

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

In the Matter of )  
 )  
Assessment and Collection of Regulatory Fees for ) MD Docket No. 10-87  
Fiscal Year 2010 )  
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**NOTICE OF PROPOSED RULEMAKING**

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By the Commission:

**TABLE OF CONTENTS**

Heading	Paragraph #
I. INTRODUCTION.....	1
A. FY 2010 Regulatory Fee Assessment Methodology.....	2
1. AM and FM Radio Stations.....	4
2. Submarine Cable Methodology.....	5
B. Regulatory Fee Obligations for Digital Full Service Television Broadcasters.....	7
C. Regulatory Fee Obligations for Digital Low Power, Class A, and TV Translators /Boosters.....	8
D. Commercial Mobile Radio Service Messaging Service.....	9
E. Administrative and Operational Issues.....	10
1. Mandatory Use of Fee Filer.....	11
2. Notification and Collection of Regulatory Fees.....	12
a. Pre-bills.....	12
II. PROCEDURAL MATTERS.....	13
A. Public Notices and Fact Sheets.....	14
B. Assessment Notifications.....	15
1. Media Services Licensees.....	15
2. CMRS Cellular and Mobile Services Assessments.....	18
C. Streamlined Regulatory Fee Payment Process.....	21
1. Cable Television Subscribers.....	21
2. CMRS Cellular and Mobile Providers.....	22
3. Interstate Telecommunications Service Providers (“ITSP”).....	23
D. Payment of Regulatory Fees.....	24
1. Lock Box Bank.....	24
2. Receiving Bank for Wire Payments.....	25
3. De Minimis Regulatory Fees.....	26

4. Standard Fee Calculations and Payment Dates .....	27
E. Enforcement .....	28
F. Initial Regulatory Flexibility Analysis .....	30
G. Initial Paperwork Reduction Act of 1995 Analysis .....	31
H. Congressional Review Act Analysis .....	32
I. Ex Parte Rules .....	33
J. Filing Requirements .....	34
III. ORDERING CLAUSES .....	39
APPENDIX A Calculation of FY 2010 Revenue Requirements and Pro-Rata Fees	
APPENDIX B FY 2010 Schedule of Regulatory Fees	
APPENDIX C Sources of Payment Unit Estimates for FY 2010	
APPENDIX D Factors, Measurements, and Calculations that go into Determining Station Signal Contours and Associated Population Coverages	
APPENDIX E Initial Regulatory Flexibility Analysis	
APPENDIX F FY 2009 Schedule of Regulatory Fees	

## I. INTRODUCTION

1. In this *Notice of Proposed Rulemaking*, we propose to collect \$335,794,000 in regulatory fees for Fiscal Year (“FY”) 2010, 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.<sup>1</sup> 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.<sup>2</sup> 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 an August 2010 filing window in order to collect the required amount by the end of our fiscal year.

### A. FY 2010 Regulatory Fee Assessment Methodology

2. In our FY 2010 regulatory fee assessment, we will use the same section 9 regulatory fee assessment methodology adopted in FY 2009. Each fiscal year, the Commission proportionally allocates the total amount that must be collected via section 9 regulatory fees. The results of our FY 2010 regulatory fee assessment methodology (including a comparison to the prior year’s results) are contained in Appendix A. To collect the \$335,794,000 required by Congress, we adjust the FY 2009 amount downward by 1.8 percent and allocate this amount across the various fee categories. Consistent with past practice, we then divide the FY 2010 amount by the number of estimated payment units in each fee category to determine the unit fee.<sup>3</sup> As in prior years, for cases involving small fees, *e.g.*, licenses that are

<sup>1</sup> 47 U.S.C. § 159(a).

<sup>2</sup> See Consolidated Appropriations Act, 2010, Public Law 111-117 for the FY 2010 appropriations act language for the Commission establishing the amount of \$335,794,000 of offsetting collections to be assessed and collected by the Commission pursuant to section 9 of the Communications Act.

<sup>3</sup> 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.

renewed over a multiyear term, we divide the resulting unit fee by the term of the license and then rounded these unit fees consistent with the requirements of section 9(b)(2) of the Act.

3. In calculating the FY 2010 regulatory fees listed in Appendix B, we further adjusted the FY 2009 list of payment units (see Appendix C) based upon licensee databases, industry and trade group projections, as well as prior year payment information. 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.<sup>4</sup> Where appropriate, we adjusted and rounded our final estimates to take into 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 2010, and fluctuations in the number of licenses or station operators due to economic, technical, or other reasons. Our estimated FY 2010 payment units, therefore, are based on several variable factors that are relevant to each fee category. The fee rate also may be rounded or adjusted slightly to account for these variables.

#### 1. AM and FM Radio Stations

4. As in previous years, we consider the additional factors of facility attributes and the population served by each radio station in determining regulatory fees for AM and FM radio stations. 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 D. Consequently, the population served, as well as the class and type of service (AM or FM), will continue to determine the amount of regulatory fee to be paid.<sup>5</sup>

#### 2. Submarine Cable Methodology

5. In its *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.<sup>6</sup> For all 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.

6. In the *Submarine Cable Order* and in the *FY 2009 Regulatory Fees Report and Order*,<sup>7</sup> 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

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<sup>4</sup> 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 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* and *Annual CMRS Competition Report*, as well as industry sources including, but not limited to, *Television & Cable Factbook* by Warren Publishing, Inc. and the *Broadcasting and Cable Yearbook* by Reed Elsevier, Inc.

<sup>5</sup> 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 for a licensed station in that respective service category. For example, in FY 2009 the regulatory fee for an AM radio station Construction Permit was no higher than the regulatory fee for an AM Class C radio station serving a population of less than 25,000.

<sup>6</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208, ¶ 1 (March 24, 2009) (“*Submarine Cable Order*”).

<sup>7</sup> See *FY 2009 Report and Order* at Appendix B.

*Submarine Cable Order*.<sup>8</sup> 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.<sup>9</sup> Since we do not have any additional information that would lead us to change this allocation percentage for FY 2010, we propose to continue to use the allocation percentages of 87.6 percent (submarine cable) and 12.4 percent (satellite and terrestrial) for calculating FY 2010 submarine cable regulatory fees. Consistent with the Commission's annual process of updating its schedule of regulatory fees with recent data, however, we reserve the right to re-examine the allocation percentages described above on an annual basis.

**B. Regulatory Fee Obligations for Digital Full Service Television Broadcasters**

7. In our *FY 2009 Report and Order*, we stated that, beginning in FY 2010, we plan to collect regulatory fees from digital broadcasters, and we sought comment on this plan to collect 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.<sup>10</sup> Since the digital transition on June 12, 2009 has eliminated the distinction between digital and analog full-service television stations, the digital-only exemption will no longer apply beginning in FY 2010. Beginning in FY 2010, we will collect annual regulatory fees from all digital full-service television stations, and the "digital-only" exemption will no longer be applicable. Also, because this is the first year following the Commission's transition to digital full service television, it is possible that some facilities may be operating under a Special Temporary Authority (STA) beginning on October 1, 2009 until the digital license is issued. For FY 2010 regulatory fee purposes, these facilities operating under an STA will be considered to be fully operational licensed facilities and will be obligated to pay the same regulatory fee as a licensed full-service television station.

**C. Regulatory Fee Obligations for Digital Low Power, Class A, and TV Translators /Boosters**

8. Although the digital transition of full-service television stations was completed on June 12, 2009, the digital transition for Low Power, Class A, and TV Translators/Boosters is still voluntary, and there is currently no set date for the completion of this transition. Historically, the discussion of digital transition conversion with respect to regulatory fees has applied only to full-service television stations, and therefore, the elimination of the "digital only" exemption described in the above paragraph has no impact on this class of regulatees. Because the digital transition in the Low Power, Class A, and TV Translators/Booster facilities is voluntary and the transition will occur over a period time, it is possible that some facilities will convert from analog to digital more quickly than others. During this interim transition period, licensees of Low Power, Class A, and TV Translator/Booster facilities could be operating in analog mode, in digital mode, or in an analog and digital simulcast mode. For regulatory fee purposes, a fee will be assessed for each facility operating either in an analog or digital mode. In instances in which a licensee is operating in both an analog and digital mode as a simulcast, a single regulatory fee will be assessed for this analog facility that has a digital companion channel. As greater numbers of facilities convert to digital mode, the Commission will provide revised instructions on how regulatory fees will be assessed.

<sup>8</sup> See *Submarine Cable Order* at ¶¶ 1 and 6.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* at ¶ 13.

**D. Commercial Mobile Radio Service Messaging Service**

9. Commercial Mobile Radio Service (“CMRS”) Messaging Service, which replaced the CMRS One-Way Paging fee category in 1997, includes all narrowband services.<sup>11</sup> Since 1997, the number of subscribers has declined from 40.8 million to 6.5 million, and there does not appear to be any sign of recovery to the subscriber levels of 1997-1999. Maintaining the fee at the existing level of \$.08 per subscriber is the minimum reasonable and appropriate action to take under the prevailing circumstances in the paging industry. We propose in FY 2010 to continue maintaining the regulatory fee rate at \$.08 per subscriber due to the declining subscriber base in this industry.<sup>12</sup> We seek comment on this proposal.

**E. Administrative and Operational Issues**

10. In FY 2009, the Commission implemented several changes in procedures which simplified the payment and reconciliation processes of FY 2009 regulatory fees. These changes proved to be very helpful to both licensees and to the Commission, and we propose in the following paragraphs to expand upon these improvements. In FY 2010, the Commission will promote greater use of technology (and less use of paper) to improve the regulatory fee notification and collection process. We seek general comment on ways to promote greater use of technology in collecting regulatory fees.

**1. Mandatory Use of Fee Filer**

11. In FY 2009, we instituted a mandatory filing requirement using the Commission’s electronic filing and payment system (also known as “Fee Filer”).<sup>13</sup> Licensees filing their annual regulatory fee payments were required to begin the process by entering the Commission’s Fee Filer system with a valid FRN and password. This change was beneficial to both licensees and to the Commission. For example, for licensees, the mandatory use of Fee Filer eliminated the need to manually complete and submit a hardcopy Form 159, and for the Commission, the data in electronic format made it much easier to process payments more efficiently and effectively. Because of the success of this process change, we propose to continue to make the use of Fee Filer for filing annual regulatory fees mandatory. We seek comment on this proposal. As in FY 2009, the mandatory use of Fee Filer does not mean that licensees are expected to pay only through Fee Filer – it is only mandatory for licensees to begin the process of filing their annual regulatory fees using Fee Filer. This is one reason it is very important for licensees to have a current and valid FRN address on file in the Commission’s Registration System (CORES). 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. These Form 159-E’s not only will reduce errors resulting from illegible handwriting on hardcopy Form 159’s, but, because they are generated from Fee Filer, these forms also will create an electronic record of licensee payment attributes that are more easily tracked and searched than hardcopy Form 159’s that are completed manually and mailed to the Commission.

**2. Notification and Collection of Regulatory Fees****a. Pre-bills**

12. In prior years, the Commission mailed pre-bills via surface mail to licensees in select regulatory fee categories: Interstate telecommunications service providers (“ITSPs”), Geostationary

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<sup>11</sup> 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”).

<sup>12</sup> Between FY 1997 and FY 2009, the subscriber base in the paging industry declined 84 percent from 40.8 million to 6.5 million subscribers, according to FY 2009 collections data as of September 30, 2009.

<sup>13</sup> *FY 2009 Report and Order* at ¶¶ 20 and 21.

("GSO") and Non-Geostationary ("NGSO") satellite space station licensees,<sup>14</sup> holders of Cable Television Relay Service ("CARS") licenses, and Earth Station licensees.<sup>15</sup> The remaining regulatees did not receive pre-bills. In our *FY 2009 Report and Order*, the Commission decided to have the attributes of these pre-bills viewed in Fee Filer, rather than mailing pre-bills out to licensees via surface mail.<sup>16</sup> Although the overall response to this procedural change was positive, it was apparent that a greater effort should have been made to inform licensees that they would not be receiving a hardcopy regulatory fee bill in the mail. In FY 2010, the Commission will continue to reduce its use of hardcopy documents by not mailing out annual regulatory fee bills, but the Commission is seeking to increase its efforts in notifying licensees that hardcopy regulatory fee bills will not be mailed out. We seek comment on how to most efficiently and effectively notify licensees that hardcopy regulatory fee bills will not be mailed out, but that, instead, the amount and attributes of the bills will be available in Fee Filer for review.

## II. PROCEDURAL MATTERS

13. Included below are procedural items as well as our current payment and collection methods, which 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 of reminding regulatory fee payers and the public about these aspects of the annual regulatory fee collection process.

### A. Public Notices and Fact Sheets

14. 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

15. Beginning in FY 2003, we sent fee assessment notifications via surface mail to media services entities on a per-facility basis.<sup>17</sup> 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.<sup>18</sup> Consistent with procedures used last year, we will mail out media

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<sup>14</sup> 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.

<sup>15</sup> 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.

<sup>16</sup> See *FY 2009 Report and Order* at ¶¶ 24, 26.

<sup>17</sup> 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.

<sup>18</sup> 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 (continued....)

assessment notifications to licensees in FY 2010 at their primary record of contact populated in our Consolidated Database System ("CDBS"), and to a secondary record of contact, if available.<sup>19</sup> However, after FY 2010, as part of the Commission's initiative to emphasize electronic filing and reduce paper usage, the Commission will stop mailing out media notification assessments to media licensees. Instead the Commission will rely more on its various websites, including the Commission-authorized web site at [www.fccfees.com](http://www.fccfees.com), to notify licensees of pending annual regulatory fees and to update or correct any information regarding their facilities and their fee-exempt status.<sup>20</sup> We seek comment on our proposal to discontinue sending out media notification letters after the FY 2010 regulatory fee season.

16. The decision to discontinue mailing media notifications beginning in FY 2011 is consistent with the Commission's effort to become more electronic and less paper-oriented. However, the Commission understands that not all media licensees are able to access the Commission's various electronic websites once the hardcopy notification letters are discontinued in FY 2011. Therefore, to be receptive to the needs of these licensees, the Commission will leave the comment and reply comment period open until September 30, 2010 on the specific issue of whether the media notification letters should be discontinued in FY 2011. Because this decision does not impact FY 2010 regulatory fees, we will be addressing this issue in the Commission's FY 2011 *Notice of Proposed Rulemaking* after we have had the chance to review the various comments and reply comments that have been submitted. In addition to raising this issue in this document, the Commission will also remind media licensees of this proposed change in notification procedures when it sends out letters to media licensees later in the fiscal year regarding their FY 2010 regulatory fee obligations. To ensure that the comments of all potentially affected persons are properly included in the record, media licensees should submit their comments and reply comments on this issue as follows:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

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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.

<sup>19</sup> We 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. As in prior years, fee assessments will not be issued for broadcast auxiliary stations.

<sup>20</sup> 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"). There is also a Commission-authorized web site that media services licensees can use to view and update their exempt status (<http://www.fccfees.com>).

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

17. Although the Commission will mail media assessment notifications to licensees in FY 2010, all licensees (including media services) will be required to use Fee Filer as the first step in paying their regulatory fee obligations. The notification assessments provide licensees with the same media data attributes found on Fee Filer; however, receiving this information in FY 2010 via mail notification does not obviate, nor should it be considered a substitute for, using Fee Filer as the first step in filing and paying annual regulatory fees. As explained previously, 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, or wire transfer. A Form 159-E generated from Fee Filer is required, even when mailing in the annual regulatory fee payment.

## 2. CMRS Cellular and Mobile Services Assessments

18. As we have done in prior years, we will mail an initial assessment letter to Commercial Mobile Radio Service (CMRS) providers using data from the Numbering Resource Utilization Forecast ("NRUF") report that is based on "assigned" number counts that have been adjusted for porting to net Type 0 ports ("in" and "out").<sup>21</sup> The letter will include a listing of the carrier's Operating Company Numbers ("OCNs") upon which the assessment is based.<sup>22</sup> The letters will not include OCNs with their respective assigned number counts, but rather, an aggregate total of assigned numbers for each carrier.

19. If the carrier does not agree with the number of subscribers listed on the initial assessment letter, providers will have an opportunity within a specific timeframe to revise their subscriber counts by submitting supporting documentation to substantiate the change. However, instead of mailing the revised figures, providers will be asked to access Fee Filer and follow the instructions provided in order to submit their revised subscriber count along with any supporting documentation.<sup>23</sup> The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. The provider will be able to review the decision online in Fee Filer. If the submission is disapproved, the Commission will also attempt to contact the provider so that the provider will have an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response or correction to the initial assessment letter, or we do not reverse the disapproval of the provider's revised count submission, we will expect the fee payment to be based on the number of subscribers listed on the initial assessment. Once the timeframe for revision has passed, the subscriber counts will be finalized. These subscriber counts will then be the basis upon which CMRS regulatory fees will be expected. Providers will be able to view their final subscriber counts online in Fee Filer. A final CMRS assessment letter will not be mailed out.

20. Because some carriers do not file the NRUF report, they may not receive an initial letter

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<sup>21</sup> 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).

<sup>22</sup> *Id.*

<sup>23</sup> In the supporting documentation, the provider will need to state a reason for the change, such as 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.

of assessment. In these instances, the carriers should compute their fee payment using the standard methodology<sup>24</sup> that is currently in place for CMRS Wireless services (e.g., compute their subscriber counts as of December 31, 2009), 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 paid is inaccurate, the Commission will bill 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**

21. 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**

22. In FY 2006, we streamlined the CMRS payment process by eliminating the requirement for CMRS providers to identify their individual call signs when making their regulatory fee payment, instead allowing CMRS providers to pay their regulatory fees only at the aggregate subscriber level without having to identify their various call signs.<sup>25</sup> We will continue this practice in FY 2010. In FY 2007, we consolidated the CMRS cellular and CMRS mobile fee categories into one fee category with a single 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 consolidation of fee categories enabled the Commission to process payments more quickly and accurately. For FY 2010, 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")**

23. 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 2010, we will continue rounding lines 14 and 16 when calculating the FY 2010 ITSP fee obligation. In addition, as in FY 2009, we will continue the practice of not mailing out Form 159-W via surface mail.

**D. Payment of Regulatory Fees**

**1. Lock Box Bank**

24. All lock box payments to the Commission for FY 2010 will be processed by U.S. Bank, St. Louis, Missouri, and payable to the FCC. During the regulatory fee season, for those licensees paying by check, money order, or by credit card using Form 159-E remittance advice, the fee payment and Form 159-E remittance advice should be mailed to the following address: Federal Communications Commission, Regulatory Fees, P.O. Box 979084, St. Louis, MO 63197-9000. Additional payment options and instructions are posted at <http://www.fcc.gov/fees/regfees.html>.

<sup>24</sup> See, e.g., Federal Communications Commission, *Regulatory Fees Fact Sheet: What You Owe - Commercial Wireless Services for FY 2009* at 1 (rel. September 2009).

<sup>25</sup> 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).

## 2. Receiving Bank for Wire Payments

25. 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. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at <http://www.fcc.gov/fees/wiretran.html>.

## 3. De Minimis Regulatory Fees

26. Regulatees whose total FY 2010 regulatory fee liability, including all categories of fees for which payment is due, is less than \$10 are exempted from payment of FY 2010 regulatory fees.

## 4. Standard Fee Calculations and Payment Dates

27. 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, 2009 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, 2009. In instances where a permit or license is transferred or assigned after October 1, 2009, 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, 2009. In instances where a permit or license is transferred or assigned after October 1, 2009, 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.<sup>26</sup>
- *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, 2009. The number of subscribers, units, or telephone numbers on December 31, 2009 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2009, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- The first eleven regulatory fee categories in our Schedule of Regulatory Fees (*see* Appendix B) 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

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<sup>26</sup> 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 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*”).

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 2010.

- *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, 2009.<sup>27</sup> Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2009. In instances where a permit or license is transferred or assigned after October 1, 2009, responsibility for payment rests with the holder of the permit or 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, 2009. In instances where a permit or license is transferred or assigned after October 1, 2009, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services: Submarine Cable Systems*: Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on circuit capacity as of December 31, 2009. In instances where a license is transferred or assigned after October 1, 2009, responsibility for payment rests with the holder of the license as of the fee due date.
- *International Services: Terrestrial and Satellite Services*: Finally, regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2009 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. “Active circuits” for these purposes include backup and redundant circuits as of December 31, 2009. Whether circuits are used specifically for voice or data is not relevant for these purposes in determining that they are active circuits. In instances where a permit or license is transferred or assigned after October 1, 2009, responsibility for payment rests with the holder of the permit or license as of the fee due date.

#### **E. Enforcement**

28. To be considered timely, regulatory fee payments must be received and stamped at the lockbox bank by the last day of the regulatory fee filing window. Section 9(c) of the Act requires us to impose an additional charge as a penalty for late payment of any regulatory fee.<sup>28</sup> 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

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<sup>27</sup> 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 2009, rather than on a count as of December 31, 2009.

<sup>28</sup> 47 U.S.C. § 159(c).

Rules<sup>29</sup> and in the Debt Collection Improvement Act of 1996 (“DCIA”).<sup>30</sup> 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.<sup>31</sup> 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.

29. 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.<sup>32</sup> 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. Initial Regulatory Flexibility Analysis**

30. An initial regulatory flexibility analysis (“IRFA”) is contained in Appendix E. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the Notice. The Commission will send a copy of the Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

#### **G. Initial Paperwork Reduction Act of 1995 Analysis**

31. This Notice does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995 (“PRA”), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506 (c) (4). Completion of the 159 family of forms required by the Commission’s regulatory fee payment process is already approved by the Office of Management and Budget under information collections 3060-0589 and 3060-0949.

#### **H. Congressional Review Act Analysis**

32. The Commission will send a copy of this Notice of Proposed Rulemaking to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>33</sup>

#### **I. Ex Parte Rules**

33. This is as a “permit-but-disclose” proceeding subject to the requirements under section

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<sup>29</sup> *See* 47 C.F.R. § 1.1910.

<sup>30</sup> 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.

<sup>31</sup> 47 C.F.R. § 1.1940(d).

<sup>32</sup> *See* 47 C.F.R. §§ 1.1161(c), 1.1164(f)(5), and 1.1910.

<sup>33</sup> *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.

1.1206(b) of the Commission's rules.<sup>34</sup> *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>35</sup> Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

#### J. Filing Requirements

34. *Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

35. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

36. *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

37. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, CY-A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

38. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's

<sup>34</sup> See 47 C.F.R. § 1.1206(b); see also 47 C.F.R. §§ 1.1202, 1.1203.

<sup>35</sup> See 47 C.F.R. § 1.1206(b)(2).

Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (“PDF”) at: <http://www.fcc.gov>.

### III. ORDERING CLAUSES

39. 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 Notice of Proposed Rulemaking IS HEREBY ADOPTED.

40. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis in Appendix E, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX A

## Calculation of FY 2010 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 2010 Payment Units	Years	FY 2009 Revenue Estimate	Pro-Rated FY 2010 Revenue Requirement	Computed New FY 2010 Regulatory Fee	Rounded New FY 2010 Regulatory Fee	Expected FY 2010 Revenue
PLMRS (Exclusive Use)	1,400	10	480,000	480,000	39	40	480,000
PLMRS (Shared Use)	11,000	10	2,300,000	2,271,600	20	20	2,300,000
Microlics	9,900	10	2,375,000	2,312,715	25	25	2,375,000
218-219 MHz (Formerly IVDS)	3	10	1,950	1,950	64	65	1,950
Marine (Ship)	8,000	10	800,000	738,110	9	10	800,000
GMRS	6,700	5	242,500	242,250	5	5	242,500
Aviation (Aircraft)	4,800	10	230,000	242,644	7	5	230,000
Marine (Coast)	265	10	121,250	121,140	46	45	119,250
Aviation (Coastal)	1,300	10	130,000	146,848	10	10	130,000
Aviation (VFR)	14,300	10	201,000	196,776	133	133	196,840
AM Class A <sup>4a</sup>	68	1	248,625	244,032	3,589	3,600	244,800
AM Class B <sup>4b</sup>	1,566	1	2,977,300	2,922,297	1,866	1,875	2,936,250
AM Class C <sup>4c</sup>	918	1	1,055,250	1,035,755	1,128	1,125	1,032,750
AM Class D <sup>4d</sup>	1,689	1	3,515,750	3,450,799	2,043	2,050	3,462,450
FM Classes A, B1 & C3 <sup>4c</sup>	3,104	1	7,384,125	7,250,936	2,336	2,325	7,216,800
FM Classes B, C, C0, C1 & C2 <sup>4f</sup>	3,129	1	9,076,725	8,912,267	2,848	2,850	8,917,650
AM Construction Permits	100	1	42,800	42,009	420	420	42,000
FM Construction Permits <sup>1</sup>	217	1	145,600	136,456	629	630	136,710
Satellite TV	126	1	161,925	158,934	1,261	1,250	157,500
Satellite TV Construction Permit	3	1	1,950	1,914	638	640	1,920
VHF Markets 1-10	41	1	3,258,150	3,197,929	77,998	78,000	3,198,000
VHF Markets 11-25	54	1	3,330,250	3,268,697	60,531	60,525	3,268,350
VHF Markets 26-50	68	1	2,818,125	2,766,033	40,677	40,675	2,765,900
VHF Markets 51-100	117	1	2,708,100	2,658,053	22,718	22,725	2,658,825

Fee Category	FY 2010 Payment Units	Years	FY 2009 Revenue Estimate	Pro-Rated FY 2010 Revenue Require- ment	Computed New FY 2010 Regulatory Fee	Round ed New FY 2010 Regula- -tory Fee	Expected FY 2010 Revenue
VHF Remaining Markets	199	1	1,190,000	1,168,016	5,869	5,875	1,169,125
VHF Construction Permits <sup>1</sup>	3	1	17,850	17,625	5,875	5,875	17,625
UHF Markets 1-10	82	1	2,109,750	2,073,657	25,288	25,300	2,074,600
UHF Markets 11-25	69	1	1,743,525	1,714,198	24,843	24,850	1,714,650
UHF Markets 26-50	105	1	1,468,500	1,444,253	13,755	13,750	1,443,750
UHF Markets 51- 100	149	1	1,246,400	1,225,210	8,223	8,225	1,225,525
UHF Remaining Markets	185	1	380,250	373,225	2,017	2,025	374,625
UHF Construction Permits <sup>1</sup>	9	1	29,250	18,225	2,025	2,025	18,225
Broadcast Auxiliaries	27,500	1	275,000	269,920	10	10	275,000
LPTV/Trans- lators/Boosters/Clas s A TV	3,400	1	1,380,000	1,354,506	398	400	1,360,000
CARS Stations	550	1	169,000	165,878	302	300	165,000
Cable TV Systems	64,500,000	1	56,760,000	55,711,406	0.86374	0.86	55,470,000
Interstate Tele- communication Service Providers	\$44,800,000,000	1	160,056,000	157,099,099	0.00350668	0.00351	157,248,000
CMRS Mobile Services (Cellular/Public Mobile)	281,000,000	1	49,680,000	48,781,083	0.1736	0.170	47,770,000
CMRS Messag. Services	6,600,000	1	560,000	530,774	0.0804	0.080	528,000
BRS <sup>2</sup>	1,660	1	552,000	499,414	301	300	498,000
LMDS	510	1	107,200	153,259	301	300	153,000
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common)	1,648,589	1	1,111,779	1,086,841	.659	.66	1,088,069
Submarine Cable Providers (see chart in Appendix C) <sup>3</sup>	35.13	1	7,818,040	7,678,007	218,560	218,550	7,677,662
Earth Stations	3,600	1	850,500	834,788	232	230	828,000

Fee Category	FY 2010 Payment Units	Years	FY 2009 Revenue Estimate	Pro-Rated FY 2010 Revenue Require- ment	Computed New FY 2010 Regulatory Fee	Round ed New FY 2010 Regula- -tory Fee	Expected FY 2010 Revenue
Space Stations (Geostationary)	87	1	11,064,225	10,859,823	124,826	124,825	10,859,775
Space Stations (Non-Geostationary)	6	1	823,350	808,139	134,690	134,700	808,200
***** Total Estimated Revenue to be Collected			342,998,994	336,650,529			335,702,275
***** Total Revenue Requirement			341,875,000	335,794,000			335,794,000
Difference			1,123,994	856,529			(91,725)

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> The chart at the end of Appendix B 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.

<sup>4</sup> The fee amounts listed in the column entitled "Rounded New FY 2010 Regulatory Fee" constitute a weighted average media regulatory fee by class of service. The actual FY 2010 regulatory fees for AM/FM radio station are listed on a grid located in Appendix B.

## APPENDIX A

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Fee Category	FY 2010 Payment Units	Years	FY 2009 Revenue Estimate	Pro-Rated FY 2010 Revenue Require- ment	Computed New FY 2010 Regulatory Fee	Round ed New FY 2010 Regula- -tory Fee	Expected FY 2010 Revenue
PLMRS (Exclusive Use)	1,200	10	480,000	469,912	39	40	480,000
PLMRS (Shared use)	11,500	10	2,300,000	2,251,662	20	20	2,300,000
Microwave	9,500	10	2,250,000	2,202,713	23	25	2,375,000
218-219 MHz (Formerly IVDS)	3	10	1,950	1,909	64	65	1,950
Marine (Ship)	8,000	10	750,000	734,238	9	10	800,000
GMRS	9,700	5	275,000	269,220	6	5	242,500
Aviation (Aircraft)	4,600	10	350,000	342,644	7	5	230,000
Marine (Coast)	265	10	123,750	121,149	46	45	119,250
Aviation (Ground)	1,500	10	150,000	146,848	10	10	150,000
Amateur Vanity Call Signs	14,800	10	201,000	196,776	1.33	1.33	196,840
AM Class A <sup>4a</sup>	68	1	248,625	244,032	3,589	3,600	244,800
AM Class B <sup>4b</sup>	1,566	1	2,977,300	2,922,297	1,866	1,875	2,936,250
AM Class C <sup>4c</sup>	918	1	1,055,250	1,035,755	1,128	1,125	1,032,750
AM Class D <sup>4d</sup>	1,689	1	3,515,750	3,450,799	2,043	2,050	3,462,450
FM Classes A, B1 & C3 <sup>4e</sup>	3,104	1	7,384,125	7,250,936	2,336	2,325	7,216,800
FM Classes B, C, C0, C1 & C2 <sup>4f</sup>	3,129	1	9,076,725	8,912,267	2,848	2,850	8,917,650
AM Construction Permits	100	1	42,800	42,009	420	420	42,000
FM Construction Permits <sup>1</sup>	217	1	145,600	136,456	629	630	136,710
Satellite TV	126	1	161,925	158,934	1,261	1,250	157,500
Satellite TV Construction Permit	3	1	1,950	1,914	638	640	1,920
VHF Markets 1-10	41	1	3,258,150	3,197,929	77,998	78,000	3,198,000
VHF Markets 11-25	54	1	3,330,250	3,268,697	60,531	60,525	3,268,350
VHF Markets 26-50	68	1	2,818,125	2,766,033	40,677	40,675	2,765,900
VHF Markets 51-100	117	1	2,708,100	2,658,053	22,718	22,725	2,658,825

Fee Category	Annual Regulatory Fee (U.S. \$'s)
TV (47 CFR part 73) UHF Commercial	
Markets 1-10	25,300
Markets 11-25	24,850
Markets 26-50	13,750
Markets 51-100	8,225
Remaining Markets	2,025
Construction Permits	2,025
Satellite Television Stations (All Markets)	1,250
Construction Permits – Satellite Television Stations	640
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)	300
Cable Television Systems (per subscriber) (47 CFR part 76)	.86
Interstate Telecommunication Service Providers (per revenue dollar)	.00351
Earth Stations (47 CFR part 25)	230
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	124,825
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	134,700
International Bearer Circuits - Terrestrial/Satellites (per 64KB circuit)	.66
International Bearer Circuits - Submarine Cable	See Table Below

## FY 2010 SCHEDULE OF REGULATORY FEES (continued)

FY 2010 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	\$650	\$550	\$475	\$575	\$625	\$800
25,001 – 75,000	\$1,300	\$1,075	\$725	\$875	\$1,250	\$1,400
75,001 – 150,000	\$1,950	\$1,350	\$950	\$1,450	\$1,725	\$2,600
150,001 – 500,000	\$2,925	\$2,300	\$1,425	\$1,725	\$2,650	\$3,400
500,001 – 1,200,000	\$4,225	\$3,500	\$2,375	\$2,875	\$4,225	\$5,000
1,200,001 – 3,000,00	\$6,500	\$5,400	\$3,575	\$4,600	\$6,875	\$8,000
>3,000,000	\$7,800	\$6,475	\$4,525	\$5,750	\$8,750	\$10,400

**FY 2010 SCHEDULE OF REGULATORY FEES**  
**International Bearer Circuits - Submarine Cable**

Submarine Cable Systems (capacity as of December 31, 2009)	Fee amount	Address
<b>&lt; 2.5 Gbps</b>	\$13,650	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
<b>2.5 Gbps or greater, but less than 5 Gbps</b>	\$27,325	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
<b>5 Gbps or greater, but less than 10 Gbps</b>	\$54,650	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
<b>10 Gbps or greater, but less than 20 Gbps</b>	\$109,300	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000
<b>20 Gbps or greater</b>	\$218,600	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000

## APPENDIX C

## Sources of Payment Unit Estimates for FY 2010

In order to calculate individual service fees for FY 2010, we adjusted FY 2009 payment units for each service to more accurately reflect expected FY 2010 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 sought verification for these estimates from multiple sources and, in all cases; we compared FY 2010 estimates with actual FY 2009 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 with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2010 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 2010 payment units are based on FY 2009 actual payment units, it does not necessarily mean that our FY 2010 projection is exactly the same number as FY 2009. We have either rounded the FY 2010 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 09 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 09 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2009 payment units.
UHF/VHF Television Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2009 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2009 payment units.
LPTV, Translators and Boosters, Class A Television	Based on CDBS data, adjusted for exemptions, and actual FY 2009 payment units.
Broadcast Auxiliaries	Based on actual FY 2009 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2009 payment units.

LMDS	Based on WTB reports and actual FY 2009 payment units.
Cable Television Relay Service ("CARS") Stations	Based on data from Media Bureau's COALS database and actual FY 2009 payment units.
Cable Television System Subscribers	Based on publicly available data sources for estimated subscriber counts and actual FY 2009 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499-Q data for the four quarters of calendar year 2009, the Wireline Competition Bureau projected the amount of calendar year 2009 revenue that will be reported on 2010 FCC Form 499-A worksheets in April, 2010.
Earth Stations	Based on International Bureau ("IB") licensing data and actual FY 2009 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2009 payment units.
International Bearer Circuits	Based on IB reports and submissions by licensees.
Submarine Cable Licenses	Based on IB license information.

**APPENDIX D****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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.

<sup>1</sup> 47 C.F.R. §§ 73.150 and 73.152.

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

<sup>3</sup> 47 C.F.R. § 73.313

## APPENDIX E

## Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (“RFA”),<sup>1</sup> the Commission prepared this Initial Regulatory Flexibility Analysis (“IRFA”) of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed on or before the dates indicated on the first page of this Notice. The Commission will send a copy of the Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.<sup>2</sup> In addition, the Notice and IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

**I. Need for, and Objectives of, the Notice:**

2. This rulemaking proceeding is initiated for the Commission to obtain comments regarding its proposed amendment to its Schedule of Regulatory Fees in the amount of \$335,794,000, which is the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its revised Schedule of Regulatory Fees in the most efficient manner possible and without undue public burden.

**II. Legal Basis:**

3. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.<sup>4</sup>

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

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

<sup>1</sup> 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612 has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) (“CWAAA”). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”).

<sup>2</sup> 5 U.S.C. § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> 47 U.S.C. §§ 154(i) and (j), 159, and 303(r).

<sup>5</sup> 5 U.S.C. § 603(b)(3).

<sup>6</sup> 5 U.S.C. § 601(6).

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

<sup>8</sup> 15 U.S.C. § 632.

5. **Small Businesses.** Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.<sup>9</sup>

6. **Small Organizations.** Nationwide, as of 2002, there are approximately 1.6 million small organizations.<sup>10</sup> A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>11</sup>

7. **Small Governmental Jurisdictions.** The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>12</sup> Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.<sup>13</sup> We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.”<sup>14</sup> Thus, we estimate that most governmental jurisdictions are small.

8. We have included small incumbent local exchange carriers 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.”<sup>15</sup> The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not “national” in scope.<sup>16</sup> We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

9. **Incumbent Local Exchange Carriers (“ILECs”).** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>17</sup> According to Commission data,<sup>18</sup> 1,311 carriers have reported that they are engaged in the provision of incumbent

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<sup>9</sup> See SBA, Office of Advocacy, “Frequently Asked Questions,” <http://web.sba.gov/faqs> (accessed Jan. 2009).

<sup>10</sup> Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

<sup>11</sup> 5 U.S.C. § 601(4).

<sup>12</sup> 5 U.S.C. § 601(5).

<sup>13</sup> U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Section 8, p. 272, Table 415.

<sup>14</sup> We assume that the villages, school districts, and special districts are small, and total 48,558. See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, p. 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

<sup>15</sup> 15 U.S.C. § 632.

<sup>16</sup> 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 15 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. See 13 C.F.R. § 121.102(b).

<sup>17</sup> 13 C.F.R. § 121.201, North American Industry Classification System (NAICS) code 517110.

<sup>18</sup> FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, “*Trends in Telephone Service*” at Table 5.3, Page 5-5 (Aug. 2008) (“*Trends in Telephone Service*”). This source uses data that are current as of November 1, 2006.