



PUBLIC NOTICE

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News Media Information 202 / 418-0513
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DA 13-162

Released: February 8, 2013

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON CONNECT AMERICA PHASE II SUPPORT FOR PRICE CAP AREAS OUTSIDE OF THE CONTIGUOUS UNITED STATES

WC Docket No. 10-90

Comment Date: March 11, 2013
Reply Comment Date: March 25, 2013

I. INTRODUCTION

1. In this Public Notice, the Wireline Competition Bureau (Bureau) seeks to further develop the record on issues relating to Connect America Phase II support for price cap carriers serving areas outside of the contiguous United States. In particular, we seek comment on various options for providing Connect America Phase II support to price cap carriers serving such areas and the associated obligations that come with the receipt of such support.

II. BACKGROUND

2. On November 18, 2011, the Commission released the *USF/ICC Transformation Order and FNPRM*, which comprehensively reforms and modernizes the universal service and intercarrier compensation systems to maintain voice service and extend broadband-capable infrastructure. As part of the reform, the Commission adopted a framework for providing ongoing support to areas served by price cap carriers, known as Phase II of the Connect America Fund.¹ The Commission delegated to the Bureau the task of developing a forward-looking cost model to determine, among other things, which areas are eligible for support.² Following the adoption of the cost model, each incumbent carrier will be given the opportunity to accept, for each state it serves, a model-derived support amount in exchange for meeting certain service obligations,³ for a period of five years.⁴

¹ See *Connect America Fund et al.*, WC Docket No. 10-90, et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order and FNPRM*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 18, 2011).

² *USF/ICC Transformation Order and FNPRM*, 26 FCC Rcd at 17737, para. 192.

³ Specifically, by the end of the third year, those price cap carriers must offer at least 4 Mbps/1 Mbps broadband service to at least 85 percent of their high-cost locations covered by the state-level commitment. By the end of the fifth year, those carriers must offer at least 4 Mbps/1 Mbps broadband service to all supported locations, and at least 6 Mbps/1.5 Mbps to a number of supported locations to be specified. The companies that accept a state-level commitment also must offer service meeting latency and capacity requirements. See *id.* at 17726-27, paras. 160-63.

⁴ *Id.* at 17729, para. 171.

3. Section 254(b)(3) of the Communications Act of 1934, as amended, states that “[c]onsumers in all regions of the Nation, including low-income consumers, and those in rural, insular, and high-cost areas, should have access to telecommunications and information services”⁵ In the *USF/ICC Transformation Order*, the Commission “direct[ed] the [Bureau] to consider the unique circumstances of [Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands and Northern Marianas Islands] when adopting a cost model.”⁶ The Commission further directed the Bureau to determine whether the cost model provides sufficient support to these areas, and if, in the Bureau’s determination, the model does not provide these areas with sufficient support, the Commission granted the Bureau the discretion to “maintain existing support levels, as modified in this Order, to any affected price cap carrier, without exceeding the overall budget of \$1.8 billion per year for price cap areas.”⁷

4. Subsequently, the Bureau invited interested parties to submit proposed cost models,⁸ and, through a Public Notice and an online Virtual Workshop, we solicited further comment on several occasions regarding the design of and data inputs to the forward-looking cost model.⁹ On December 11, 2012, the Bureau announced the release of version one of the Connect America Cost Model (CACM), which provides Commission staff and interested parties the ability to calculate costs using a variety of different inputs and assumptions.¹⁰ Subsequently, on January 17, 2013, the Bureau announced the availability of version two of the CACM, which incorporates 2010 census boundaries, updated National Broadband Map data, the latest available version of GeoResults wire center boundaries, and updated consumer location and business location counts.¹¹ Work is currently underway on version three of the CACM.

5. In addition to filing comments in response to Public Notices and the virtual workshop, several parties have sought to develop models specifically tailored to their service territories. Alaska Communications Systems Group, Inc. (ACS) modeled certain Alaska-specific cost variables, which

⁵ 47 U.S.C. § 254(b)(3).

⁶ *USF/ICC Transformation Order and FNPRM*, 26 FCC Rcd at 17737, para. 193. For purposes of this Public Notice, we will refer to these areas as “areas outside the contiguous United States,” or “non-contiguous areas.”

⁷ *Id.* 2011 disbursements to price cap carriers in these areas totaled approximately \$76 million. See USAC, Frozen High Cost Support, Price Caps-Rate of Return Affiliates and CETCs, *available at* http://www.usac.org/_res/documents/hc/pdf/fcc/Frozen-High-Cost%20Support-021512.pdf (USAC Frozen High Cost Support Data).

⁸ *Request for Connect America Fund Cost Models*, WC Docket Nos. 10-90 and 05-337, Public Notice, 26 FCC Rcd 16836 (Wireline Comp. Bur. 2011).

⁹ *Wireline Competition Bureau Seeks Comment on Model Design and Data Inputs for Phase II of the Connect America Fund*, WC Docket Nos. 10-90 and 05-337, Public Notice, 27 FCC Rcd 6147, 6147, para. 1 (Wireline Comp. Bur. 2012) (*Data Inputs PN*); *Wireline Competition Bureau Announces Connect America Phase II Cost Model Workshop*, WC Docket Nos. 10-90 and 05-337, Public Notice, 27 FCC Rcd 9882 (Wireline Comp. Bur. 2012); *Wireline Competition Bureau Announces Commencement of Connect America Phase II Cost Model Virtual Workshop*, WC Docket Nos. 10-90 and 05-337, Public Notice, 27 FCC Rcd 11977 (Wireline Comp. Bur. 2012); <http://www.fcc.gov/blog/wcb-cost-model-virtual-workshop-2012>.

¹⁰ *Wireline Competition Bureau Announces Availability of Version One of the Connect America Fund Phase II Cost Model*, WC Docket Nos. 10-90 and 05-337, Public Notice, 27 FCC Rcd 15356 (Wireline Comp. Bur. 2012).

¹¹ *Wireline Competition Bureau Announces Availability of Version Two of the Connect America Fund Phase II Cost Model*, WC Docket No. 10-90, Public Notice, 28 FCC Rcd 280 (Wireline Comp. Bur. 2013).

it submitted in February 2012.¹² We sought comment on the submission, and ACS participated in an in-person workshop that focused, in part, on its submission.¹³ Puerto Rico Telephone Company, Inc. (PRTC) submitted what it calls the “Broadband Cost Model: Puerto Rico (BCM_{PR}),” a standalone, Puerto Rico-specific cost model, in January 2013.¹⁴ Because the model was filed recently, this is the first time we have asked parties to consider the PRTC submission.¹⁵ Vitelco recently indicated that it plans to file an alternative cost model “within the next 90 days.”¹⁶

III. DISCUSSION

6. *Application of Cost Model to Areas Outside the Contiguous United States.* Several parties have argued that the CACM would provide insufficient support to areas outside the contiguous United States.¹⁷ We seek comment on what objective criteria or factors the Bureau should consider in determining whether support determined by the cost model is sufficient.

7. The Bureau seeks to further develop the record on two alternative options for areas outside the contiguous United States: (1) modifying the design of and/or specific inputs used in the CACM, including incorporating aspects of the Alaska-specific and Puerto Rico-specific model submissions; or (2) maintaining existing support levels.

¹² See Letter from Karen Brinkman, Counsel for ACS, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 and 05-337 (filed Feb. 13, 2012) (ACS Feb. 13, 2012 *ex parte*) (submitting Alaska Communications Broadband Network Cost Study Model). This model was submitted pursuant to a protective order adopted by the Bureau. *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. 10-90 and 05-337, Second Protective Order, 27 FCC Rcd 1494, 1494, para. 1 n.2 (Wireline Comp. Bur. 2012) (*Second Protective Order*). In September 2012, ACS indicated that there are other Alaska-specific cost variables that it had not yet modeled, including equipment, labor, transportation, and energy costs. See Alaska Communications, CAF II Model, FCC Workshop, September 13-14, 2012, 10, *available at* http://transition.fcc.gov/wcb/tapd/universal_service/caf/CAF2-Alaska.pdf. To date, ACS has not provided further information regarding these other cost variables that it contends should be modified.

¹³ See *Data Inputs PN*, 27 FCC Rcd at 6150, para. 9; *Connect America Phase II Cost Model Workshop*, September 13, 2012, *available at* <http://www.fcc.gov/events/connect-america-phase-ii-cost-model-workshop>.

¹⁴ See Letter from Thomas J. Navin, Counsel to PRTC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 and 05-337, Attachment A (PRTC model documentation), Attachment B (CQBAT analysis comparing insular and non-insular results) (filed Jan. 18, 2013) (PRTC Jan. 18, 2013 *ex parte*); Letter from Thomas J. Navin, Counsel to PRTC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 and 05-337 (filed Jan. 18, 2013) (submitting PRTC model).

¹⁵ PRTC submitted the model under the *Second Protective Order*, so it may be accessed by the outside counsel of record, their outside consultants and experts, and employees of the outside counsel and outside consultants.

¹⁶ Vitelco Notice of *Ex Parte* Communication, 1 (filed Jan. 11, 2013) (providing preliminary description of forthcoming alternative cost model “that will incorporate cost characteristics unique to price cap carriers serving territories outside the contiguous United States”).

¹⁷ See, e.g., Comments of Alaska Communications Systems Group, Inc., 2 (filed July 9, 2012) (ACS Comments); Comments of Puerto Rico Telephone Company, Inc., 3 (filed July 9, 2012); Comments of the Telecommunications Regulatory Board of Puerto Rico, 5 (filed July 9, 2012); Comments of Virgin Islands Telephone Corporation d/b/a Innovative Telephone, 7 (filed July 9, 2012) (Vitelco Comments); PRTC Notice of *Ex Parte* Communication, 1 (filed Jan. 28, 2013). We note that support levels for areas outside the contiguous United States based on CACM and the upper and lower cost thresholds have not yet been established.

8. What specific changes would need to be made or data would need to be incorporated, if the Bureau were to modify the current version of the CACM? Some providers have expressed concern over particular features of the CACM as related to the areas outside the contiguous United States that they serve.¹⁸ PRTC argues, for instance, that its standalone Puerto Rico-specific cost model is more accurate because, among other things, it incorporates actual customer locations and the cost of undersea cable transport to Florida. Likewise, ACS argues that a model that does not include, among other things, the cost of satellite backhaul where terrestrial options are unavailable, would not accurately predict the costs of serving Alaska.¹⁹ Should the Bureau incorporate those modifications into the CACM to better model the forward-looking cost of serving customers in areas outside of the contiguous United States? How should the Bureau proceed if a party has not submitted any information into the record regarding the circumstances in a particular non-contiguous area at the time the Bureau adopts the cost model?

9. If the Bureau were to incorporate aspects of the models offered by interested parties into CACM, how can it ensure that the inputs utilized reflect the costs of an efficient provider rather than current, embedded costs? The mere fact that current support levels may be higher now than they would be under CACM is not necessarily dispositive in determining whether support in such areas is “sufficient.” Existing costs may not reflect the forward-looking costs of an efficient provider.²⁰ What specific metrics or objective data would the Bureau need to be able to distinguish between legitimate differences in operating costs in non-contiguous areas and those that may not reflect the forward-looking costs of an efficient provider?²¹

10. How should the Bureau take into account the additional time it would take to modify CACM to address the unique circumstances of each area outside of the contiguous United States at this stage in the process, and the extent to which a later adoption of CACM would delay the deployment of broadband in areas within the contiguous United States?²² In order to move forward more quickly, is there an administratively feasible way to pursue implementation of CACM in those areas where further refinement of the model is not necessary while developing an adequate approach in non-contiguous areas? If so, how would the Bureau ensure that total support levels remain within the overall \$1.8 billion budget?

¹⁸ See, e.g., ACS Virtual Workshop Comments, *available at* <http://www.fcc.gov/blog/wcb-cost-model-virtual-workshop-2012-clustering> (“ACS does not believe that the clustering approach in the CQBAT model, using road-based routing, could produce results that are realistic for Alaska”); ACS Virtual Workshop Comments, *available at* <http://www.fcc.gov/blog/wcb-cost-model-virtual-workshop-2012-determining-customer-locations> (“national data sets fail to reflect customer locations or network configurations in insular areas such as Alaska”).

¹⁹ See PRTC Jan. 18, 2013 *ex parte*, Attachment A at 6; ACS Feb. 13, 2013 *ex parte*.

²⁰ See *Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket Nos. 96-45 and 97-160, Fifth Report and Order, 13 FCC Red 21323, 21327-28, para. 10 (1998) (recognizing that forward-looking model need not reflect embedded costs); *USF/ICC Transformation Order and FNPRM*, 26 FCC Red at 17709, para. 116 (specifying that the Bureau create a forward-looking model).

²¹ An example of the former might be the more costly long haul middle mile transport, while an example of the latter might be high labor costs due to inefficient workforce utilization.

²² We note that we do not have a complete set of area-specific submissions. PRTC filed a model, ACS made a partial submission, Vitelco has not yet filed its model, and we have not received any comments, cost information, or models from carriers serving Hawaii or the Northern Marianas Islands.

11. Vitelco has argued in the alternative that we should maintain support at existing levels.²³ And if we decline to use the BCMPR, PRTC recommends that we, “at a minimum, maintain legacy high cost universal service support.”²⁴ In directing the Bureau to consider the circumstances facing carriers providing service in areas outside the contiguous United States, the Commission required that if existing support levels are maintained, total support could not exceed the overall budget of \$1.8 billion per year.²⁵ We note that 2011 disbursements for price cap carriers outside of the contiguous United States totaled approximately \$76 million, which would leave \$1.724 billion remaining for price cap carriers in the contiguous United States.²⁶ How would freezing support for certain carriers impact the Commission’s progress in extending broadband-capable infrastructure in the United States?

12. We note that the Commission recently sought comment on several options for utilizing funds remaining from Connect America Phase I, with one possibility being to use some or all of those funds to enlarge the budget for Phase II.²⁷ Should some of the unused Phase I monies be made available to maintain existing support levels for carriers in non-contiguous areas if the Commission were to adopt such a rule increasing the \$1.8 billion budget?

13. *State-Level Commitment Process.* The state-level commitment process set forth in the *USF/ICC Transformation Order and FNPRM* assumes that carriers would make commitments based on the model-determined support amount and the service obligations that would attach to that support.²⁸ In the event the Bureau determines that support in some or all of the non-contiguous areas should instead be maintained at existing levels, should carriers receiving frozen support to serve those areas make a statewide commitment to accept or reject the frozen support?²⁹ Should there be

²³ Vitelco has argued that “[i]t would not make budgetary or economic sense to devote a disproportionate share of the Bureau’s resources to making incremental changes in the model to account for unique features of each of these areas. Rather, it would be more sensible and produce greater benefits to devote those limited resources to improving the allocation of 95% of the budget among the [contiguous United States] price cap study areas.” Vitelco Comments at 8-9. ACS similarly has argued that because of “the time-consuming nature of developing a separate model for the insular price cap LECs,” as an alternative, the Bureau could “continue to provide these carriers with their current frozen and incremental CAF Phase I support in lieu of support based on a model.” ACS Comments at 3.

²⁴ PRTC Jan. 18, 2013 *ex parte* at 1.

²⁵ *USF/ICC Transformation Order and FNPRM*, 26 FCC Rcd at 17737-38, para. 90.

²⁶ See USAC Frozen High Cost Support Data, available at http://www.usac.org/_res/documents/hc/pdf/fcc/Frozen-High-Cost%20Support-021512.pdf.

²⁷ *Connect America Fund*, WC Docket No. 10-90, Further Notice of Proposed Rulemaking, 27 FCC Rcd 14566 (2012).

²⁸ *USF/ICC Transformation Order and FNPRM*, 26 FCC Rcd at 17729, para. 171.

²⁹ *Id.* at 17727-28, paras. 164-66; see *Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket Nos. 96-45, 97-160, Tenth Report and Order, 14 FCC Rcd 20156, 20197, para. 90 (1999) (“adopt[ing] nationwide average values for estimating cable and structure costs in the model rather than company-specific values,” while “reject[ing] the explicit or implicit assumption . . . that company-specific values . . . are the best predictor of the forward-looking cost of constructing the network investment predicted by the model”).

any changes in the statewide commitment process for carriers receiving frozen support instead of model-based support?³⁰

14. *Service Obligations.* Some have suggested that service obligations should be adjusted if support is frozen in non-contiguous areas.³¹ The Bureau seeks to further develop the record on what obligations, if any, should be adjusted if the Bureau maintains support at existing levels for some or all of the price cap carriers operating outside the contiguous United States. How many supported locations should be required to have broadband-capable infrastructure that can provide speeds of at least 4 Mbps/1 Mbps, and how should that figure be determined? Should recipients of frozen support be required to deploy infrastructure that can deliver speeds of at least 6 Mbps/1.5 Mbps to some number of supported locations, and how should that number be set? Recognizing that the Bureau has not yet specified metrics for latency or usage capacity for carriers making a state-level commitment, should those requirements be modified for carriers receiving frozen support? What measures would need to be in place to ensure that we have the ability to monitor compliance with adjusted service obligations? Commenters suggesting modified obligations for these carriers should specifically identify which obligations should be modified and specify objective metrics that would need to be met, so that the Commission has the ability to ensure accountability and oversight.

IV. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Act Analysis

15. As required by the Regulatory Flexibility Act of 1980 (RFA),³² the Bureau has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the Public Notice. The analysis is found in the Appendix. The Bureau requests written public comment on the analysis. Comments must be filed in accordance with the same deadlines as comments filed in response to the Public Notice and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Public Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Act

16. This document contains proposed modified information collection requirements. The Bureau, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,

³⁰ The Bureau has sought comment on the timing of the process for making statewide commitments and related issues regarding the election process. *See Wireline Competition Bureau Seeks Comment on Procedures Relating to Areas Eligible For Funding and Election to Make a Statewide Commitment in Phase II of the Connect America Fund*, WC Docket No. 10-90, Public Notice, 27 FCC Rcd 15970 (Wireline Comp. Bur. 2012).

³¹ *See, e.g.*, ACS Comments at 5 (arguing that service obligations should be relaxed).

³² *See* 5 U.S.C. § 603.

Public Law 107-198,³³ the Bureau seeks specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Filing Requirements

17. 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 are to reference **WC Docket No. 10-90 and DA 13-162**, and may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

In addition, we request that one copy of each pleading be sent to each of the following:

- (1) Dania Ayoubi, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A322, Washington, D.C. 20554; e-mail: Dania.Ayoubi@fcc.gov;
- (2) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A452, Washington, D.C. 20554; e-mail: Charles.Tyler@fcc.gov.

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

19. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.³⁴ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral

³³ See 44 U.S.C. § 3506(c)(4).

³⁴ 47 C.F.R. §§ 1.1200 *et seq.*

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

20. For additional information on this proceeding, contact Dania Ayoubi of the Wireline Competition Bureau, Telecommunications Access Policy Division, Dania.Ayoubi@fcc.gov, (202) 418-7400.

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APPENDIX

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Bureau has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice. Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Public Notice. The Commission will send a copy of the Public Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the Public Notice and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

2. The Notice seeks comment on a variety of issues relating to Connect America Phase II support for price cap carriers serving areas outside the contiguous United States. The Commission directed the Bureau to design a model to estimate the forward-looking economic costs of providing broadband to high-cost areas. In adopting the cost model, the Bureau was also to consider the unique circumstances facing areas outside the contiguous United States and determine whether the model adequately accounts for costs carriers face in serving those areas.⁴

B. Legal Basis

3. The legal basis for any action that may be taken pursuant to the Notice is contained in sections 1, 2, 4(i), 214, 254, 303(r), 403, and 706 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 214, 254, 303(r), 403, and 706, and sections 1.1 and 1.1421 of the Commission's rules, 47 C.F.R. §§ 1.1, 1.421.

C. Description and Estimate of the Number of Small Entities to Which the Proposed 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, if adopted.⁵ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁶ In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act.⁷ A small-business concern" is one which: (1) is independently owned and operated;

¹ 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. 857 (1996).

² See 5 U.S.C. § 603(a).

³ See *id.*

⁴ See Notice at para. 3.

⁵ See 5 U.S.C. § 603(b)(3).

⁶ See 5 U.S.C. § 601(6).

⁷ See 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

(continued...)

(2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁸

5. **Small Businesses.** Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.⁹

6. **Wired Telecommunications Carriers.** The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.¹⁰ According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year.¹¹ Of this total, 3144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1000 employees or more.¹² Thus, under this size standard, the majority of firms can be considered small.

7. **Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹³ According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.¹⁴ Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.¹⁵ Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Public Notice.

8. **Incumbent Local Exchange Carriers (incumbent LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁶ According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.¹⁷ Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.¹⁸ Consequently, the

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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.”

⁸ See 15 U.S.C. § 632.

⁹ See SBA, Office of Advocacy, “Frequently Asked Questions,” http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf (accessed Feb. 2013).

¹⁰ 13 C.F.R. § 121.201, NAICS code 517110.

¹¹ U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, “Establishment and Firm Size: Employment Size of Firms for the United States: 2007 NAICS Code 517110” (issued Nov. 2010).

¹² See *id.*

¹³ 13 C.F.R. § 121.201, NAICS code 517110.

¹⁴ See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

¹⁵ See *id.*

¹⁶ See 13 C.F.R. § 121.201, NAICS code 517110.

¹⁷ See *Trends in Telephone Service* at Table 5.3.

¹⁸ See *id.*

Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by rules adopted pursuant to the Public Notice.

9. We have included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.”¹⁹ The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope.²⁰ We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

10. **Competitive Local Exchange Carriers (competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. 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.²¹ According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.²² Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees.²³ In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.²⁴ In addition, 72 carriers have reported that they are Other Local Service Providers.²⁵ Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees.²⁶ Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Public Notice.

11. **Wireless Telecommunications Carriers (except Satellite).** Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category.²⁷ Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless

¹⁹ 5 U.S.C. § 601(3).

²⁰ See 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); see also 5 U.S.C. § 601(3). SBA regulations interpret “small business concern” to include the concept of dominance on a national basis. See 13 C.F.R. § 121.102(b).

²¹ See 13 C.F.R. § 121.201, NAICS code 517110.

²² See *Trends in Telephone Service* at Table 5.3.

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.*

²⁶ See *id.*

²⁷ See 13 C.F.R. § 121.201, NAICS code 517210.

Telecommunications.²⁸ Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.²⁹ For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year.³⁰ Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1000 employees or more.³¹ Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.³² Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.³³ Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

12. Local Multipoint Distribution Service. Local Multipoint Distribution Service (“LMDS”) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications.³⁴ The auction of the 986 LMDS licenses began and closed in 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.³⁵ An additional small business size standard for “very small business” was added as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.³⁶ The SBA has approved these small business size standards in the context of LMDS auctions.³⁷ There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. In 1999, the Commission re-auctioned 161 licenses; there were 32 small and very small businesses winning that won 119 licenses.

²⁸ U.S. Census Bureau, 2002 NAICS Definitions, “517211 Paging”; <http://www.census.gov/epcd/naics02/def/NDEF517.HTM>; U.S. Census Bureau, 2002 NAICS Definitions, “517212 Cellular and Other Wireless Telecommunications”; <http://www.census.gov/epcd/naics02/def/NDEF517.HTM>.

²⁹ 13 C.F.R. § 121.201, NAICS code 517210. The now-superseded, pre-2007 C.F.R. citations were 13 C.F.R. § 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

³⁰ U.S. Census Bureau, Subject Series: Information, Table 5, “Establishment and Firm Size: Employment Size of Firms for the United States: 2007 NAICS Code 517210” (issued Nov. 2010).

³¹ *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “100 employees or more.”

³² See *Trends in Telephone Service* at Table 5.3.

³³ See *id.*

³⁴ See *Rulemaking to Amend Parts 1, 2, 21, 25, of the Commission’s Rules to Redesignate the 27.5-29.5 GHz Frequency Band, Reallocate the 29.5-30.5 Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, CC Docket No. 92-297, Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rule Making, 12 FCC Rcd 12545, 12689-90, para. 348 (1997) (“*LMDS Second Report and Order*”).

³⁵ See *LMDS Second Report and Order*, 12 FCC Rcd at 12689-90, para. 348.

³⁶ See *id.*

³⁷ See *Alvarez to Phythyon Letter 1998*.

13. **Satellite Telecommunications.** Since 2007, the SBA has recognized satellite firms within this revised category, with a small business size standard of \$15 million.³⁸ The most current Census Bureau data are from the economic census of 2007, and we will use those figures to gauge the prevalence of small businesses in this category. Those size standards are for the two census categories of “Satellite Telecommunications” and “Other Telecommunications.” Under the “Satellite Telecommunications” category, a business is considered small if it had \$15 million or less in average annual receipts.³⁹ Under the “Other Telecommunications” category, a business is considered small if it had \$25 million or less in average annual receipts.⁴⁰

14. The first category of Satellite Telecommunications “comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”⁴¹ For this category, Census Bureau data for 2007 show that there were a total of 512 firms that operated for the entire year.⁴² Of this total, 464 firms had annual receipts of under \$10 million, and 18 firms had receipts of \$10 million to \$24,999,999.⁴³ Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by rules adopted pursuant to the Public Notice.

15. The second category of Other Telecommunications “primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.”⁴⁴ For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year.⁴⁵ Of this total, 2,346 firms had annual receipts of under \$25 million.⁴⁶ Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

16. **Cable and Other Program Distribution.** Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or

³⁸ See 13 C.F.R. § 121.201, NAICS code 517410.

³⁹ *Id.*

⁴⁰ See 13 C.F.R. § 121.201, NAICS code 517919.

⁴¹ U.S. Census Bureau, 2007 NAICS Definitions, “517410 Satellite Telecommunications”.

⁴² See 13 C.F.R. § 121.201, NAICS code 517410.

⁴³ See *id.* An additional 38 firms had annual receipts of \$25 million or more.

⁴⁴ U.S. Census Bureau, 2007 NAICS Definitions, “517919 Other Telecommunications”, <http://www.census.gov/naics/2007/def/ND517919.HTM>.

⁴⁵ See 13 C.F.R. § 121.201, NAICS code 517919.

⁴⁶ U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, “Establishment and Firm Size: Employment Size of Firms for the United States: 2007 NAICS Code 517919” (issued Nov. 2010).

lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.”⁴⁷ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.⁴⁸ According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year.⁴⁹ Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1000 employees or more.⁵⁰ Thus, under this size standard, the majority of firms can be considered small and may be affected by rules adopted pursuant to the Public Notice.

17. **Cable Companies and Systems.** The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers, nationwide.⁵¹ Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard.⁵² In addition, under the Commission’s rules, a “small system” is a cable system serving 15,000 or fewer subscribers.⁵³ Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000-19,999 subscribers.⁵⁴ Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Public Notice.

18. **Cable System Operators.** The Act also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.”⁵⁵ The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.⁵⁶ Industry data indicate that, of 1,076

⁴⁷ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers” (partial definition), <http://www.census.gov/naics/2007/def/ND517110.HTM#N517110>.

⁴⁸ See 13 C.F.R. § 121.201, NAICS code 517110.

⁴⁹ U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, Employment Size of Firms for the United States: 2007, NAICS code 5171102 (issued Nov. 2010).

⁵⁰ See *id.*

⁵¹ See 47 C.F.R. § 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. See *Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation*, MM Docket Nos. 92-266, 93-215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408 para. 28 (1995).

⁵² These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, “Top 25 Cable/Satellite Operators,” pages A-8 & C-2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, “Ownership of Cable Systems in the United States,” pages D-1805 to D-1857.

⁵³ See 47 C.F.R. § 76.901(c).

⁵⁴ WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, “U.S. Cable Systems by Subscriber Size,” page F-2 (data current as of Oct. 2005). The data do not include 718 systems for which classifying data were not available.

⁵⁵ 47 U.S.C. § 543(m)(2); see also 47 C.F.R. § 76.901(f) & nn.1–3.

⁵⁶ 47 C.F.R. § 76.901(f); see *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (Cable Services Bureau 2001).

cable operators nationwide, all but ten are small under this size standard.⁵⁷ We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million,⁵⁸ and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

19. **Open Video Services.** The open video system (“OVS”) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers.⁵⁹ The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services,⁶⁰ OVS falls within the SBA small business size standard covering cable services, which is “Wired Telecommunications Carriers.”⁶¹ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year.⁶² Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1000 employees or more.⁶³ Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Notice. In addition, we note that the Commission has certified some OVS operators, with some now providing service.⁶⁴ Broadband service providers (“BSPs”) are currently the only significant holders of OVS certifications or local OVS franchises.⁶⁵ The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

20. **Internet Service Providers.** Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing

⁵⁷ These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, “Top 25 Cable/Satellite Operators,” pages A-8 & C-2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, “Ownership of Cable Systems in the United States,” pages D-1805 to D-1857.

⁵⁸ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority’s finding that the operator does not qualify as a small cable operator pursuant to section 76.901(f) of the Commission’s rules.

⁵⁹ 47 U.S.C. § 571(a)(3)-(4). See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 06-189, Thirteenth Annual Report, 24 FCC Rcd 542, 606 para. 135 (2009) (“*Thirteenth Annual Cable Competition Report*”).

⁶⁰ See 47 U.S.C. § 573.

⁶¹ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers”; <http://www.census.gov/naics/2007/def/ND517110.HTM#N517110>.

⁶² U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, Employment Size of Firms for the United States: 2007, NAICS code 5171102 (issued Nov. 2010).

⁶³ See *id.*

⁶⁴ A list of OVS certifications may be found at <http://www.fcc.gov/mb/ovs/csovscer.html>.

⁶⁵ See *Thirteenth Annual Cable Competition Report*, 24 FCC Rcd at 606-07 para. 135. BSPs are newer firms that are building state-of-the-art, facilities-based networks to provide video, voice, and data services over a single network.

access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.”⁶⁶ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.⁶⁷ According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year.⁶⁸ Of this total, 3144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1000 employees or more.⁶⁹ Thus, under this size standard, the majority of firms can be considered small. In addition, according to Census Bureau data for 2007, there were a total of 396 firms in the category Internet Service Providers (broadband) that operated for the entire year.⁷⁰ Of this total, 394 firms had employment of 999 or fewer employees, and two firms had employment of 1000 employees or more.⁷¹ Consequently, we estimate that the majority of these firms are small entities that may be affected by rules adopted pursuant to the Public Notice.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

21. In this Notice, the Commission seeks public comment on issues relating to Connect America Phase II support for price cap carriers serving areas outside the contiguous United States. The Notice seeks comment on whether the Connect America Cost Model can be modified to account for the unique circumstances providers serving those areas face, of whether existing support levels should be maintained. The Notice also seeks comment on the associated obligations that come with the receipt of such support.

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

22. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”⁷²

23. The Notice seeks comment on CAF Phase II support to price cap carriers serving areas outside the contiguous United States. These CAF Phase II issues are not anticipated to have a significant economic impact on small entities insofar as the results impact high-cost support amounts

⁶⁶ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers” (partial definition), <http://www.census.gov/naics/2007/def/ND517110.HTM#N517110>.

⁶⁷ 13 C.F.R. § 121.201, NAICS code 517110.

⁶⁸ U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, “Establishment and Firm Size: Employment Size of Firms for the United States: 2007 NAICS Code 517110” (issued Nov. 2010).

⁶⁹ *See id.*

⁷⁰ U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, Employment Size of Firms for the United States: 2007, NAICS code 5171103 (issued Nov. 2010).

⁷¹ *See id.*

⁷² 5 U.S.C. § 603(c)(1)–(c)(4).

for price cap carriers. This is primarily because most (and perhaps all) of the affected carriers are not small entities. Moreover, the choice of alternatives discussed is not anticipated to systematically increase or decrease support for any particular group of entities and therefore any significant economic impact cannot necessarily be minimized through alternatives.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

24. None.