

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
Assessment and Collection of Regulatory Fees for) MD Docket No. 09-65
Fiscal Year 2009)
Assessment and Collection of Regulatory Fees for) MD Docket No. 08-65
Fiscal Year 2008)

REPORT AND ORDER

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By the Commission:

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I. INTRODUCTION

1. In this Report and Order we conclude the Assessment and Collection of Regulatory Fees for Fiscal Year (“FY”) 2009 proceeding¹ to collect \$341,875,000 in regulatory fees for FY 2009, pursuant to section 9 of the Communications Act of 1934, as amended (the “Act”). Section 9 regulatory fees are mandated by Congress and are collected to recover the regulatory costs associated with the Commission’s enforcement, policy and rulemaking, user information, and international activities.² The annual regulatory fee amount to be collected is established each year in the Commission’s annual appropriations act which is adopted by Congress and signed by the President and which funds the Commission.³ In this annual regulatory fee proceeding, we retain many of the established methods, policies, and procedures for collecting section 9 regulatory fees adopted by the Commission in prior years. Consistent with our established practice, we intend to collect these regulatory fees during a filing window in September 2009 in order to collect the required amount by the end of our fiscal year.

II. REPORT AND ORDER

2. On May 14, 2009, we released a Notice of Proposed Rulemaking and Order (“FY 2009 NPRM and Order”) seeking comment on regulatory fee issues for FY 2009.⁴ The section 9 regulatory fee proceeding is an annual rulemaking process to ensure the Commission collects the fee amount required by Congress each year. In the *FY 2009 NPRM and Order*, we proposed to largely retain the section 9 regulatory fee methodology used in the prior fiscal year except as discussed below. We received nine comments and two reply comments.⁵ We address the issues raised in our *FY 2009 NPRM and Order* below.

¹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, MD Docket No. 09-65, Notice of Proposed Rulemaking and Order, 24 FCC Rcd 5966 (2009) (“FY 2009 NPRM and Order”).

² 47 U.S.C. § 159(a).

³ See *Omnibus Appropriations Act, 2009*, P.L. 111-8, for the FY 2009 appropriations act language for the Commission establishing the amount of \$341,875,000 of offsetting collections to be assessed and collected by the Commission pursuant to section 9 of the Communications Act.

⁴ See *FY 2009 NPRM and Order*.

⁵ See Appendix A for the list of commenters and abbreviated names.

A. FY 2009 Regulatory Fee Assessment Methodology – Development of FY 2009 Regulatory Fees

3. We note at the outset that in the context of their comments on the FY 2009 regulatory fee proceeding, commenters⁶ discussed the Commission's Further Notice of Proposed Rulemaking, which accompanied the FY 2008 regulatory fee Report and Order ("*FY 2008 Report and Order*").⁷ Through that proceeding the Commission sought comment on how it could comprehensively make the Commission's regulatory fee process more equitable.⁸ In the *FY 2009 NPRM and Order*, we adopted two proposals raised in the Further Notice of Proposed Rulemaking in the *FY 2008 Report and Order*.⁹ The other outstanding matters stemming from the Further Notice of Proposed Rulemaking in the *FY 2008 Report and Order* will be decided at a later time in a separate *Report and Order*.¹⁰

4. In our FY 2009 regulatory fee assessment, we will use the same section 9 regulatory fee assessment methodology adopted for FY 2008. Each fiscal year, the Commission proportionally allocates the total amount that must be collected via section 9 regulatory fees. The results of our FY 2009 regulatory fee assessment methodology (including a comparison to the prior year's results) are contained in Appendix B. To collect the \$341,875,000 required by Congress, we adjust the FY 2008 amount upward by approximately 9.6 percent and allocate this amount across the various fee categories. Consistent with past practice, we then divide the FY 2009 amount by the number of payment units in each fee category to determine the unit fee.¹¹ As in prior years, for cases involving small fees, e.g., licenses that are renewed over a multiyear term, we divide the resulting unit fee by the term of the license and then round these unit fees consistent with the requirements of section 9(b)(2) of the Act.

5. In calculating the FY 2009 regulatory fees listed in Appendix C, we further adjusted the FY 2008 list of payment units (see Appendix D) based upon licensee databases and industry and trade group projections. In some instances, Commission licensee databases were used; in other instances, actual prior year payment records and/or industry and trade association projections were used in determining the payment unit counts.¹² Where appropriate, we adjusted and rounded our final estimates to take into

⁶ See comments from American Association of Paging Carriers ("AAPC"); Coalition of Canadian-Based Service Providers ("Coalition"); Independent Telephone and Telecommunications Alliance ("ITTA"); and United States Telecom Association ("USTelecom").

⁷ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08-65, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6389 (2008) ("*FY 2008 Report and Order*").

⁸ *FY 2008 Report and Order* at ¶ 2

⁹ *FY 2009 NPRM and Order* at ¶¶ 2-5; *FY 2008 Report and Order* at ¶¶ 55 and 56.

¹⁰ In an effort to explore how the Commission could comprehensively make the regulatory fee process more equitable, the Commission sought and received comments during FY 2008 about the regulatory fee process, the calculation of regulatory fees, and issues relating to specific categories of fees. *FY 2008 Report and Order* at ¶¶ 25-58. The comprehensive regulatory fee revision issues raised in the FY 2008 Further Notice of Proposed Rulemaking remain outstanding at this time.

¹¹ In many instances, the regulatory fee amount is a flat fee per licensee or regulatee. In some instances, the fee amount represents a per-unit fee (such as for International Bearer Circuits), a per-unit subscriber fee (such as for Cable, Commercial Mobile Radio Service ("CMRS") Cellular/Mobile and CMRS Messaging), or a fee factor per revenue dollar (Interstate Telecommunications Service Provider ("ITSP") fee). The payment unit is the measure upon which the fee is based, such as a licensee, regulatee, or subscriber fee.

¹² The databases we consulted are the following: the Commission's Universal Licensing System ("ULS"), International Bureau Filing System ("IBFS"), Consolidated Database System ("CDBS") and Cable Operations and Licensing System ("COALS"). We also consulted industry sources including, but not limited to, *Television & Cable Factbook* by Warren Publishing, Inc. and the *Broadcasting and Cable Yearbook* by Reed Elsevier, Inc., as well as reports generated within the Commission such as the Wireline Competition Bureau's *Trends in Telephone Service* (continued....)

consideration events that may impact the number of units for which regulatees submit payment, such as waivers and exemptions that may be filed in FY 2009, and fluctuations in the number of licensees or station operators due to economic, technical, or other reasons. Therefore, our estimated FY 2009 payment units are based on FY 2008 actual payment units, but the number may have been rounded or adjusted slightly to account for these variables.

1. AM and FM Radio Stations

6. As in previous years, we consider additional factors in determining regulatory fees for AM and FM radio stations. We did not receive any comments on the use of these factors. These factors are facility attributes and the population served by the radio station. The calculation of the population served is determined by coupling current U.S. Census Bureau data with technical and engineering data, as detailed in Appendix E. Consequently, the population served, as well as the class and type of service (AM or FM), will continue to determine the regulatory fee amount to be paid.¹³

2. Submarine Cable Methodology

7. In a *Second Report and Order* (“*Submarine Cable Order*”) released on March 24, 2009, the Commission adopted a new submarine cable bearer circuit methodology that assessed regulatory fees on a per cable landing license basis, with higher fees for larger submarine cable systems and lower fees for smaller systems, without distinguishing between common carriers and non-common carriers.¹⁴ For the other categories of international bearer circuits - common carrier and non-common carrier satellite facilities and common carrier terrestrial facilities - the *Submarine Cable Order* retained the existing regulatory fee methodology of assessing fees on a per 64 kbps circuit basis.

8. By way of brief background, in the proposed fee rates for submarine cable systems in the *FY 2009 NPRM and Order*,¹⁵ the Commission allocated the total FY 2009 bearer circuit expected revenue into two revenue components: a submarine cable revenue component (87.6 percent) and a satellite/terrestrial revenue component (12.4 percent) using the Consensus Proposal allocation adopted by the Commission in the *Submarine Cable Order*.¹⁶ According to the Consensus Proposal, this allocation of 87.6 percent (submarine cable) and 12.4 percent (satellite/terrestrial) was calculated by determining the revenue obligations of submarine cable systems with the revenue obligations of the satellite and terrestrial facilities using the FY 2008 revenue requirement as its basis.¹⁷ For calculating these new bearer circuit fees, we will use these allocation percentages of 87.6 percent (submarine cable) and 12.4 percent (satellite and terrestrial) as a starting point. Consistent with the Commission’s annual process of updating its schedule of regulatory fees based on the most recent data, we will reexamine the allocation percentages described above on an annual basis as the starting point for applying the new submarine cable methodology.

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and the Wireless Telecommunications Bureau’s *Numbering Resource Utilization Forecast and Annual CMRS Competition Report*.

¹³ In addition, beginning in FY 2005, we established a procedure by which we set regulatory fees for AM and FM radio and VHF and UHF television Construction Permits each year at an amount no higher than the lowest regulatory fee in that respective service category. For example, the regulatory fee for a Construction Permit for an AM radio station will never be more than the regulatory fee for an AM Class C radio station serving a population of less than 25,000.

¹⁴ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208, ¶ 1 (May 12, 2009) (“*Submarine Cable Order*”).

¹⁵ See *FY 2009 NPRM and Order* at Appendix A.

¹⁶ See *Submarine Cable Order* at ¶¶ 1 and 6.

¹⁷ *Id.* at 6.

9. After the adoption of the *Submarine Cable Order*, the Commission notified Congress on April 15, 2009 per section 9(b)(4)(B) of the Communications Act of the methodology change.¹⁸ The pending 90-day congressional notification period expired on July 15, 2009. The new bearer circuit methodology is effective. The FY 2009 regulatory fee rates for submarine cable systems included in the FY 2009 Schedule of Regulatory Fees in Appendix C reflect the Commission's adoption of the methodology in the *Submarine Cable Order*.

3. Elimination of Regulatory Fee Categories for International Public Fixed Radio and International High Frequency Broadcast Stations

10. In our *FY 2008 Report and Order*, we sought comment on eliminating several categories of services from our schedule of regulatory fees.¹⁹ The Commission received no comments on those proposals. In the *FY 2009 NPRM and Order*, the Commission adopted an Order which eliminated the regulatory fee categories for International Public Fixed Radio and International High Frequency Broadcast Stations.²⁰

11. After the adoption of the *FY 2009 NPRM and Order*, the Commission notified Congress on May 20, 2009 per section 9(b)(4)(B) of the Communications Act of the methodology change.²¹ After the pending 90-day congressional notification period expires, *i.e.*, after August 18, 2009, the elimination of these two regulatory fee categories will become effective. The FY 2009 Schedule of Regulatory Fees in Appendix C reflects the elimination of these two categories based on the Commission's action in the *FY 2009 NPRM and Order*.

B. Regulatory Fee Obligations for Digital Broadcasters

12. In our *FY 2009 NPRM and Order*, we reiterated that consistent with past years, we would not assess FY 2009 regulatory fees for both digital and analog licenses from a licensee in the process of transitioning from analog to digital.²² Furthermore, we stated that stations that were broadcasting in both analog and digital on October 1, 2008 would be assessed FY 2009 regulatory fees for their analog license only.²³ Also consistent with our past practice, we noted that stations that were broadcasting in digital only on October 1, 2008 would not be assessed regulatory fees for their digital license for FY 2009.²⁴

13. In our *FY 2009 NPRM and Order*, we proposed that beginning in FY 2010, we plan to collect regulatory fees from digital broadcasters, and we sought comment on this plan to collect

¹⁸ 47 U.S.C. § 159(b)(4)(B); Letter concerning permitted amendment from Office of Managing Director, Federal Communications Commission to Chair and Ranking Members of U.S. House of Representatives' Committees on Energy and Commerce and Appropriations and applicable Subcommittees and to Chair and Ranking Members of the United States Senate Committees on Commerce, Science, and Transportation and Appropriations and applicable Subcommittees (sent April 15, 2009).

¹⁹ *FY 2008 Report and Order* at ¶¶ 55 and 56.

²⁰ *FY 2009 NPRM and Order* at ¶ 5.

²¹ 47 U.S.C. § 159(b)(4)(B); Letter concerning permitted amendment from Office of Managing Director, Federal Communications Commission to Chair and Ranking Members of U.S. House of Representatives' Committees on Energy and Commerce and Appropriations and applicable Subcommittees and to Chair and Ranking Members of the United States Senate Committees on Commerce, Science, and Transportation and Appropriations and applicable Subcommittees (sent May 20, 2009).

²² *FY 2009 NPRM and Order* at ¶ 10.

²³ *Id.*

²⁴ *Id.*

regulatory fees on full-power digital broadcast stations beginning with FY 2010, *i.e.*, the fiscal year after the nation-wide transition date on June 12, 2009.²⁵ We received no comments on this issue. Our goal is to ensure that digital broadcasters will pay their share of regulatory fees in the years after the nation-wide transition is complete. Therefore, in FY 2010, we will collect regulatory fees from digital broadcasters. During the FY 2010 regulatory fee process, we will again remind digital broadcasters of their regulatory fee obligations.

C. Commercial Mobile Radio Service Messaging Service

14. Commercial Mobile Radio Service (“CMRS”) Messaging Service, which replaced the CMRS One-Way Paging fee category in 1997, includes all narrowband services.²⁶ In the *FY 2009 NPRM and Order*, we proposed maintaining the messaging service regulatory fee at \$0.08 per subscriber, the rate first established for this service in FY 2002.²⁷

15. One commenter, AAPC, addressed this issue.²⁸ AAPC submits that maintaining the fee at the existing level is the minimum reasonable and appropriate action under the prevailing circumstances in the paging industry.²⁹ We conclude that for FY 2009 we should continue this regulatory fee rate at \$0.08 per subscriber due to the declining subscriber base in this industry.³⁰

D. International Bearer Circuits

1. Terrestrial Non-Common Carrier Circuits

16. As part of our comprehensive effort to review our regulatory fees process for possible ways to make the process more equitable, we sought comment in our *FY 2009 NPRM and Order* on whether, beginning in FY 2010, carriers providing international service over terrestrial circuits should also pay international bearer circuit (IBC) fees on non-common carrier circuits.³¹ Five parties filed comments or reply comments. In joint comments, Bestel USA Inc., Hibernia Atlantic US LLC, and Level 3 Communications LLC (“Joint Commenters”) argue that carriers should not be assessed regulatory fees on their non-common carrier circuits, in part, because the Commission does not authorize those services or collect data on them, and thus there is no burden on the Commission to regulate these services.³² The Coalition of Canadian-Based Service Providers (“Coalition”) echoes these arguments, contending that international terrestrial fiber-based non-common carriers are not regulated by the Commission, they do not hold 214 licenses, and are not subject to enforcement and policymaking activities.³³ Sprint Nextel (“Sprint”) opposes the imposition of regulatory fees on terrestrial non-common carrier bearer circuits that are used exclusively for providing Internet/IP services.³⁴ AT&T, on

²⁵ *Id.* at ¶ 11.

²⁶ See *Assessment and Collection of Regulatory Fees for Fiscal Year 1997*, MD Docket No. 96-186, Report and Order, 12 FCC Rcd 17161, 17184-85, ¶ 60 (1997) (“*FY 1997 Report and Order*”).

²⁷ *FY 2009 NPRM and Order* at ¶ 12.

²⁸ AAPC Comments at 1-4.

²⁹ *Id.* at 2.

³⁰ The subscriber base in the paging industry declined 83 percent from 40.8 million to 6.95 million, from FY 1997 to FY 2008, according to FY 2008 collection data as of September 30, 2008.

³¹ *FY 2009 NPRM and Order* at ¶¶ 13-14.

³² Bestel USA, Hibernia Atlantic US, and Level 3 Communications comments at 3-4.

³³ Coalition comments at 3, 8-9.

³⁴ Sprint comments at 1.

the other hand, argues that in the interest of providing equitable treatment of all providers, per circuit fees should be levied on non-common carrier terrestrial circuits.³⁵ Verizon and Verizon Wireless agree with Joint Commenters, the Coalition and Sprint, that non-common carrier services over terrestrial international circuits is inherently different from such services over satellite circuits and submarine cable systems.³⁶ In its reply comments, AT&T argues that non-common carrier terrestrial circuits currently receive an unfair cost advantage because they are not assessed a regulatory fee, and it is possible that common carriers will increasingly market capacity on a non-common carrier basis to avoid paying these fees, thereby increasing the fees for the smaller pool of remaining common carrier circuits.³⁷

17. The commenters present a number of competing arguments on whether carriers should be assessed regulatory fees for their terrestrial non-common carrier circuits. In the *FY 2009 NPRM and Order*, we sought comment on whether we should make such an assessment starting in FY 2010, at the earliest. Given the complexity of the legal, policy and equity issues involved, we decline to make a determination at this time. We may further consider this issue in the future.

E. Administrative and Operational Issues

18. In our *FY 2009 NPRM and Order*, we sought general comment on ways to improve our procedures in collecting annual section 9 regulatory fees.³⁸ We received comments from the American Cable Association (ACA) regarding the fee notification of CARS (Cable Television Relay Service) and Earth Station licensees, and one specific comment from AT&T to send annual notification assessments to licensees of submarine cable systems. We received no reply comments relating to our collection procedures and processes. We will address these comments in the appropriate paragraphs below.

1. Mandatory Use of Fee Filer

19. In our *FY 2009 NPRM and Order*, we proposed to institute a mandatory filing requirement using the Commission's electronic filing and payment system (also known as "Fee Filer").³⁹ Fee Filer is not a new system at the Commission, and although we have strongly encouraged its use for many years for the filing and payment of annual regulatory fees, we proposed this year to make its use mandatory. We received no comments and no reply comments regarding this matter.

20. For the reasons discussed in the *FY 2009 NPRM and Order*, we conclude that beginning in the FY 2009 regulatory fee cycle, licensees filing their annual regulatory fee payments must begin the process by entering the Commission's Fee Filer system with a valid FRN and password. Therefore, it is very important for licensees to have a current and valid FRN address on file in the Commission's Registration System (CORES). Licensees will also need to have their FRN passwords available when entering the Commission's CORES registration system. In some instances, it will be necessary to use a specific FRN and password that is linked to a particular regulatory fee bill. Going forward, only Form 159-E documents generated from Fee Filer will be permitted when sending in a regulatory fee payment to U.S. Bank. By requiring licensees to use Fee Filer to begin the regulatory fee payment process, errors resulting from illegible handwriting on hardcopy Form 159's will be greatly reduced, and we will be able to create an electronic record of licensee payment attributes that are more easily traced than those payments that are simply mailed in with a hardcopy Form 159.

21. There are many benefits to licensees for using the Commission's electronic filing and

³⁵ AT&T comments at 1.

³⁶ Verizon and Verizon Wireless comments at 2-3.

³⁷ AT&T reply comments at 1-2.

³⁸ *FY 2009 NPRM and Order* at ¶ 15.

³⁹ *FY 2009 NPRM and Order* at ¶ 16.

payment system: 1) expeditious submission of payment; 2) no postage or courier costs (when paid through Fee Filer); 3) fewer errors caused by illegible handwriting or payments submitted without an FRN number or the appropriate data attributes (e.g., payers will avoid receiving delinquency notices because of payment submission errors); 4) improved recordkeeping and payment reconciliation; 5) reduced administrative burden on both licensees and on Commission staff in processing regulatory fee payments; 6) less expensive than a wire transfer; and 7) a reduced burden of preparing, mailing, and storing paper documents.

22. We realize that not all licensees are able to pay their regulatory fees using Fee Filer. In some instances, the regulatory fee payment may be greater than \$99,999, in which case, the use of a credit card will be limited by restrictions placed on it by the U.S. Treasury. For those licensees who choose to pay by check or money order or pay via wire transfer, a voucher Form 159-E will be needed before mailing the check to the Commission's lockbox bank, or in the case of a wire transfer, faxing the Form 159-E to the lockbox bank. For those licensees choosing to make a payment using their bank account (also known as an Automated Clearing House ("ACH") payment), the submission of Form 159-E to the lockbox bank will not be necessary. In such situations, regardless of whether a payment is made online or submitted with a check or money order along with a Form 159-E, the Commission's requirement now is to begin the process of paying regulatory fees by starting with Fee Filer. The primary difference is that by starting the payment process using Fee Filer, even if the payment is then mailed to the Commission's lockbox bank, a voucher Form 159-E will be generated that will have important electronic attributes associated with this regulatory fee payment.

23. The mandatory use of Fee Filer to begin the regulatory fee payment process is an important step forward in providing our licensees with a paperless, electronic environment to use when conducting business with the Commission. This practice of using Fee Filer will not only enable the Commission to process regulatory fee payments more efficiently and accurately, it will also benefit licensees by reducing the administrative burden of filing and paying annual regulatory fees. Because no comments or reply comments were submitted to the contrary regarding this issue, we will institute a mandatory use of Fee Filer to begin the process of filing to pay annual regulatory fees. Beginning in the FY 2009 regulatory fee cycle, only Form 159-E documents generated from Fee Filer will be permitted when sending in a regulatory fee payment to U.S. Bank.

2. Notification and Collection of Regulatory Fees

a. Pre-bills

24. In prior years, the Commission mailed pre-bills via surface mail to licensees in select regulatory fee categories: Interstate telecommunications service providers ("ITSPs"), Geostationary ("GSO") and Non-Geostationary ("NGSO") satellite space station licensees,⁴⁰ holders of Cable Television Relay Service ("CARS") licenses, and Earth Station licensees.⁴¹ The remaining regulatees did not receive pre-bills. In our *FY 2009 NPRM and Order*, we proposed to show the attributes of these pre-bills on Fee

⁴⁰ Geostationary orbit space station ("GSO") licensees received regulatory fee pre-bills for satellites that (1) were licensed by the Commission and operational on or before October 1 of the respective fiscal year; and (2) were not co-located with and technically identical to another operational satellite on that date (i.e., were not functioning as a spare satellite). Non-geostationary orbit space station ("NGSO") licensees received regulatory fee pre-bills for systems that were licensed by the Commission and operational on or before October 1 of the respective fiscal year.

⁴¹ An assessment is a proposed statement of the amount of regulatory fees owed by an entity to the Commission (or proposed subscriber count to be ascribed for purposes of setting the entity's regulatory fee) but it is not entered into the Commission's accounting system as a current debt. A pre-bill is considered an account receivable in the Commission's accounting system. Pre-bills reflect the amount owed and have a payment due date of the last day of the regulatory fee payment window. Consequently, if a pre-bill is not paid by the due date, it becomes delinquent and is subject to our debt collection procedures. See also 47 C.F.R. §§ 1.1161(c), 1.1164(f)(5), and 1.1910.

Filer, but not actually mail them out to licensees via surface mail.⁴² We received one general comment from the American Cable Association (ACA), and one specific comment from AT&T. We received no reply comments.

25. The ACA contends that because there are many small cable operators and independent earth station licensees, the Commission should provide notice to each licensee via e-mail when the pre-bill information for CARS and Earth Stations is available for viewing in Fee Filer.⁴³ ACA understands why the Commission has decided to discontinue mailing these pre-bills, but contends that the Commission should consider e-mail as an alternate way of notifying small operators that their bill information is available in Fee Filer.⁴⁴ ACA also contends that if the Commission decides to cease mailing pre-bill notices, it is likely that many small operators will be unaware of this change, and as a result, some operators may inadvertently miss the filing deadline while waiting for receipt of the pre-bill.⁴⁵ For this reason, ACA suggests that cable operators with 5,000 or fewer subscribers should receive a 180-day grace period for FY 2009 CARS and Earth Station regulatory fee payments.⁴⁶ In its comments, AT&T recommends that the Commission send a separate annual fee assessment notification to each submarine cable licensee informing them of their obligation to pay submarine cable regulatory fees.⁴⁷

26. The Commission does not maintain a systematic listing of e-mail addresses for individual CARS and Earth Station licensees, and so, attempting to use such a listing to contact small cable operators and independent earth station licensees may not prove useful. However, because all pre-bills will be loaded into Fee Filer, once Fee Filer becomes operational, this will be the signal by which licensees can view their pre-bill information online. As we have for many years, the Commission will post a Public Notice online announcing the date Fee Filer will become operational, and once this Notice is published, licensees will know that they can view their pre-bill information in Fee Filer. Having provided this Notice to licensees and having urged licensees to use Fee Filer for several years, the Commission will not provide a 180-day grace period for regulatory fee payments as ACA suggests.

27. In its comments, AT&T suggests that the Commission notify licensees of their obligation to pay submarine cable system regulatory fees. AT&T contends that because there is a new regulatory fee methodology for submarine cable fees, and there can be multiple license holders for each submarine cable system, the Commission should try to contact the license holders of submarine cable systems to inform them of their obligation to pay submarine cable regulatory fees.⁴⁸ In the *Submarine Cable Order*,⁴⁹ the Commission did implement a regulatory fee methodology change for submarine cable systems. Although there may be multiple license holders for each submarine cable system, the total number of license holders is small and information available for each license holder is relatively accurate. However, rather than sending individual notification assessments to each submarine cable licensee, as AT&T suggests, the Commission in FY 2009 will publish a Public Notice that identifies the license holders of each submarine cable system. This Public Notice will serve as notice to all submarine cable license holders of their FY 2009 obligation to pay regulatory fees under the new methodology.

⁴² See *FY 2009 NPRM and Order* at ¶ 20.

⁴³ American Cable Association (ACA) comments at 4.

⁴⁴ *Id.* at 4.

⁴⁵ *Id.* at 5.

⁴⁶ *Id.*

⁴⁷ AT&T comments at 3.

⁴⁸ *Id.* at 3.

⁴⁹ See *Submarine Cable Order* at ¶ 1.

III. PROCEDURAL MATTERS

28. Included below are procedural items as well as our current payment and collection methods that we have revised over the past several years to expedite the processing of regulatory fee payments. We include these payments and collection procedures here as a useful way to remind regulatory fee payers and the public about these aspects of the annual regulatory fee collection process. For FY 2009, we have not changed our procedures with the exception of Pre-Bills, which as discussed above the Commission will no longer be sending out via surface mail. We also discuss at the outset a procedural matter about waivers raised by a commenter.

29. In its comments, the Named State Broadcasters Associations (“State Associations”) suggested that the Commission’s standard for deciding whether to grant a waiver for financial hardship should be revised to allow greater flexibility.⁵⁰ The State Associations commented that the current recession is crippling stations nationwide.⁵¹ Furthermore, the State Associations commented that: “especially during this period of deep recession, if a station shows the Commission (i) that its revenues are down substantially and that it has had to cut expenses, including employee layoffs, furloughs, and salary reductions in order to keep the station operating, or (ii) that it has broken, or is close to breaking, loan covenants or is otherwise in default of its financing, or (iii) that it is on the brink of some form of foreclosure or bankruptcy, a waiver of the FY 2009 regulatory fee payment requirement should be granted.”⁵²

30. We decline to adopt the State Associations’ proposals. In establishing the regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a “petitioner presents a compelling case of financial hardship.”⁵³ Under the current standard employed by the Commission, regulatees can establish financial hardship by submitting: “information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.”⁵⁴ The Commission also accepts as evidence of financial hardship that licensees’ stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership.⁵⁵ Furthermore, the Commission will accept evidence that a broadcast station is not broadcasting (“dark”) as evidence of financial hardship.⁵⁶ The current financial hardship standards have proven useful as bright line tests that can be administered predictably. The Commission does not intend to change these standards at this time and notes that various groups of licensees are impacted by the broader economy from year to year. Modifying our financial hardship waiver standards to accommodate fluctuating economic changes and a potentially limitless variety of different financial showings would not assure that waivers are granted predictably, fairly, and efficiently, and would therefore not be in the public interest.

⁵⁰ State Associations at 6-7.

⁵¹ *Id.* at 7.

⁵² *Id.*

⁵³ See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995) (“*Implementation of Section 9 Order*”).

⁵⁴ *Implementation of Section 9 Order*, 10 FCC Rcd at 12762, ¶ 13.

⁵⁵ *Id.* at 12762, ¶ 14.

⁵⁶ *Id.* at 12762, ¶ 15.

A. Public Notices and Fact Sheets

31. Each year we post public notices and fact sheets pertaining to regulatory fees on our web site. These documents contain information about the payment due date and the regulatory fee payment procedures. We will continue to post this information on <http://www.fcc.gov/fees/regfees.html>, but as in previous years we will not send out public notices and fact sheets to regulatees *en masse*.

B. Assessment Notifications**1. Media Services Licensees**

32. Beginning in FY 2003, we sent fee assessment notifications via surface mail to media services entities on a per-facility basis.⁵⁷ The notifications provided the assessed fee amount for the facility in question, as well as the data attributes that determined the fee amount. We have since refined this initiative with improved results.⁵⁸ Consistent with procedures used last year, we will continue our notification assessment initiative in FY 2009 and mail media assessment notifications to licensees at their primary record of contact populated in our Consolidated Database System ("CDBS"), and to a secondary record of contact, if available. We again will issue fee assessments for AM and FM Radio Stations, AM and FM Construction Permits, FM Translators/Boosters, VHF and UHF Television Stations, VHF and UHF Television Construction Permits, Satellite Television Stations, Low Power Television ("LPTV") Stations and LPTV Translators/Boosters, to the extent that applicants, permittees and licensees of such facilities do not qualify as government entities or non-profit entities. Fee assessments have not been issued for broadcast auxiliary stations in prior years, nor will they be issued in FY 2009. We will also continue to make the Commission-authorized web site available to licensees so that they can update or correct any information regarding their facilities and their fee-exempt status.⁵⁹

33. Although the Commission will continue to mail media assessment notifications, licensees (including media services) will be required to use Fee Filer as the first step to paying their regulatory fee obligations. The notification assessments are primarily intended to provide licensees with media data attributes and should not be considered a substitute to using Fee Filer as the first step in filing and paying regulatory fees. As explained previously in paragraphs 19 through 23, licensees must first log onto the Commission's Fee Filer system to begin the process of filing and paying their regulatory fees, but once in Fee Filer, licensees may pay by check or money order, credit card, wire transfer, or by ACH. To pay by check, money order, or wire transfer, licensees must log onto Fee Filer and generate a Form 159-E before mailing in their payment along with Form 159-E.

2. CMRS Cellular and Mobile Services Assessments

34. As we have done in prior years, we will continue to mail an assessment letter to CMRS providers using data from the Numbering Resource Utilization Forecast ("NRUF") report that is based on

⁵⁷ As stated previously at footnote 41, an assessment is a proposed statement of the amount of regulatory fees owed by an entity to the Commission (or proposed subscriber count to be ascribed for purposes of setting the entity's regulatory fee) but it is not entered into the Commission's accounting system as a current debt.

⁵⁸ Some of those refinements have been to provide licensees with a Commission-authorized web site to update or correct any information concerning their facilities, and to amend their fee-exempt status, if need be. Also, our notifications now provide licensees with a telephone number to call in the event that they need customer assistance. The notifications themselves have been refined so that licensees of fewer than four facilities receive individual fee assessment postcards for their facilities; whereas licensees of four or more facilities now receive a single assessment letter that lists all of their facilities and the associated regulatory fee obligation for each facility.

⁵⁹ If there is a change of address for the facility, it is the licensee's responsibility to make the address change in the Media Bureau's CDBS system, as well as in the Commission's Registration System ("CORES"). The Commission-authorized web site for media services licensees is <http://www.fccfees.com>.

“assigned” number counts that have been adjusted for porting to net Type 0 ports (“in” and “out”).⁶⁰ This letter will include a listing of the carrier’s Operating Company Numbers (“OCNs”) upon which the assessment is based.⁶¹ The letters will not include OCNs with their respective assigned number counts, but rather, an aggregate total of assigned numbers for each carrier.

35. We will also continue our procedure of giving entities an opportunity to revise their subscriber counts by sending an initial and a final assessment letter. If the carrier does not agree with the number of subscribers listed on the initial assessment letter, the carrier can correct its subscriber count on the letter and return it by the date specified in the assessment letter or by contacting the Commission and stating a reason for the change (*e.g.*, a purchase or sale of a subsidiary), the date of the transaction, and any other pertinent information that will help to justify a reason for the change. If we receive no response or correction to our initial assessment letter, we will expect the fee payment to be based on the number of subscribers listed on the initial assessment. We will review all responses to the initial assessment letters and determine whether a change in the number of subscribers is warranted. The final assessment letter will inform carriers as to whether we have accepted their revision in the number of subscribers.

36. Because some carriers do not file the NRUF report, they may not receive a letter of assessment. In these instances, the carriers should compute their fee payment using the standard methodology⁶² that is currently in place for CMRS Wireless services (*e.g.*, compute their subscriber counts as of December 31, 2008), and submit their fee payment accordingly. Whether a carrier receives an assessment letter or not, the Commission reserves the right to audit the number of subscribers for which regulatory fees are paid. In the event that the Commission determines that the number of subscribers is inaccurate or that an insufficient reason is given for making a correction on the initial assessment letter, the Commission will assess the carrier for the difference between what was paid and what should have been paid.

C. Streamlined Regulatory Fee Payment Process

1. Cable Television Subscribers

37. We will continue to permit cable television operators to base their regulatory fee payment on their company’s aggregate year-end subscriber count, rather than requiring them to sub-report subscriber counts on a per community unit identifier (“CUID”) basis.

2. CMRS Cellular and Mobile Providers

38. In FY 2006, we streamlined the CMRS payment process by eliminating the requirement for CMRS providers to identify their individual calls signs when making their regulatory fee payment, requiring instead for CMRS providers to pay their regulatory fees only at the aggregate subscriber level without having to identify their various call signs.⁶³ We will continue this practice in FY 2009. In FY 2007, we consolidated the CMRS cellular and CMRS mobile fee categories into one fee category and as one fee code, thereby eliminating the requirement for CMRS providers to separate their subscriber counts into CMRS cellular and CMRS mobile fee categories during the regulatory fee payment process. This

⁶⁰ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005 and Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, MD Docket Nos. 05-59 and 04-73, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, ¶¶ 38-44 (2005).

⁶¹ *Id.*

⁶² See, *e.g.*, Federal Communications Commission, *Regulatory Fees Fact Sheet: What You Owe - Commercial Wireless Services for FY 2008* at 1 (rel. Aug. 2008).

⁶³ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, MD Docket No. 06-68, Report and Order, 21 FCC Rcd 8092, 8105, ¶ 48 (2006).

consolidation of fee categories enabled the Commission to process payments more quickly and accurately. For FY 2009, we will continue this practice of combining the CMRS cellular and CMRS mobile fee categories into one regulatory fee category.

3. Interstate Telecommunications Service Providers (“ITSP”)

39. In FY 2007, we adopted a proposal to round lines 14 (total subject revenues) and 16 (total regulatory fee owed) on FCC Form 159-W to the nearest dollar. This revision enabled the Commission to process the ITSP regulatory fee payments more quickly because rounding was performed in a consistent manner and eliminated processing issues that occurred in prior years. In FY 2009, we will continue rounding lines 14 and 16 when calculating the FY 2009 ITSP fee obligation, but as indicated earlier, we will not be mailing out Form 159-W via surface mail.

D. Payment of Regulatory Fees

1. Lock Box Bank

40. All lock box payments to the Commission for FY 2009 will be processed by U.S. Bank, St. Louis, Missouri, and payable to the FCC. For all regulatory fees, the address is: Federal Communications Commission, Regulatory Fees, P.O. Box 979084, St. Louis, MO 63197-9000.

2. Receiving Bank for Wire Payments

41. The receiving bank for all wire payments is the Federal Reserve Bank, New York, New York (TREAS NYC). When making a wire transfer, regulatees must fax a copy of their Fee Filer generated Form 159-E to U.S. Bank, St. Louis, Missouri at (314) 418-4232 at least one hour before initiating the wire transfer (but on the same business day), so as to not delay crediting their account. Wire transfers initiated after 6:00 p.m. (EDT) will be credited the next business day. Complete instructions for making wire payments are posted at <http://www.fcc.gov/fees/wiretran.html>.

3. De Minimis Regulatory Fees

42. Regulatees whose total FY 2009 regulatory fee liability, including all categories of fees for which payment is due, is less than \$10 are exempted from payment of FY 2009 regulatory fees.

4. Standard Fee Calculations and Payment Dates

43. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services*: Regulatory fees must be paid for initial construction permits (including construction permits for digital television stations) that were granted on or before October 1, 2008 for AM/FM radio stations, analog VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2008. In instances where a permit or license is transferred or assigned after October 1, 2008, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireline (Common Carrier) Services*: Regulatory fees must be paid for authorizations that were granted on or before October 1, 2008. In instances where a permit or license is transferred or assigned after October 1, 2008, responsibility for payment rests with the holder of the permit or license as of the fee due date. We note that audio bridging service providers are included in this category.⁶⁴

⁶⁴ Audio bridging services are toll teleconferencing services, and audio bridging service providers are required to contribute directly to the universal service fund based on revenues from these services. On June 30, 2008, the Commission released the *InterCall Order*, in which the Commission stated that InterCall, Inc. and all similarly (continued....)

- *Wireless Services*: CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2008. The number of subscribers, units, or telephone numbers on December 31, 2008 will be used as the basis from which to calculate the fee payment.
- The first eleven regulatory fee categories in our Schedule of Regulatory Fees (*see* Appendix C) pay “small multi-year wireless regulatory fees.” Entities pay these regulatory fees in advance for the entire amount of their five-year or ten-year term of initial license, and only pay regulatory fees again when the license is renewed or a new license is obtained. We include these fee categories in our Schedule of Regulatory Fees to publicize our estimates of the number of “small multi-year wireless” licenses that will be renewed or newly obtained in FY 2009.
- *Multichannel Video Programming Distributor Services (cable television operators and CARS licensees)*: Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2008.⁶⁵ Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2008. In instances where a CARS license is transferred or assigned after October 1, 2008, responsibility for payment rests with the holder of the license as of the fee due date.
- *International Services*: Regulatory fees must be paid for earth stations, geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2008. In instances where a license is transferred or assigned after October 1, 2008, responsibility for payment rests with the holder of the license as of the fee due date. Regulatory fees will be paid for international bearer circuits under our newly adopted methodology pending a 90-day Congressional notification for this permitted amendment;⁶⁶ if for any reason the methodology change is not instituted in FY 2009, the pre-FY 2009 methodology will be used to calculate FY 2009 bearer circuit regulatory fees.

E. Enforcement

44. Regulatory fee payments must be received and stamped at the lockbox bank by the last day of the regulatory fee filing window to be considered timely. Section 9(c) of the Act requires us to impose an additional charge as a penalty for late payment of any regulatory fee.⁶⁷ A late payment penalty of 25 percent of the unpaid amount of the required regulatory fee will be assessed on the first day following the deadline date for filing of these fees. Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in section 1.1910 of the Commission’s

(Continued from previous page) _____

situated audio bridging service providers are required to contribute directly to the universal service fund. *See Request for Review by InterCall, Inc. of Decision of Universal Service Administrator*, CC Docket No. 96-45, Order, 23 FCC Rcd 10731 (2008) (“*InterCall Order*”).

⁶⁵ Cable television system operators should compute their basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on “a typical day in the last full week” of December 2008, rather than on a count as of December 31, 2008.

⁶⁶ *See Submarine Cable Order*.

⁶⁷ 47 U.S.C. § 159(c).

Rules⁶⁸ and in the Debt Collection Improvement Act of 1996 (“DCIA”).⁶⁹ We also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the related debt pursuant to the DCIA and section 1.1940(d) of the Commission’s rules.⁷⁰ These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. In case of partial payments (underpayments) of regulatory fees, the licensee will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.

45. We will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.⁷¹ Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).

F. Final Regulatory Flexibility Analysis

46. As required by the Regulatory Flexibility Act of 1980 (“RFA”),⁷² the Commission has prepared a Final Regulatory Flexibility Analysis (“FRFA”) relating to this Report and Order. The FRFA is set forth in Appendix F.

G. Congressional Review Act Analysis

47. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.⁷³

H. Final Paperwork Reduction Act Analysis

48. This Report and Order contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (“PRA”), Public Law 104-13. It will be submitted to the Office of Management and Budget (“OMB”) for review under Section 3507(d) of the PRA.⁷⁴ Our proposed new form for submarine cable operators is attached as Appendix G. OMB and the general public will be afforded an opportunity to comment on the modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we previously sought specific comment on how the

⁶⁸ *See* 47 C.F.R. § 1.1910.

⁶⁹ Delinquent debt owed to the Commission triggers application of the “red light rule” which requires offsets or holds on pending disbursements. 47 C.F.R. § 1.1910. In 2004, the Commission adopted rules implementing the requirements of the DCIA. *See Amendment of Parts 0 and 1 of the Commission’s Rules*, MD Docket No. 02-339, Report and Order, 19 FCC Rcd 6540 (2004); 47 C.F.R. Part 1, Subpart O, Collection of Claims Owed the United States.

⁷⁰ 47 C.F.R. § 1.1940(d).

⁷¹ *See* 47 C.F.R. §§ 1.1161(c), 1.1164(f)(5), and 1.1910.

⁷² *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 (“CWAAA”).

⁷³ *See* 5 U.S.C. § 801(a)(1)(A). The Congressional Review Act is contained in Title II, § 251, of the CWAAA; *see* Pub. L. No. 104-121, Title II, § 251, 110 Stat. 868.

⁷⁴ 44 U.S.C. § 3507(d).

Commission might “further reduce the information collection burden for small business concerns with fewer than 25 employees.” We received no comment regarding such potential small business burdens.

IV. ORDERING CLAUSES

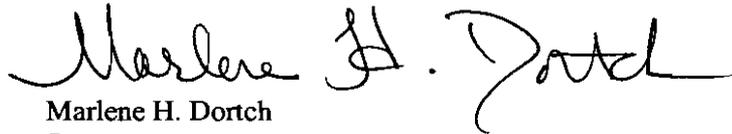
49. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 159, and 303(r), this Report and Order IS HEREBY ADOPTED.

50. IT IS FURTHER ORDERED that the FY 2009 section 9 regulatory fee assessment requirements ARE ADOPTED as specified herein.

51. IT IS FURTHER ORDERED that Part 1 of the Commission’s Rules IS AMENDED as set forth in Appendix H, and the these rules shall become effective 30 days after publication in the Federal Register.

52. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis in Appendix F, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary

APPENDIX A

List of Commenters

Commenter	Abbreviated name
American Association of Paging Carriers	AAPC
American Cable Association	ACA
AT&T, Inc.	AT&T
Bestel USA Inc., Hibernia Atlantic US LLC, and Level 3 Communications, LLC	“Joint Commenters”
Coalition of Canadian-Based Service Providers	“Coalition”
Independent Telephone and Telecommunications Alliance	ITTA
Sprint Nextel	Sprint
Named State Broadcasters Associations	“State Associations”
United States Telecom Association	USTelecom

List of Commenters – Reply Comments

Commenter	Abbreviated name
AT&T, Inc.	AT&T
Verizon and Verizon Wireless	Verizon

APPENDIX B

Calculation of FY 2009 Revenue Requirements and Pro-Rata Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted along with the application at the time the application is filed.

Fee Category	FY 2009 Payment Units	Years	FY 2008 Revenue Estimate	Pro-Rated FY 2009 Revenue Requirement	Computed New FY 2009 Regulatory Fee	Round ed New FY 2009 Regula-tory Fee	Expected FY 2009 Revenue
PLMRS (Exclusive Use)	1,200	10	460,000	501,932	42	40	480,000
PLMRS (Shared use)	11,500	10	2,300,000	2,509,659	22	20	2,300,000
Microwave	7,500	10	1,960,000	2,158,666	29	30	2,250,000
218-219 MHz (Formerly IVDS)	3	10	1,800	1,964	65	65	1,950
Marine (Ship)	7,500	10	840,000	916,571	12	10	750,000
GMRS	11,000	5	350,000	381,905	7	5	275,000
Aviation (Aircraft)	7,000	10	375,000	409,183	6	5	350,000
Marine (Coast)	275	10	108,500	118,390	43	45	123,750
Aviation (Ground)	1,500	10	170,000	185,497	12	10	150,000
Amateur Vanity Call Signs	15,000	10	184,500	201,318	134	134	201,000
AM Class A	65	1	227,500	248,238	3,819	3,825	248,625
AM Class B	1,567	1	2,737,000	2,986,494	1,906	1,900	2,977,300
AM Class C	938	1	958,375	1,045,737	1,115	1,125	1,055,250
AM Class D	1,715	1	3,241,400	3,536,873	2,062	2,050	3,515,750
FM Classes A, B1 & C3	3,045	1	6,764,000	7,405,656	2,432	2,425	7,384,125
FM Classes B, C, C0, C1 & C2	3,051	1	8,292,175	9,073,132	2,974	2,975	9,076,725
AM Construction Permits	107	1	39,425	43,019	402	400	42,800
FM Construction Permits ¹	224	1	179,400	145,600	650	650	145,600
Satellite TV	127	1	149,225	162,828	1,282	1,275	161,925
Satellite TV Construction Permit	3	1	1,785	1,948	649	650	1,950
VHF Markets 1-10	42	1	2,984,100	3,257,932	77,570	77,575	3,258,150
VHF Markets 11-25	55	1	3,050,925	3,330,848	60,561	60,550	3,330,250
VHF Markets 26-50	75	1	2,581,425	2,818,550	37,581	37,575	2,818,125
VHF Markets 51-100	118	1	2,480,950	2,708,256	22,951	22,950	2,708,100

Fee Category	FY 2009 Payment Units	Years	FY 2008 Revenue Estimate	Pro-Rated FY 2009 Revenue Requirement	Computed New FY 2009 Regulatory Fee	Round ed New FY 2009 Regula -tory Fee	Expected FY 2009 Revenue
VHF Remaining Markets	200	1	1,092,000	1,191,542	5,958	5,950	1,190,000
VHF Construction Permits ¹	3	1	22,400	17,850	5,950	5,950	17,850
UHF Markets 1-10	87	1	1,931,475	2,109,219	24,244	24,250	2,109,750
UHF Markets 11-25	81	1	1,596,950	1,744,200	21,533	21,525	1,743,525
UHF Markets 26-50	110	1	1,344,700	1,468,956	13,354	13,350	1,468,500
UHF Markets 51-100	164	1	1,142,400	1,247,604	7,607	7,600	1,246,400
UHF Remaining Markets	195	1	347,400	379,068	1,944	1,950	380,250
UHF Construction Permits ¹	15	1	32,400	29,250	1,950	1,950	29,250
Broadcast Auxiliaries	27,500	1	276,000	301,159	11	10	275,000
LPTV/Translators/Boosters/Class A TV	3,450	1	1,277,500	1,393,952	404	400	1,380,000
CARS Stations	650	1	153,750	167,765	258	260	169,000
Cable TV Systems	64,500,000	1	51,840,000	56,565,522	0.8769	0.88	56,760,000
Interstate Telecommunication Service Providers	\$46,800,000,000	1	146,638,000	160,004,920	0.0034189	0.00342	160,056,000
CMRS Mobile Services (Cellular/Public Mobile)	276,000,000	1	44,200,000	48,280,138	0.1749	0.180	49,680,000
CMRS Messag. Services	7,000,000	1	560,000	560,000	0.080	0.080	560,000
BRS ²	1,725	1	501,500	552,000	320	320	552,000
LMDS	335	1	98,825	107,200	320	320	107,200
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common)	1,482,372	1	8,137,500	1,106,700	.747	.75	1,111,779
Submarine Cable Providers (see chart in Appendix C) ³	32.44	1		7,818,300	241,008	241,000	7,818,040
Earth Stations	4,050	1	780,000	851,102	210	210	850,500

Fee Category	FY 2009 Payment Units	Years	FY 2008 Revenue Estimate	Pro-Rated FY 2009 Revenue Requirement	Computed New FY 2009 Regulatory Fee	Round ed New FY 2009 Regula-tory Fee	Expected FY 2009 Revenue
Space Stations (Geostationary)	87	1	10,140,500	11,064,866	127,182	127,175	11,064,225
Space Stations (Non-Geostationary)	6	1	754,500	823,277	137,213	137,225	823,350
***** Total Estimated Revenue to be Collected			313,305,285	341,814,783			342,998,994
***** Total Revenue Requirement			312,000,000	341,875,000			341,875,000
Difference			1,305,285	39,783			1,123,994

¹ The FM Construction Permit revenues and the VHF and UHF Construction Permit revenues were adjusted to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. The reductions in the FM Construction Permit revenues are offset by increases in the revenue totals for FM radio stations. Similarly, reductions in the VHF and UHF Construction Permit revenues are offset by increases in the revenue totals for VHF and UHF television stations, respectively.

² MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, ¶ 6 (2004).*

³ The chart at the end of Appendix C lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the following proceedings: *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order (MD Docket No. 08-65, RM-11312), released March 24, 2009; and *Assessment and Collection of Regulatory Fees for Fiscal Year 2009 and Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking and Order (MD Docket No. 09-65, MD Docket No. 08-65), released on May 14, 2009.

APPENDIX C

FY 2009 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted along with the application at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. \$'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	40
Microwave (per license) (47 CFR part 101)	30
218-219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	65
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	45
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	20
PLMRS (Shared Use) (per license) (47 CFR part 90)	20
Aviation (Aircraft) (per station) (47 CFR part 87)	5
Aviation (Ground) (per license) (47 CFR part 87)	10
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	134
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.18
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 21)	320
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	320
AM Radio Construction Permits	400
FM Radio Construction Permits	650
TV (47 CFR part 73) VHF Commercial	
Markets 1-10	77,575
Markets 11-25	60,550
Markets 26-50	37,575
Markets 51-100	22,950
Remaining Markets	5,950
Construction Permits	5,950

Fee Category	Annual Regulatory Fee (U.S. \$'s)
TV (47 CFR part 73) UHF Commercial	
Markets 1-10	24,250
Markets 11-25	21,525
Markets 26-50	13,350
Markets 51-100	7,600
Remaining Markets	1,950
Construction Permits	1,950
Satellite Television Stations (All Markets)	1,275
Construction Permits – Satellite Television Stations	650
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	400
Broadcast Auxiliaries (47 CFR part 74)	10
CARS (47 CFR part 78)	260
Cable Television Systems (per subscriber) (47 CFR part 76)	.88
Interstate Telecommunication Service Providers (per revenue dollar)	.00342
Earth Stations (47 CFR part 25)	210
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	127,175
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	137,225
International Bearer Circuits - Terrestrial/Satellites (per 64KB circuit)	.75
International Bearer Circuits - Submarine Cable	See Table Below

FY 2009 SCHEDULE OF REGULATORY FEES (continued)

FY 2009 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, BI & C3	FM Classes B, C, C0, C1 & C2
<=25,000	\$675	\$550	\$500	\$575	\$650	\$825
25,001 – 75,000	\$1,350	\$1,075	\$750	\$875	\$1,325	\$1,450
75,001 – 150,000	\$2,025	\$1,350	\$1,000	\$1,450	\$1,825	\$2,725
150,001 – 500,000	\$3,050	\$2,300	\$1,500	\$1,725	\$2,800	\$3,550
500,001 – 1,200,000	\$4,400	\$3,500	\$2,500	\$2,875	\$4,450	\$5,225
1,200,001 – 3,000,00	\$6,750	\$5,400	\$3,750	\$4,600	\$7,250	\$8,350
>3,000,000	\$8,100	\$6,475	\$4,750	\$5,750	\$9,250	\$10,850

FY 2009 SCHEDULE OF REGULATORY FEES
International Bearer Circuits - Submarine Cable

Submarine Cable Systems (capacity as of December 31, 2008)	Fee amount	Address
< 2.5 Gbps	\$15,075	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
2.5 Gbps or greater, but less than 5 Gbps	\$30,125	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
5 Gbps or greater, but less than 10 Gbps	\$60,250	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
10 Gbps or greater, but less than 20 Gbps	\$120,525	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
20 Gbps or greater	\$241,025	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000

APPENDIX D

Sources of Payment Unit Estimates for FY 2009

In order to calculate individual service fees for FY 2009, we adjusted FY 2008 payment units for each service to more accurately reflect expected FY 2009 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (“ULS”), International Bureau Filing System (“IBFS”), Consolidated Database System (“CDBS”) and Cable Operations and Licensing System (“COALS”), as well as reports generated within the Commission such as the Wireline Competition Bureau’s *Trends in Telephone Service* and the Wireless Telecommunications Bureau’s *Numbering Resource Utilization Forecast*.

We tried to obtain verification for these estimates from multiple sources and, in all cases; we compared FY 2009 estimates with actual FY 2008 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2009 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2009 payment units are based on FY 2008 actual payment units, it does not necessarily mean that our FY 2009 projection is exactly the same number as FY 2008. We have either rounded the FY 2009 number or adjusted it slightly to account for these variables.

FEE CATEGORY	SOURCES OF PAYMENT UNIT ESTIMATES
Land Mobile (All), Microwave, 218-219 MHz, Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed	Based on Wireless Telecommunications Bureau (“WTB”) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 08 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 08 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2008 payment units.
UHF/VHF Television Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2008 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2008 payment units.
LPTV, Translators and Boosters, Class A Television	Based on CDBS data, adjusted for exemptions, and actual FY 2008 payment units.
Broadcast Auxiliaries	Based on actual FY 2008 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2008 payment units.

LMDS	Based on WTB reports and actual FY 2008 payment units.
Cable Television Relay Service ("CARS") Stations	Based on data from Media Bureau's COALS database and actual FY 2008 payment units.
Cable Television System Subscribers	Based on publicly available data sources for estimated subscriber counts and actual FY 2008 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499-Q data for the four quarters of calendar year 2008, the Wireline Competition Bureau projected the amount of calendar year 2008 revenue that will be reported on 2008 FCC Form 499-A worksheets in April, 2009.
Earth Stations	Based on International Bureau ("IB") licensing data and actual FY 2008 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2008 payment units.
International Bearer Circuits	Based on IB reports and submissions by licensees.
Submarine Cable Licenses	Based on IB license information.

APPENDIX E

Factors, Measurements, and Calculations that go into Determining Station Signal Contours and Associated Population Coverages**AM Stations**

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane ("RMS") figure milliVolt per meter (mV/m) @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in §§73.150 and 73.152 of the Commission's rules.¹ Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3.² Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2000 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power ("ERP") (kW) and respective height above average terrain ("HAAT") (m) combination was used. Where the antenna height above mean sea level ("HAMSL") was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50-50) propagation curves specified in 47 C.F.R. § 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials.³ The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2000 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

¹ 47 C.F.R. §§ 73.150 and 73.152.

² See Map of Estimated Effective Ground Conductivity in the United States, 47 C.F.R. § 73.190 Figure R3.

³ 47 C.F.R. § 73.313