(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: June 29, 2004.

David I. Maurstad,

Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 04–127]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking; solicitation of comments.

SUMMARY: In this document, the Commission seeks comment on the *Recommended Decision,* FCC 04J–1, February 27, 2004, of the Federal-State Joint Board on Universal Service (Joint Board) concerning the process for designation of eligible telecommunications carriers (ETCs) and the Commission's rules regarding high-cost universal service support. We seek comment on whether the Joint Board's recommendations should be adopted, in whole or in part, in order to preserve and advance universal service, maintain competitive neutrality, and ensure long-term sustainability of the universal service fund. We also seek comment on several related proposals to streamline our rules governing annual certifications and submission of data by competitive ETCs seeking high-cost support.

DATES: Comments are due on or before August 6, 2004. Reply comments are due on or before September 7, 2004.

ADDRESSES: All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Gina Spade, Assistant Chief, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7105, TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* in CC Docket No. 96–45, FCC 04–127, released June 8, 2004. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

1. In this *Notice of Proposed Rulemaking,* (NPRM), FCC 04–127, June 8, 2004, we seek comment on the *Recommended Decision* of the Federal-State Joint Board on Universal Service (Joint Board) concerning the process for designation of eligible telecommunications carriers (ETCs) and the Commission's rules regarding high-cost universal service support. In its *Recommended Decision,* the Joint Board recommended that the Commission adopt permissive Federal guidelines for States to consider in their proceedings to designate ETCs under section 214 of the Communications Act of 1934, as amended (Act). In addition, the Joint Board recommended that the Commission limit the scope of high-cost support to a single connection that provides a subscriber access to the public telephone network. Finally, the Joint Board recommended that the Commission further develop the record on specific issues identified in its *Recommended Decision* relating to the high-cost support mechanism, including identification of mobile wireless customer location, and standards for the submission of accurate, legible, and consistent maps. We seek comment on whether the Joint Board's recommendations should be adopted, in whole or in part, in order to preserve and advance universal service, maintain competitive neutrality, and ensure long-term sustainability of the universal service fund. We also seek comment on several related proposals to streamline our rules governing annual certifications and submission of data by competitive ETCs seeking high-cost support.

II. Issues for Comment

2. *ETC Designation Process.* We seek comment on the Joint Board's recommendation regarding the ETC designation process, which we incorporate by reference. In addition to the existing minimum eligibility requirements specified in section 214(e)(1) of the Act, the Joint Board recommended that the Commission adopt permissive Federal guidelines encouraging State commissions to consider certain additional minimum qualifications when evaluating ETC designation requests. The Joint Board also recommended that the Commission further develop the record on ways in which State commissions may determine whether an applicant satisfies the additional minimum qualifications as part of the ETC designation process. The Joint Board recommended that State commissions apply these permissive Federal guidelines in all ETC proceedings, and that State commissions use a higher level of scrutiny for ETC applicants seeking designation in areas served by rural carriers, consistent with section 214(e)(2) of the Act. While the Joint Board did not endorse adoption of a specific cost-benefit test for the purpose of making public interest determinations under section 214(e)(2), it indicated that states may properly consider the level of Federal high-cost per-line support to be received by ETCs in making public interest determinations. The Joint Board noted that the public interest analysis should be consistent with the purposes and goals of the Act itself. Finally, the Joint Board recommended that the Commission encourage States to use the annual certification process for all ETCs to ensure that Federal universal service support is used to provide the supported services and for associated infrastructure costs. We encourage commenters to address with particularity these issues concerning the ETC designation process in their comments.

3. *Scope of Support.* We seek comment on the Joint Board's recommendation to limit the provision of high-cost support to a single connection that provides a subscriber access to the public telephone network. Commenters should describe how the Commission may develop competitively neutral rules and procedures that do not create undue administrative burdens. We specifically request comments from Universal Service Administrative Company (USAC) on the administration of a primary line approach. To minimize the potential impact of restricting the scope of support in areas served by rural carriers, the Joint Board recommended that the Commission seek comment on restating, or ''rebasing,'' the total high-cost support flowing to a rural carrier's study area on ''primary'' or single connections, and on other possible measures including ''lump sum'' and ''hold harmless'' proposals associated with a primary line restriction. In conjunction with certain of these measures, the Joint Board also recommended that high-cost support in areas served by rural carriers be capped on a per-line basis when a competitive carrier is designated as an ETC and be adjusted annually by an index factor. We seek comment on the Joint Board's recommended approach to limit the scope of support, specifically on the

advantages and disadvantages of each of the three alternatives set forth in the *Recommended Decision.* We ask that commenters provide detailed projections on the potential effects of each of the alternatives.

4. The Joint Board also recommended that the Commission further develop the record on how best to implement support for primary connections, including consideration of proposals to allow consumers with more than one connection to designate an ETC's service as ''primary'' and rate issues associated with supporting primary connections. We also ask commenters to address the treatment of certain types of connections under the Joint Board's recommended approach, particularly the appropriate treatment of businesses with multiple connections. Finally, the Joint Board recommended that the Commission seek comment on the potential impact of its primary connection proposal on investment in rural areas and consider adoption of transitional measures for support in areas served by competitive ETCs. We encourage commenters to address these implementation issues in their comments, and to identify specifically the costs and benefits of any amended reporting and recordkeeping requirements.

5. *Other Issues.* In addition to seeking comment on the specific recommendations provided by the Joint Board, we also seek comment on several related proposals to modify our current rules governing the filing of annual certifications and data submissions by ETCs. Specifically, we seek comment on whether to amend our rules to allow newly designated ETCs to begin receiving high-cost support as of their ETC designation date, provided that the required certifications and line-count data are filed within sixty (60) days of the carrier's ETC designation date. We also seek comment on a procedure for accepting untimely filed certifications for Interstate Access Support (IAS). In the *MAG Order*, 66 FR 57919 Final Rule, 66 FR 59719 Proposed Rule, November 30, 2001, the Commission determined that a carrier that untimely files its annual certification for Interstate Common Line Support would not be eligible for support until the second calendar quarter after the certification is filed. We propose adopting a similar procedure for accepting untimely certifications for IAS. We request that USAC address any operational issues relating to these proposals, particularly with respect to any administrative burdens that may be associated with them.

III. Procedural Matters

A. Ex Parte Presentations

6. This is a permit but disclose rulemaking proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.

B. Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a significant number of 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 by the deadlines for comments on the notice provided below in section III.D. The Commission will send a copy of the notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of the Proposed Rules

8. The Act requires the Commission to consult with the Joint Board in implementing the universal service requirements provided in section 254 of the Act, which establishes a number of principles for the preservation and advancement of universal service in a competitive telecommunications environment. Given the increasing number of ETC designations since the Commission's rules were first developed in 1997, the Commission asked the Joint Board to review the Commission's rules relating to high-cost universal service support in study areas in which a competitive ETC is providing services, and to review the Commission's rules regarding support for second lines. The Commission also asked the Joint Board to examine the process for designating ETCs. Consistent with the Commission's request in the *Referral Order*, 68 FR 10429, March 5, 2003, the Joint Board sought comment and held a public forum to address concerns regarding the designation and funding of ETCs in high-cost areas. Based on its review and consideration of the record developed in this proceeding, the Joint Board issued its *Recommended Decision* on February 27, 2004. The Joint Board stated that its overall recommendations were intended to preserve and advance universal service, maintain competitive neutrality, and ensure long-term sustainability of the universal service fund. Specifically, the Joint Board recommended that the Commission adopt permissive Federal guidelines for States to consider in proceedings to designate ETCs, noting that such guidelines would facilitate a more flexible and rigorous ETC designation process among states, and improve the long-term sustainability of the universal service fund, as only fully qualified carriers that are capable of, and committed to, provide universal service would be able to receive support. The Joint Board also recommended that the Commission limit the scope of high-cost support to a single connection that provides access to the public telephone network. It stated that limiting the scope of support to single connections is necessary to preserve the sustainability of the universal service fund, would send more appropriate entry signals in rural and high-cost areas, and would be competitively neutral. We now seek comment on the Joint Board's recommendations, consistent with section 254(a)(2) of the Act.

2. Legal Basis

9. This rulemaking action is supported by sections 4(i), 4(j), 201, 205, 214, 218–220, 254, 403, and 410 of the Communications Act of 1934, as amended.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

10. 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 rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

11. 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.'' 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. We have therefore included small incumbent local exchange carriers in this IRFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

12. *Wireline Carriers and Service Providers (Wired Telecommunications Carriers).* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small.

13. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for Wired Telecommunications Carriers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to our most recent data, there are 1,337 incumbent LECs, 609 CAPs, 261 IXCs, 23 OSPs, 761 payphone providers and 758 resellers. Of these, an estimated 1,032 incumbent LECs, 458 CAPs, 223 IXCs, 22 OSPs, 757 payphone providers, and 717 resellers reported that they have 1,500 or fewer employees; 305 incumbent LECs, 151 CAPs, 38 IXCs, one OSP, four payphone providers, and 41 resellers reported that, alone or in combination with affiliates, they have more than 1,500 employees. We do not have data specifying the number of these carriers that are not independently owned and operated, and therefore we are unable to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, most incumbent LECs, IXCs, CAPs, OSPs, payphone providers and resellers are small entities that may be affected by the decisions and rules adopted in this Order.

14. *Wireless Service Providers.* The SBA has size standards for wireless small businesses within the two separate Economic Census categories of Paging and of Cellular and Other Wireless Telecommunications. For both of those categories, the SBA considers a business to be small if it has 1,500 or fewer employees. According to the most recent *Trends in Telephone Report data*, 1,387 companies reported that they were engaged in the provision of wireless service. Of these 1,387 companies, an estimated 945 reported that they have 1,500 or fewer employees and 442 reported that, alone or in combination with affiliates, they have more than 1,500 employees. Consequently, we estimate that most wireless service providers are small entities that may be affected by the rules adopted herein.

15. *Broadband Personal Communications Service* (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small businesses.'' Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders, the 93 qualifying bidders in the D, E, and F blocks, the 48 winning bidders in the 1999 re-auction, and the 29 winning bidders in the 2001 re-auction, for a total of 260 small entity broadband PCS providers, as defined by the SBA small business size standards and the Commission's auction rules. Consequently, we estimate that 260 broadband PCS providers are small entities that may be affected by the rules and policies adopted herein.

16. *Narrowband PCS.* To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined by the Commission as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order*, 65 FR 35875, June 6, 2000. A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

17. *Specialized Mobile Radio* (SMR). The Commission awards ''small entity'' and ''very small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years, or that had

revenues of no more than $3 million in each of the three previous calendar years, respectively. In the context of both the 800 MHz and 900 MHz SMR service, the definitions of ''small entity'' and ''very small entity'' have been approved by the SBA. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for our purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small and very small entities in the 900 MHz auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small and very small entities won 263 licenses. In the 800 MHz SMR auction, 38 of the 524 licenses won were won by small and very small entities. Consequently, we estimate that there are 301 or fewer small entity SMR licensees in the 800 MHz and 900 MHz bands that may be affected by the rules and policies adopted herein.

18. *Rural Radiotelephone Service*. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). For purposes of this IRFA, we will use the SBA's size standard applicable to wireless service providers, *supra*—an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA's size standard. Consequently, we estimate that there are 1,000 or fewer small entity licensees in the Rural Radiotelphone Service that may be affected by the rules and policies adopted herein.

19. *Air-Ground Radiotelephone Service*. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. For purposes of this IRFA, we will use the SBA's size standard applicable to wireless service providers, *supra*—an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

20. In its *Recommended Decision*, the Joint Board recommends that the Commission adopt permissive federal guidelines for states and the Commission to use in determining whether applicants are qualified to be designated as ETCs under section 214 of the Act. Should the Commission decide to adopt this recommendation, entities designated as ETCs under sections 214(e)(2) and 214(e)(6) of the Act could be subject to the additional compliance requirements described in the *Recommended Decision* as a condition of their ETC designation. The Joint Board also recommended that the Commission limit the scope of support to single connections providing access to the public telephone network. If the Commission ultimately adopts this recommendation, entities could be subject to additional reporting, recordkeeping, and other compliance requirements as deemed necessary to implement this recommendation. Without more certainty about which options we will or will not adopt as rules, we cannot accurately estimate the cost of compliance by small carriers. We therefore seek comment on the types of burdens carriers could face if the proposed recommendations are adopted. Entities, especially small businesses, are encouraged to quantify, if possible, the costs and benefits of potential reporting, recordkeeping and other compliance requirements.

21. On its own motion, the Commission is proposing to modify its current annual certification and line count data requirements to allow competitive ETCs to submit required data more frequently than provided in the current rules, in order to avoid lags between certification filings and the receipt of support. Commenters, especially small businesses, are encouraged to quantify, if possible, the costs and benefits of the potential modifications.

5. Steps Taken to Minimize 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 or reporting requirements under the rule for 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 small entities. This IRFA seeks comment on how the Joint Board's recommendations could be implemented in a manner that reduces the potential burden and cost of compliance for small entities. We also seek comment on the potential impact of the proposed recommendations related to the Commission's proposal to limit support to a single connection on interested parties, including small entities. Specifically, the Commission has detailed three proposals that might avoid or mitigate reductions in the amount of high-cost support flowing to rural carriers, some of which might be small entities, as a result of implementing a primary-line restriction. We seek comment on these three proposals (restatement, lump sum payment and hold harmless) and whether any or all of them would minimize the economic impact on small entities, which may include providers of wireless as well as wireline communications services.

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

23. None.

C. Paperwork Reduction Act

24. As part of a continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the proposed information collections contained in this notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on the notice; OMB comments are due September 7, 2004. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) The accuracy of the Commission's burden estimates; (c) Ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of

automated collection techniques or other forms of information technology.

D. Comment Filing Procedures

25. We invite comment on the issues and questions set forth in the Notice and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before August 6, 2004, and reply comments on or before September 7, 2004. All filings should refer to CC Docket No. 96–45. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

26. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

27. 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, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

28. Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054.

IV. Ordering Clauses

29. Pursuant to the authority contained in sections 4(i), 4(j), 201, 205, 214, 218–220, 254, 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201, 205, 214, 218–220, 254, 403, and 410 this *Notice of Proposed Rulemaking* is adopted.

30. 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, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–15240 Filed 7–6–04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[WT Docket No. 04–143; FCC 04–77]

Rechannelization of the 17.7–19.7 GHz Frequency Band for Fixed Microwave Services.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The NPRM proposes rechannelization of portions of the 17.7–19.7 GHz band (''18 GHz band''). We believe that such action is necessary to accommodate the terrestrial fixed services (''FS'') licensees within the 18 GHz band that need to relocate and to meet the needs of those FS licensees who seek narrow bandwidth channels. We believe that our proposals and decisions herein will promote more efficient use of the remaining FS spectrum in the 18 GHz band and help to increase spectrum availability for new FS operations, both by incumbents and new entrants.

DATES: Comments are due on or before August 6, 2004, Reply comments are due September 7, 2004.

FOR FURTHER INFORMATION CONTACT: Peter Daronco, Attorney, 202–418–2487.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, (NPRM), released on April 19, 2004, (FCC 04–77). The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th St., SW., Washington DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., (BCPI), Portals II, 445 12th St., SW., Room CY–B402, Washington DC, the complete item is available on the Commission's Web site at *http://www.fcc.gov/wtb.*

Overview

1. In this NPRM, we address the channelization of the 17.7–19.7 GHz band (''18 GHz band'') in an effort to promote effective utilization of the portion of the band that is designated for use by terrestrial fixed services (''FS''). Previously, the Commission adopted a band plan to accommodate sharing of the 18 GHz band by the FS, Geostationary Satellite Orbit Fixed Satellite Service (''GSO/FSS''), Non-Geostationary Satellite Orbit Fixed-Satellite Service (''NGSO/FSS''), and Mobile-Satellite Service feeder links (''MSS/FL''). As part of this band plan, the Commission authorized the ''blanket licensing'' of satellite earth stations in some portions of the band where the FS had previously been co-primary. While the FS community continues to have access to portions of the 18 GHz band either on an exclusive primary or co-primary basis, there is a need to rechannelize the FS portion of the 18 GHz band so that it can effectively and efficiently utilize the spectrum. We believe that such action is necessary not only to accommodate the FS licensees within the 18 GHz band that need to relocate but also to meet the needs of those FS licensees who seek narrow bandwidth channels. We believe that our proposals and decisions herein will promote more efficient use of the remaining FS spectrum in the 18 GHz band and help to increase spectrum