1999).

⁴⁴ The service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

⁴⁵ BETRS is defined in sections 22.757 and 22.759 of the Commission's rules, 47 C.F.R. §§ 22.757, 22.759.

⁴⁶ 13 C.F.R. § 121.201, SIC Code 4812.

⁴⁷ The service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

persons.⁴⁸ There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

28. *Private Land Mobile Radio (PLMR)*. PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities.⁴⁹ These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of, if any, small businesses that could be impacted by the proposed rules. However, the Commission's 1994 Annual Report on PLMRs⁵⁰ indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the rules in this context could potentially impact every small business in the United States. We note, however, that because the vast majority of these licensees are end-users, not providers of telephony or broadband services, they would not be directly affected by the rules adopted in this Order.

29. *Fixed Microwave Services*. Microwave services include common carrier,⁵¹ private-operational fixed,⁵² and broadcast auxiliary radio services.⁵³ At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, we will utilize the SBA's definition applicable to radiotelephone companies -- *i.e.*, an entity with no more than 1,500 persons.⁵⁴ We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

30. *Offshore Radiotelephone Service*. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of

⁴⁸ 13 C.F.R. § 121.201, SIC Code 4812.

⁴⁹ See 47 C.F.R. § 20.9(a)(2) (noting that certain Industrial/Business Pool service may be treated as common carriage service).

⁵⁰ Federal Communications Commission, *60th Annual Report, Fiscal Year 1994*, at 116.

⁵¹ 47 C.F.R. § 101 *et seq.* (formerly, Part 21 of the Commission's rules).

⁵² Persons eligible under Parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 C.F.R. Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

⁵³ Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. See 47 C.F.R. § 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

⁵⁴ 13 C.F.R. § 121.201, SIC Code 4812.

Mexico.⁵⁵ At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

31. *Wireless Communications Services.* This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of \$15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the decisions and rules adopted in the Order includes these eight entities.

32. *Satellite Services.* The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.⁵⁶ According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than \$9.999 million. The Census report does not provide more precise data.⁵⁷

33. In addition to the estimates provided above, we consider certain additional entities that may be affected by the data collection from broadband service providers. Because section 706 requires us to monitor the deployment of broadband regardless of technology or transmission media employed, we anticipate that some broadband service providers will not provide telephone service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

34. *Cable services or systems:* 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.⁵⁸ This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.⁵⁹

⁵⁵ This service is governed by Subpart I of Part 22 of the Commission's Rules. See 47 C.F.R. §§ 22.1001 - 22.1037.

⁵⁶ 13 C.F.R. § 121.201, SIC Code 4899.

⁵⁷ 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC Code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration.)

⁵⁸ 13 C.F.R. § 121.201, SIC 4841.

⁵⁹ 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration.)

35. 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.⁶⁰ 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 1995.⁶¹ 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.

36. 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."⁶² The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 660,000 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.⁶³ Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450.⁶⁴ We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,⁶⁵ and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66,000,000 subscribers, and we have based our fee revenue estimates on that figure.

37. *Multipoint Distribution Systems (MDS)*: The Commission has defined "small entity" for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years.⁶⁶ This definition of a small entity in the context of MDS auctions has been approved by the SBA.⁶⁷ The Commission completed its MDS

⁶⁰ 47 C.F.R. § 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).

⁶¹ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for December 30, 1995).

⁶² 47 U.S.C. § 543(m)(2).

⁶³ 47 U.S.C. § 76.1403(b).

⁶⁴ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

⁶⁵ 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 section 76.1403(b) of the Commission's rules. See 47 C.F.R. § 76.1403(d).

⁶⁶ 47 C.F.R. § 21.961(b)(1).

⁶⁷ See Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act - Competitive Bidding, MM Docket No. 94-31 and PP Docket No. 93-253, Report and Order, 10 FCC Rcd 9589 (1995).

auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities.⁶⁸

38. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which includes all such companies generating \$11 million or less in annual receipts.⁶⁹ This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of \$11 million annually. Therefore, for purposes of this FRFA, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, some which may be affected by the decisions and rules adopted in the Order.

39. *Electric Services (SIC 4911)*: The SBA has developed a definition for small electric utility firms.⁷⁰ The Census Bureau reports that a total of 1379 electric utilities were in operation for at least one year at the end of 1992. According to SBA, a small electric utility is an entity whose gross revenues did not exceed five million dollars in 1992.⁷¹ The Census Bureau reports that 447 of the 1379 firms listed had total revenues below five million dollars.⁷²

40. *Electric and Other Services Combined (SIC 4931)*: The SBA has classified this entity as a utility whose business is less than 95% electric in combination with some other type of service.⁷³ The Census Bureau reports that a total of 135 such firms were in operation for at least one year at the end of 1992. The SBA's definition of a small electric and other services combined utility is a firm whose gross revenues did not exceed five million dollars in 1992.⁷⁴ The Census Bureau reported that 45 of the 135 firms listed had total revenues below five million dollars.⁷⁵

41. *Combination Utilities, Not Elsewhere Classified (SIC 4939)*: The SBA defines this utility as

⁶⁸ One of these small entities, O'ahu Wireless Cable, Inc., was subsequently acquired by GTE Media Ventures, Inc., which did not qualify as a small entity for purposes of the MDS auction.

⁶⁹ 13 C.F.R. § 121.201.

⁷⁰ Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987).

⁷¹ 13 C.F.R. § 121.201, SIC 4911.

⁷² U.S. Department of Commerce, Bureau of the Census, 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D (Bureau of Census data under contract to the Office of Advocacy of the SBA).

⁷³ Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987).

⁷⁴ 13 C.F.R. § 121.201, SIC 4931.

⁷⁵ U.S. Department of Commerce, Bureau of the Census, 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D (Bureau of Census data under contract to the Office of Advocacy of the SBA).

providing a combination of electric, gas, and other services which are not otherwise classified.⁷⁶ The Census Bureau reports that a total of 79 such utilities were in operation for at least one year at the end of 1992. According to SBA's definition, a small combination utility is a firm whose gross revenues did not exceed five million dollars in 1992.⁷⁷ The Census Bureau reported that 63 of the 79 firms listed had total revenues below five million dollars.⁷⁸

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

42. The very focus of this proceeding is whether the Commission should require certain providers of communications services to report a limited amount of information about the development of local telephone competition and the deployment of broadband services. The Order concludes that the Commission should undertake such a data collection and that local exchange carriers and providers of mobile telephony services that serve 10,000 or more voice-grade equivalent lines or channels statewide, and any entity that provides 500 or more full or one-way broadband lines or channels statewide, should report specifically targeted information.⁷⁹ The Order sets out in detail the types of providers that should report,⁸⁰ exempting smaller providers,⁸¹ frequency of reports,⁸² data to be reported,⁸³ and method of reporting.⁸⁴ In particular, the Commission concludes in the Order that given the comprehensive data to be obtained from large and medium-size providers, it can exempt most small providers from completing the survey without materially affecting its ability to assess the development of local competition and the deployment of broadband services.⁸⁵

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

43. The most significant step taken to minimize the impact of these rules on small entities is the adopt of reporting thresholds. For example, the Commission makes specific provision to exempt most smaller carriers from the requirement to report local telephone competition data. The Commission concludes that carriers with fewer than 10,000 statewide voice-grade equivalent lines or channels (or

⁷⁶ Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987).

⁷⁷ 13 C.F.R. § 121.201, SIC 4939.

⁷⁸ U.S. Department of Commerce, Bureau of the Census, 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D (Bureau of Census data under contract to the Office of Advocacy of the SBA).

⁷⁹ See *R&O* Section III.A., Types of Entities that Must Report.

⁸⁰ See *id.*

⁸¹ See *R&O* Section III.C., Exempting Smaller Entities.

⁸² See *R&O* Section III.B., Frequency of Reports.

⁸³ See *R&O* Section III.E., Data to be Reported.

⁸⁴ See *R&O* Section III.G., Electronic Filing.

⁸⁵ See *R&O* Section III.C. Exempting Smaller Entities.

mobile telephony subscribers, in the case of mobile telephony providers) should be exempted from the reporting requirement for that state.⁸⁶ Based on this exemption, the Commission estimates that only approximately 200 of the nation's largest local exchange carriers would remain subject to the requirement.⁸⁷ Similarly, the Commission exempts the smallest broadband providers by adopting a broadband reporting threshold. Thus, firms that provide fewer than 500 full or one-way broadband lines or wireless channels in a given state need not report data for that state.⁸⁸

44. Among significant alternatives, the Commission considered whether it might rely on publicly available data or voluntary surveys, in lieu of a mandatory data collection program.⁸⁹ The Commission concludes other publicly available information sources present less than complete pictures of actual conditions and trends in developing local service markets and in the deployment of broadband. Further, the Commission considered the need for, and size of, its exemptions for small entities.⁹⁰ The Commission concludes that the thresholds adopted will allow it to exempt most small carriers from completing the form without materially affecting its ability to assess the development of local competition and the deployment of broadband services. The Commission also accepted other suggestions that will reduce burdens on entities, including decoupling reporting thresholds, adopting a less frequent reporting schedule, and allowing providers to report on a state-by-state basis.⁹¹

45. Report to Congress. The Commission will send a copy of the Local Competition and Broadband Reporting Requirement Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. § 801(a)(1)(A). In addition, the Commission will send a copy of the Local Competition and Broadband Reporting Requirement Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Local Competition and Broadband Reporting Requirement Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register. *See* 5 U.S.C. § 604(b).

⁸⁶ *See id.*

⁸⁷ *See id.*

⁸⁸ *See id.*

⁸⁹ *See R&O* Section III.

⁹⁰ *See R&O* Section III.C. Exempting Smaller Entities.

⁹¹ *See R&O*, III.B., C. D.; *see also* FRFA, Section II, *supra*.

APPENDIX D - LIST OF COMMENTERS**Commenters in CC Docket No. 99-301****Comments:**

Allegiance Telecom, Inc. (Allegiance)
American Cable Association (ACA)
Arkansas Public Service Commission (Arkansas Commission)
Association for Local Telecommunications Services (ALTS)
AT&T Corporation (AT&T)
Bell Atlantic Mobile, Inc. (BAM)
Bell Atlantic Telephone Companies (Bell Atlantic)
BellSouth Corporation (BellSouth)
Cellular Telecommunications Industry Association (CTIA)
Competitive Telecommunications Association (CompTel)
Frontier Communications (Frontier)
General Services Administration (GSA)
GTE Service Corporation (GTE)
MediaOne Group, Inc. (MediaOne)
National Cable Television Associates (NCTA)
National Rural Telecom Association (NRTA)
National Telephone Cooperative Association (NTCA)
Nextel Communications, Inc. (Nextel)
NextLink Communications, Inc. (NEXTLINK)
NorthPoint Communications, Inc. (NorthPoint)
Omnipoint Communications, Inc. (Omnipoint)
Organization for the Promotion and Advancement of
 Small Telecommunications Companies (OPASTCO)
Personal Communications Industry Association (PCIA)
Prism Communication Services, Inc. (Prism)
SBC Communications, Inc. (SBC)
Sprint Corporation (Sprint)
State of Tennessee Office of the Attorney General (Tennessee OAG)
Telec Consulting Resources, Inc. (Telec)
Telecommunications Resellers Association (TRA)
Teligent, Inc. (Teligent)
United State Telecom Association (USTA)
U S WEST Communications, Inc. (U S WEST)
Winstar Communications, Inc. (Winstar)

Reply Comments:

ALLTEL Communications, Inc. (ALLTEL)
American Library Association (ALA)
AT&T Corporation (AT&T)
BellSouth Corporation & BellSouth Telecomm'ns, Inc. (BellSouth)
Competition Policy Institute (CPI)
General Services Administration (GSA)
Office of Advocacy, U.S. Small Business Administration (SBA)
Personal Communications Industry Association (PCIA)

Telecommunications Resellers Association (TRA)
United States Telecom Association (USTA)
Winstar Communications, Inc. (Winstar)

Commenters in CC Docket No. 91-141, CCB-IAD File No. 98-102

Public Notice Comments:

Allegiance Telecom, Inc.
Association for Local Telecommunications Services (ALTS)
Ameritech
AT&T Corp.
Bell Atlantic
BellSouth
General Services Administration (GSA)
GTE
GVNW Inc./Management (GVNW)
KMC Telecom, Inc.
MCI Telecommunications Corporation (MCI)
MediaOne Group, Inc. (MediaOne)
National Telephone Cooperative Association (NTCA)
Rural ILECs (Lexcom Telephone Company, United Telephone Association, Clear Lake Independent Telephone Company, Ventura Telephone Company, and Webster-Calhoun Cooperative Telephone Association)
SBC Communications Inc. (SBC)
Southern New England Telephone Company (SNET)
Telecommunications Resellers Association (TRA)
Teleport Communications Group Inc. (TCG)
United States Telephone Association (USTA)
U S WEST Communications, Inc. (U S WEST)

Public Notice Reply Comments:

Allegiance Telecom, Inc.
Association for Local Telecommunications Services (ALTS)
Ameritech
AT&T Corp.
Bell Atlantic
BellSouth
General Services Administration (GSA)
KMC Telecom, Inc.
MCI Telecommunications Corporation (MCI)
National Telephone Cooperative Association (NTCA)
SBC Communications Inc. (SBC)
Telecommunications Resellers Association (TRA)
United States Telephone Association (USTA)
U S WEST Communications, Inc. (U S WEST)