F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000). Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 17, 2004.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 04–12018 Filed 5–26–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 20, and 43

[WC Docket No. 04–141, FCC 04–81]

Local Telephone Competition and Broadband Reporting

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission seeks comment about whether it should extend and modify the FCC Form 477 local competition and broadband data gathering program, established by the Commission's *Data Gathering Order* published Wednesday, April 12, 2000 (65 FR 19675).

DATES: Comments are due on or before June 28, 2004, and reply comments are due on or before July 28, 2004. Written comments on the proposed information collections must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before July 28, 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. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 via the Internet to *Kristy_L._LaLonde@omb.eop.gov* or by fax to (202) 395–5167. Parties are also requested to send two additional paper copies of their filings to Mikelle Mora, Industry Analysis and Technology Division, 455 Twelfth Street, SW., Sixth Floor, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Ellen Burton, Assistant Chief, James Eisner, Senior Economist, or Thomas J. Beers, Deputy Chief, Industry Analysis and Technology Division, Wireline Competition Bureau, at (202) 418–0940. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at (202) 418–0214, or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 04–141, adopted on March 31, 2004, and released on April 16, 2004. The full text of this document is available on the Commission's Web site Electronic Comment Filing System and for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365. The full text of the NPRM may also be purchased from the Commission's duplicating contractor, Qualex International, Room CY–B402, 445 Twelfth Street, SW., Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or e-mail at *qualexint@aol.com.* This NPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

This NPRM contains a proposed information collection. The Commission, 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(s) contained in this NPRM, 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 this NPRM; OMB notification of action is due 60 days from date of publication of this NPRM in the **Federal Register**. 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.

OMB Control Number: 3060–0816.

Title: ''Local Telephone Competition and Broadband Reporting, WC Docket No. 04–141''.

Form No.: FCC Form 477.

Type of Review: Revision of Existing Collection.

Respondents: Business or Not-for-profit institutions, including small businesses.

Number of Respondents: Up to 478.

Estimated Time Per Filer Per Year: 122.2 person-hours.

Total Annual Burden: Up to 58,418 person-hours.

Cost to Respondents: $0.

These estimates are for the proposed information collection set out in the Draft FCC Form 477 that appears at the end of this Summary. The NPRM additionally invites comment on lowering or eliminating one or more of the current mandatory reporting thresholds and on collecting more detailed data about high-speed connections in service in particular ZIP Codes. By comparison to the above estimate, the estimated Total Annual Burden would be 7 percent larger if the current mandatory threshold to report broadband data were eliminated. The estimated Total Annual Burden would be 36 percent higher if the current mandatory thresholds to report broadband data and local telephone data were eliminated. If the current mandatory reporting thresholds were retained, the estimated Total Annual Burden would be 30 percent higher if filers were required to report counts of broadband connections in service, by technology, in particular ZIP Codes, and the estimated Total Annual Burden would be 109 percent higher if filers were required to report counts of broadband connections in service, by technology and by speed, in particular ZIP Codes. If the current mandatory thresholds to report broadband and local telephone data were eliminated and filers were required to report counts of broadband connections in service, by technology and by speed, in particular ZIP Codes, the estimated Total Annual Burden would be 132 percent higher.

Needs and Uses: The information collection is a proposed modification of an already authorized program. As before, the program will be used by the Commission to gather information on the state of the development of local telephone competition and broadband deployment. Without such information, the Commission faces significant difficulty in assessing the development of these markets and, therefore, is less able to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended.

Summary of the Notice of Proposed Rulemaking

1. In the *Data Gathering Order*, the Commissions established a reporting program (using the FCC Form 477) to collect basic information about two critical areas of the communications industry: the deployment of broadband services and the development of local telephone service competition. In this Notice of Proposed Rulemaking (Notice), we seek comment about specific proposals to improve the program, including gathering more granular data from broadband service providers and extending the program for five years beyond its currently designated sunset in March 2005. The information collected in this program helps the Commission and the public understand the extent of local telephone competition and broadband deployment, which is important to the nation's economic, educational, and social well-being. The proposals on which we seek comment here attempt to further that goal while minimizing burdens on marketplace competitors and innovators.

2. Form 477 includes separate sections on broadband deployment, local telephone service competition, and mobile telephone service provision. Entities are required to report only when they meet or exceed defined reporting thresholds and, then, are only required to complete those portions of the form for which they meet or exceed the reporting thresholds. Entities that meet a threshold file data on a state-by-state basis. Facilities-based providers of broadband connections and local exchange carriers (LECs) also report a list of ZIP Codes in which they serve end users, for each state for which they complete a form. In the case of broadband connections, reporting entities include incumbent and competitive LECs, cable companies, operators of terrestrial and satellite wireless facilities, municipalities, and any other facilities-based provider of broadband connections to end users.

3. The Commission's reports based on Form 477 data have demonstrated steady progress in the development of local telephone service competition as well as nationwide broadband deployment. In section 706 reports, the Commission has concluded that broadband is being deployed in a reasonable and timely fashion. However, the Commission has also recognized that there are certain areas where additional information would be extremely useful in identifying and tracking broadband developments, including rural areas. Also the emergence of competing platforms in recent years to deliver high-speed services, and a steady improvement in mass-market acceptance of services suggest that refining our reporting requirements for broadband providers would yield useful information to inform policymaking in this important, rapidly changing area.

4. Broadband Reporting. We propose extending the Form 477 program for five years beyond the current scheduled sunset to support our study of broadband deployment pursuant to section 706 of the 1996 Act. We believe that our efforts to assess broadband availability have been substantially aided by analysis of the data collected by the Form 477 to date. We note, however, that we and reporting entities have now had four years' experience with the Form 477 program. Based on our experience with the Form 477 program to date, we propose to expand the program's scope to capture some additional data that could allow us to more precisely analyze availability (*i.e.*, beyond the subscribership proxy utilized by the current version of the Form 477). We propose to implement the modified reporting requirements with the filing of December 31, 2004 data on March 1, 2005, subject to OMB approval of the revised form. Our proposed broadband reporting revisions, set out in the draft Form 477 and instructions, include: more detailed reporting about the deployment of technologies to serve mass-market broadband end users, particularly cable modem and DSL connections; more detailed tracking, over time, of marketplace adoption of increasingly fast broadband connections; and more detailed tracking of marketplace

adoption of new broadband technologies. We seek comment on the potential benefits and burden of these revisions.

5. With respect particularly to the proposed categorization of broadband connections by technology and by information transfer rates set out in the draft Form 477 and instructions, we seek comment on the appropriateness of the proposed categories from technical and marketplace perspectives. We also seek specific comment on whether we should modify our reporting instructions to require filers to categorize broadband connections according to the information transfer rates actually observed by end users and what operational issues, if any, this would pose. Ideally, providers would accurately inform consumers about the range of broadband service options available in the marketplace, including actual service ''speeds,'' and our information collection similarly would track actual provision of particular speeds in the marketplace. Are there any existing, administratively workable industry standards or practices for measuring typical or actual speeds delivered to end users (as opposed to peak or optimum speeds)? Is there an administratively feasible way to have broadband providers measure and report speeds that are achieved on facilities within those providers' control—specifically, from the end user premises to the edge of the provider's network? What would be the pros and cons of modifying our reporting requirements to require the provision of such information?

6. Local Service Competition Reporting. We also believe that it is important to continue to monitor local service competition developments, particularly following the recent conclusion of our section 271 proceedings allowing the Bell Operating Companies (BOCs) full entry into all domestic long distance markets. We propose to extend the Form 477 program to collect wireline and mobile local telephone data for five years beyond the currently-scheduled sunset in March 2005. While we believe that the amount and quality of local telephone competition data currently collected by the Form 477 are generally adequate for monitoring local service competition developments, we note that consumers increasingly can choose among telephone service offerings that permit both local and long distance calling, often for a single price. We therefore propose, as set out in the draft Form 477 and instructions, to require carriers to report the extent to which they are also the end user's default interstate long distance carrier. We seek comment on the benefits and burdens of these proposed modifications. We also seek comment on whether clarification of current requirements, as also set out in the draft Form 477 and instructions, is needed to assist filers in completing these parts of the form. We also welcome comments addressing any and all aspects of the local telephone parts of Form 477, including substantive provisions.

7. Reporting High-Speed Connections by Technology and ''Speed Tiers.'' We seek comment on whether we should require filers to specify the number of high-speed connections, by technology, in particular ZIP Codes. We also seek comment on whether we should require filers to report, for each ZIP Code, the number of connections provided in various ''speed tiers,'' and whether that information should be reported separately by technology. This information ''alone and in combination with Census data ''would better enable us to track the marketplace acceptance of broadband. It would add yet more detail to the picture of competition between established providers of cable modem and DSL-based services, and emerging providers. Commenters should specifically address whether the benefits that would come from this reporting requirement would outweigh the additional costs that may be imposed on carriers. We also invite comments that discuss, with specificity, ways in which we could more closely align our broadband reporting methodology with the ways facilities-based broadband providers typically measure availability for the financial community and internal purposes, and thereby obtain a more detailed picture of competitive broadband deployment and service availability.

8. Reporting Thresholds. We seek comment on whether eliminating or lowering the reporting threshold for broadband data (*i.e.*, at least 250 high-speed lines (or wireless channels) in a state connecting end users to the Internet) would yield significantly improved data about broadband development, particularly in rural areas. Commenters that support lowering the threshold should specify what the threshold should be. We believe that the current data collection misses several hundred small facilities-based providers, *e.g.*, rural incumbent LECs, wireless Internet service providers, and municipalities. Also, we note that the few small facilities-based providers that currently file Form 477 on a voluntary basis find that only a few questions apply to their situations. This suggests that, as a practical matter, additional reporting burdens for many small providers would be small, which was not evident when the Commission initiated the Form 477 data collection. We therefore seek comment on the benefits of the more complete picture of broadband deployment that would be achieved if all facilities-based providers were required to report broadband data, and request that parties identify with specificity any associated burdens. We encourage any party that argues that we should adopt a sampling methodology, as an alternative to eliminating the broadband reporting threshold, to provide a detailed and complete sample design.

9. We seek comment on whether we should adopt a lower threshold for reporting local telephone competition data, and if so, what that threshold should be. Commenters should address whether a specific lower threshold would yield an improved picture of local telephone service competition, particularly in less densely populated states, justify their proposed threshold, and identify with specificity any associated burdens.

10. Confidentiality Issues. We seek comment on whether we could modify our policies regarding publication of data without jeopardizing legitimate claims of confidentiality. In this Notice, we do not propose to change existing policy regarding the overall protection we afford Form 477 data in connection with competitively sensitive information. Given the entry of competitive LECs, wireless providers, and others into local telephone service markets, the proliferating deployment of broadband services nationwide, and the dynamism of communications markets generally, however, we seek comment on whether historical aggregated information from our data collection remains competitively sensitive after the passage of time, such as a year or two. For example, aggregated data as of June 30, 2003 that we masked (by substituting an asterisk for the true value) in our most recent publications, may not be considered competitively sensitive after June 30, 2005. We seek comment on whether a comparable report published after June 30, 2005 could include the true values of these aggregated June 30, 2003 data without causing competitive harm to any Form 477 filer. If so, should our publication procedures be modified so that the maximum amount of non-competitively sensitive Form 477 information is made publicly available in a timely manner, for use by policymakers, academic researchers and industry analysts, and other members of the general public? Commenters should address whether

this change in publication procedures would undermine companies' willingness to answer our broadband data requests fully and promptly, with a minimum of procedural challenges.

11. Sharing Data with State Commissions. We seek comment on whether we should modify any of our other policies regarding data use. In the *Data Gathering Order,* the Commission indicated that it intended to share state-specific Form 477 data, subject to appropriate conditions, with state commissions. It noted that such sharing could advance useful regulatory review of developing local service competition and broadband deployment trends. This would serve the public interest generally, but would also assist this Commission particularly by encouraging additional expert review of the accuracy and completeness of submitted information and its use in our reports. To date, we have entered into ten arrangements with state agencies, all of which have agreed to our confidentiality requirements. We propose to continue such arrangements with state agencies in the future. We invite comment about the value of this program.

12. Impact on Small Entities and Other Issues. We seek comment on all the changes discussed in this Notice, including all specific changes set out in the draft Form 477 and instructions. We also seek comment on our continuing use of reporting thresholds for both local telephone and broadband data. We are coordinating possible small business size standard issues with the U.S. Small Business Administration. We seek comment on ways by which we can limit burdens imposed on providers, prevent the dissemination of competitively-sensitive information, and limit our data collection, wherever possible, to information that providers routinely keep in the ordinary course of business or that is easily derived from their records. We look forward to working closely with all participants to minimize burdens wherever possible, particularly with regard to smaller providers that may have limited resources.

13. Finally, we intend to explore whether to conduct or commission a consumer survey to develop a better understanding of consumer adoption and usage of broadband services. We welcome input on what questions should be included in such a survey.

Procedural Matters

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking in WC Docket No. 04–141 (Notice). 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 this Notice, which are set out in paragraph 16 of the Notice. The Commission will send a copy of this Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, this Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

I. Need for, and Objectives of, the Proposed Action

2. The Commission has initiated this Notice to seek comment about specific proposals to improve its Form 477 local competition and broadband data gathering program and to extend the program for five years beyond its currently designated sunset in March 2005. The Commission adopted the Form 477 in spring 2000 to help the Commission and the public understand the extent of local telephone service competition and broadband services deployment, which is important to the nation's economic, educational, and social well-being. The proposals in this Notice on which the Commission seeks comment attempt to further that goal while minimizing burdens on marketplace competitors and innovators. In particular, the Commission asks whether collecting more granular data from broadband service providers would more effectively support its study of broadband deployment pursuant to section 706 of the 1996 Act. The Commission also seeks to assist filers of local telephone data by clarifying certain current requirements.

II. Legal Basis

3. The legal basis for the action as proposed for this rulemaking is contained in sections 1–5, 10, 11, 201–205, 215, 218–220, 251–271, 303(r), 332, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 160, 161, 201–205, 215, 218–220, 251–271, 303(r), 332, 403, 502, and 503 and pursuant to section 706 of the Telecommunications Act of 1996, 47 U.S.C. 157 nt.

III. Description and Estimate of the Number of Small Entities to Which the Proposed Action May 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. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 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 SBA.

5. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its Trends in Telephone Service report. The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers, Paging, and Cellular and Other Wireless Telecommunications. Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

6. 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 wired telecommunications carrier 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 LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. 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.

7. 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. 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.

8. Incumbent Local Exchange Carriers (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. According to Commission data, 1,337 carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted herein.

9. Competitive Local Exchange Carriers (CLECs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of competitive exchange services or to competitive access providers or to ''Other Local Exchange Carriers,'' all of which are discrete categories under which TRS data are collected. 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. According to Commission data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 51 carriers reported that they were ''Other Local Exchange Carriers.'' Of the 51 ''Other Local Exchange Carriers,'' an estimated 50 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and ''Other Local Exchange Carriers'' are small entities that may be affected by the rules and policies adopted herein.

10. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange 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. According to Commission data, 261 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 261 companies, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules and policies adopted herein.

11. Cellular Licensees. The SBA has developed a small business size standard for Cellular and Other Wireless Telecommunication, which consists of all such firms having 1,500 or fewer employees. According to Census bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus under this size standard, the majority of firms can be considered small.

12. Broadband Personal Communications Service. The broadband Personal Communications Service (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 its 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 small business size standards 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, the Commission concludes that the number of small broadband PCS licenses will include the 90 winning C Block bidders, the 93 qualifying bidders in the D, E, and F Block auctions, 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, the Commission estimates that 260 broadband PCS providers are small entities that may be affected by the rules and policies adopted herein.

13. Narrowband Personal Communications Services. To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order. 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. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (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 actions. 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 analysis, 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.

14. 220 MHz Radio Service—Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to ''Cellular and Other Wireless Telecommunications'' companies. This standard provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard.

15. 220 MHz Radio Service—Phase II Licensees. The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz Third Report and Order, we adopted a small business size standard for ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

16. Rural Radiotelephone Service. The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, 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 there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

17. Air-Ground Radiotelephone Service. The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. We will use SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, 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 small business size standard.

18. Fixed Microwave Services. Fixed microwave services include common carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. We noted, however, that the common carrier microwave fixed licensee category includes some large entities.

19. Offshore Radiotelephone Service. This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

20. Wireless Communications Services. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity. We conclude that the number of geographic area WCS licensees affected by this analysis includes these eight entities.

21. Satellite Services. The SBA has developed a small business size standard for Satellite Telecommunications, which consists of all such firms having $12.5 million or

less in annual receipts. According to Census Bureau data for 1997, in this category there was a total of 324 firms that operated for the entire year. Of this total, 273 firms had annual receipts of under $10 million, and an additional twenty-four firms had receipts of $10 million to $24,999,999. Thus, under this size standard, the majority of firms can be considered small.

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

23. Cable Television Relay Service. This service includes transmitters generally used to relay cable programming within cable television system distribution systems. The SBA has defined a small business size standard for Cable and other Program Distribution, consisting of all such companies having annual receipts of no more than $12.5 million. According to Census Bureau data for 1997, there were 1,311 firms in the industry category Cable and Other Program Distribution, total, that operated for the entire year. Of this total, 1,180 firms had annual receipts of $10 million or less, and an additional 52 firms had receipts of $10 million or more but less than $25 million. Thus, under this standard, we estimate that the majority of providers in this service category are small businesses that may be affected by the rules and policies proposed in the Notice.

24. Cable System Operators (Rate Regulation Standard). The Commission has developed, with SBA approval, its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. The Commission's rules define a ''small system,'' for purposes of rate regulation, as a cable system with 15,000 or fewer subscribers. The Commission does not request nor does the Commission collect information concerning cable systems serving 15,000 or fewer subscribers, and thus is unable to estimate, at this time, the number of small cable systems nationwide.

25. Cable System Operators (Telecom Act Standard). The Communications Act, as amended, also contains a size standard for a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 68,500,000 subscribers in the United States. Therefore, an operator serving fewer than 685,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 685,000 subscribers or less totals approximately 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

26. Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and ITFS. Multichannel Multipoint Distribution Service (MMDS) systems, often referred to as ''wireless cable,'' transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). In connection with the 1996 MDS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations authorized prior to the auction. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more but less than $25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. This SBA small business size standard also appears applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

27. 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. The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 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. 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. The SBA has approved these small business size standards in the context of LMDS auctions. 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. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses consists of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

28. Electric Power Generation, Transmission and Distribution. This industry group comprises establishments primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from

the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer. The SBA has developed a small business size standard for the category of Electric Power Generation, Transmission and Distribution. Under that standard, a firm is small if, including its affiliates, its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours. According to Census Bureau data for 1997, there were 1,519 firms in this category that operated for the entire year. Census data do not track electric output and we have not determined how many of these firms fit the SBA definition for small, with fewer than 4 million megawatt hours of electric output. Consequently, the Commission estimates that all 1,519 firms may be considered small by the SBA definition.

IV. Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements

29. The Notice proposes to extend the data collection for five years and to adopt changes to the Form 477 that will affect reporting, recordkeeping, and other compliance requirements. These changes are described below. Additionally, the Notice seeks comment on (1) requiring filers to report the number of high-speed connections in service, by technology and by speed, in particular ZIP Codes, (2) requiring more—or all—facilities-based providers to report information about high-speed connections on Form 477, and (3) requiring more carriers to report local telephone competition data.

30. The proposed changes to the Form 477 would:

- Require filers reporting high-speed cable modem connections also to report their best estimate of the percentage of mass-market end-user premises in the filer's service area, in that state, to which high-speed cable modem service is available over the filer's own facilities.
- Similarly, require filers reporting high-speed DSL connections also to report their best estimate of the percentage of mass-market end-user premises in the filer's service area, in that state, to which high-speed DSL service is available over the filer's own facilities.
- Require filers to report the percentage of connections that have information transfer rates exceeding 200 kilobits per second (kbps) in both directions and rates in the faster direction that are, respectively: (1) Greater than 200 kbps and less than 2.5 megabits per second (mbps); (2) greater than or equal to 2.5 mbps and less than 10 mbps; (3) greater than or equal to 10 mbps and less than 25 mbps; (4) greater than or equal to 25 mbps and less than 100 mbps; and (5) greater than or equal to 100 mbps. (Currently, filers report the percentage of high-speed connections that are faster than 2 mbps in both directions.)
- In place of the current requirement that all filers report high-speed connections over ''other traditional wireline including symmetric xDSL technology'' at the end-user location, require filers to report high-speed connections separately for ''symmetric xDSL'' and for ''other traditional wireline'' (*e.g.*, T–1/DS1) technologies.
- Require filers to report ZIP Code lists separately for asymmetric xDSL, symmetric xDSL, cable modem, satellite, terrestrial wireless, electric power line, and (as a single category) other technologies including fiber to the home. (Currently, filers report a single list of ZIP Codes in which the filer has at least one subscriber to high-speed service without indicating the type of technology used.)
- Require filers to estimate the percentage of reported high-speed connections that have information transfer rates exceeding 200 kbps in both directions, and that are used by residential and small business end users.
- Require reporting competitive LECs explicitly to distinguish their use of unbundled network element (UNE) loops from their use of the UNE-Platform, and explicitly to report their resale of other carriers' services. (Currently, competitive LECs report their use of all types of UNEs together, and competitive LECs' resale of other carriers' retail services must be estimated, as a residual, from other data they report.)
- Require providers of local telephone service to report the extent to which they are also the end user's default interstate long distance carrier.

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

31. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (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.

32. The Notice seeks comment, in light of four year's experience since the adoption of the reporting program, on ways that the Commission might improve this data gathering effort. The Notice asks whether the collection of more granular data would enhance the Commission's ability to understand the status and degree of broadband deployment pursuant to section 706 of the 1996 Act. At the same time, the Notice seeks comment on ways by which the Commission can limit burdens imposed on providers, particularly with regard to smaller providers that may have limited resources, prevent the dissemination of competitively-sensitive information, and limit the data collection, wherever possible, to information that providers routinely keep in the ordinary course of business of that is easily derived from their records. The proposed changes to the Form 477 set forth in the Notice would minimize additional reporting burden by (1) focusing direct questions about service availability on the two major mass-market high-speed services and (2) allowing providers of those services to estimate state-level service availability using methodologies they may already employ to inform the investment community about system-wide service availability. As a practical matter, any additional reporting burdens on small entities should be minimal. The few small facilities-based broadband service providers that currently file Form 477 on a voluntary basis find that only a few questions apply to their situation.

33. The Notice asks whether eliminating—or lowering—the reporting threshold for broadband data (*i.e.*, at least 250 high-speed lines (or wireless channels) in a state connecting end users to the Internet) would yield significantly improved data about broadband deployment, particularly in rural areas, and requests that parties identify with specificity any associated burdens. The Notice similarly asks about the benefits and specific associated burdens of lowering the reporting threshold for local telephone competition data (*i.e.*, at least 10,000 local telephone service lines (or wireless channels), or at least 10,000 mobile telephone service subscribers, in a state). At the same time, the Notice expressly states the Commission's desire and intention to work closely with service providers, including small entities, to minimize burdens wherever

possible, particularly for smaller providers that may have limited resources.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

34. The current FCC Form 477 and the FCC Form 325 (Annual Report of Cable Systems) collect data on cable modem and cable-telephony service subscribers. The Form 325, however, focuses on cable physical system (PSID) data. A Form 325 is required from each PSID that has at least 20,000 subscribers and from a random sample of PSIDs that have fewer than 20,000 subscribers. The data are associated on the form with other aspects of physical system operation to give a complete picture of related aspects of PSID operation. By contrast, the requirement to report cable modem service connections on Form 477 applies to holding companies whose subsidiaries and affiliates provide, in total, at least 250 high-speed connections to end users in a particular state, and the requirement to report cable-telephony lines applies when the holding company provides at least 10,000 local telephone service lines in a particular state. Form 325 collects information as of June 30 of each year. Form 477 collects data as of June 30 and December 31. This Notice seeks comment on whether all facilities-based providers should be required to report information about high-speed connections on Form 477, which, for its intended purposes, focuses on and is analyzed on a holding company rather than PSID basis.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to sections 1–5, 10, 11, 201–205, 215, 218–220, 251–271, 303(r), 332, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 160, 161, 201–205, 215, 218–220, 251–271, 303(r), 332, 403, 502, and 503, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 157 nt, this notice, with all attachments, is *adopted*.

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.

Draft FCC Form 477 and Instructions

BILLING CODE 6712–01–P

FCC Form 477 -- Local Telephone Competition and Broadband Reporting **Cover Page: Name & Contact Information** OMB NO: 3060-0816

EXPIRATION DATE: __/__/____

All filers must complete Items 1 - 11 of this Cover Page. **Data as of:** December 31, 2004

1. Filing status [Click and select from drop-down list]
2. Company [ ]

3. Indicate the category that best describes the operations covered by this filing.
[Click and select from drop-down list]

4. Filers must report separate data for ILEC and non-ILEC operations.
Use the following drop-down box to indicate whether this worksheet contains data for ILEC or for non-ILEC operations.
[Click and select from drop-down list]

5. Use the following drop-down box to select the name of your parent or controlling entity. If you are not affiliated with any other filer, select your company name. Select "not shown" if no appropriate name appears in the list. See instructions Section IV-B-1 for information on preparing file names.

[Click and select from drop-down list]

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

Parent or controlling entity name (if none, enter company name).
[ ]

6. State. [Click and select from drop-down list]

7. Contact person (person who prepared the data contained below).
[ ]

8. Contact person telephone number and e-mail address.
phone [ ]
e-mail [ ]

9. Indicate whether this is an original or revised filing.
[Click and select from drop-down list]

10. Indicate whether you request non-disclosure of some or all of the information in this file because you believe that this information is privileged and confidential and public disclosure of such information would likely cause substantial harm to the competitive position of the filer.
[Click and select from drop-down list]

11. Indicate if this is a complete file or a redacted version of a complete file.
[Click and select from drop-down list]

Please review instructions before completing form.

Reminders:

1) Ensure files are virus free by using up-to-date virus detection software. Filers are encouraged to submit files via e-mail (address: FCC477@fcc.gov).

2) If you are filing original or revised data for an earlier semi-annual reporting period, do not use this particular form (which is only for data as of December 31, 2004). See reminder 4.

3) You may not insert or delete columns or rows, move cells, or edit text or numbers outside the cells provided for data entries. Files that cannot be opened in EXCEL2002, files whose structure has been altered, and files with improper names will have to be refiled.

4) If you have questions about the form, contact the Wireline Competition Bureau, Industry Analysis and Technology Division at (202) 418-0940; via e-mail at 477INFO@fcc.gov; or via TTY at (202) 418-0484.

5) You must submit a Certification Statement signed by an officer of your company. A single statement may cover all files submitted. See Instructions sections IV & V.

6) If you request non-disclosure of some data, you must file a separate version of the form with such information redacted. See Instructions sections IV.B and IV.C for information on preparing a redacted file.

7) Name your files as specified in Instructions section IV.B.1. To assist you, complete this Cover Page to generate an "example" name, below. Replace the character "#" in this example name with a sequence number as specified in the instructions. This number should be "1" unless using "1" would cause you to submit more than one file with the identical file name.

Example >>> SST#D04name.XLS

FCC Form 477 -- Local Telephone Competition and Broadband Reporting **Part I: Broadband**

OMB NO: 3060-0816
EXPIRATION DATE: __/__/____

Complete Part I if you and all affiliates (including commonly controlled entities) provide 250 or more lines or wireless channels in the state that connect end users to the Internet at information transfer rates exceeding 200 kbps in at least one direction. For this purpose, include connections provided over your own local loop facilities or over lines or wireless channels you provisioned to enable information transfer at the end-user location at rates exceeding 200 kbps in at least one direction. See instructions for definitions of "broadband", "end user", "residential & small business", "own local loop facilities", and "mass-market end user premises".

If you provide data in Part I, you must provide in Part V specified lists of the 5-digit Zip Codes of the end-user locations to which you provide the broadband connections reported herein. See instructions.

Data as of December 31, 2004

A. Lines and wireless channels connecting end users to the Internet that you provided over your own local loop facilities, or over UNE loops or other lines and wireless channels that you obtained from unaffiliated entities and equipped as broadband, categorized by technology at the end-user location.

	(a)	Percentages of lines and wireless channels reported in (a), and								
					That have information transfer rates exceeding 200 kbps in both directions, and:					
		(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
	Total connections to end users (information transfer rates exceeding 200 kbps in at least one direction)	Used by residential & small business end users	Provided over your own local loop facilities or the wireless last-mile equivalent	Billed (or incorporated in a service billed) to end users by you, or your affiliates or agents	Used by residential & small business end users	Have information transfer rates in the faster direction greater than 200 kbps and less than 2.5 mbps	Have information transfer rates in the faster direction greater than or equal to 2.5 mbps and less than 10 mbps	Have information transfer rates in the faster direction greater than or equal to 10 mbps and less than 25 mbps	Have information transfer rates in the faster direction greater than or equal to 25 mbps and less than 100 mbps	Have information transfer rates in the faster direction greater than or equal to 100 mbps
I - 1. Asymmetric xDSL.										
I - 2. Symmetric xDSL.										
I - 3. Other traditional wireline.										
I - 4. Cable modem.										
I - 5. Optical carrier (fiber to the end user).										
I - 6. Satellite.										
I - 7. Terrestrial wireless fixed.										
I - 8. Terrestrial wireless mobile.										
I - 9. Electric power line.										
I - 10. All other technologies. Report specific technology and the corresponding number of connections in the comment section of Part IV.										

Note: In Part I, report actual counts. Do not report voice-grade equivalent measures.

Note: Filers that report a non-zero value in column (a) of Line A.I-1, in column (a) of Line A.I-2, or in column (a) of Line A.1-4 must also complete Part I.B.

FCC Form 477 -- Local Telephone Competition and Broadband Reporting **Part I: Broadband (continued)**

OMB NO: 3060-0816
EXPIRATION DATE: __/__/____

For the purposes of completing Part I-B, mass-market end-user premises include residential living units and also individual living units in such institutional settings as college dormitories and nursing homes. Mass-market premises also include small businesses to the extent that you consider small business end users to be target customers for broadband services you (including affiliates and agents) primarily design for, and market to, residential end users.

B. Report your best estimate of the percentage of mass-market end-user premises in your service area, in this state, to which broadband connections are available over your own local loop facilities.	(a) Estimated % of mass-market end-user premises
I - 11. xDSL (asymmetric or symmetric).	
I - 12. Cable modem.	

FCC Form 477 -- Local Telephone Competition and Broadband Reporting **Part II: Wireline and Fixed Wireless Local Telephone**

OMB NO: 3060-0816

EXPIRATION DATE: __/__/____

Complete Part II if you and all affiliates (including commonly controlled entities) provide 10,000 or more voice-grade equivalent lines or wireless voice-grade equivalent channels used for local exchange or exchange access service in the state. See instructions for definitions of "voice telephone service", "voice-grade equivalent", "end user", "residential & small business", "default interstate long distance carrier", "own local loop facilities", and "UNE-Platform".

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

Data as of December 31, 2004

		Percentages of lines and wireless channels reported in (a)									
		(a) Total voice-grade equivalent lines and voice-grade equivalent wireless channels in service	(b) For which you (including affiliates) are the default interstate long distance carrier	(c) Used for residential & small business service	(d) Used for residential & small business service **AND** for which you (including affiliates) are the default interstate long distance carrier	(e) Provided over your own local loop facilities or the fixed wireless last-mile equivalent	(f) Provided over UNE loops obtained without UNE switching	(g) Provided over UNE-Platform	(h) Provided by reselling another carrier's retail service (including Centrex/Centron)	(i) Provided over coaxial cable at the end-user premises ("cable telephony")	(j) Provided over fixed wireless at the end-user premises
A.	Voice telephone service provided to end users.										
	II - 1. Total lines and channels you provided to end users.										
B.	Voice telephone service provided to other communications carriers, categorized by:										
	II - 2. Lines and channels that you provided under a Total Service Resale arrangement. See instructions.										
	II - 3. Lines and channels you provided under other resale arrangements, such as resold Centrex.										
C.	UNE loops, special access lines, and those private lines that connect to carriers, categorized by:	(a) Total lines and wireless channels									
	II - 4. Lines and channels that you provided under a UNE loop arrangement, where you do not provide switching for the line.										
	II - 5. Lines and channels that you provided under a UNE loop arrangement, where you also provided switching for the line ("UNE-Platform").										
	II - 6. Connections not reported in Part I as broadband that are either special access or private lines and that connect an end-user premises to a telecommunications carrier.										

FCC Form 477 -- Local Telephone Competition and Broadband Reporting **Part III: Mobile Local Telephone**

OMB NO: 3060-0816
EXPIRATION DATE: __/__/____

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

Data as of December 31, 2004

	(a) Network telephone service subscribers	(b) Percentage of subscribers reported in (a) that are directly billed or pre-paid subscribers	(c) Percentage of subscribers reported in (a) that are directly billed or pre-paid subscribers **AND** for which you (including affiliates) are the default interstate long distance carrier
A. Mobile voice telephony subscribers in service and served over your own facilities. (Include directly billed subscribers, pre-paid subscribers, and subscribers served via resellers.)			
III - 1. Cellular, PCS & other mobile telephony.			

Note: In Part III, count a subscriber as a mobile handset, car-phone or other revenue-generating active voice unit that has a unique phone number and that can place and receive calls from the public switched network. Subscriber counts by state should be based on the area codes of the phone numbers provided to subscribers.

FCC Form 477 -- Local Telephone Competition and Broadband Reporting **Part IV: Explanations and Comments**

OMB NO: 3060-0816
EXPIRATION DATE: __/__/____

Space for comments or explanatory notes.

Part	Line	Comment

FCC Form 477 -- Local Telephone Competition and Broadband Reporting **Part V: Zip Code Listings**

OMB NO: 3060-0816

EXPIRATION DATE: __/__/____

Filers completing Part I or Part II must supply lists of the 5-digit Zip Codes in which the filer provides at least one of the broadband connections reported in Part I or at least one of the voice grade telephone services reported in Part II. Do not provide customer counts by Zip Code.

V -1. 5-digit Zip Codes, in the state, that are associated with the data reported in Part I and Part II, as specified herein:

Data as of December 31, 2004

	Broadband connections reported in Part I							Telephone service reported in Part II
	(a) Asymmetric xDSL	(b) Symmetric xDSL	(c) Cable modem	(d) Satellite	(e) Terrestrial wireless	(f) Electric power line	(g) Other including traditional wireline and optical fiber	(h) Wireline and fixed wireless exchange telephone
1								
2								
3								
4								
5								
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BILLING CODE 6712–01–C

FCC Form 477, Instructions for March 1, 2005 Filing (of data as of 12/31/04).

OMB No: 3060–0816; Expiration Date: xx/xx/xxxx.

Estimated Average Burden Hours Per Response: 15 Hours.

Instructions for Local Telephone Competition and Broadband Reporting Form (FCC Form 477)

I. Purpose

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

II. Who Must File This Form?

Three types of communications service providers must file this form:

• Providers of Broadband Services: Facilities-based broadband providers (including incumbent and competitive LECs, cable companies, fixed wireless providers, terrestrial and satellite mobile wireless providers, MMDS providers, utilities, municipalities, and others) must complete and file the applicable portions of this form for each state in which the filer (including all commonly-owned and commonly-controlled entities) provides 250 or more broadband lines (or wireless channels) that terminate at an end-user location and connect the end user to the Internet. For purposes of this information collection, broadband lines (or wireless channels) carry information, at the end-user location, at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction. Note that, for purposes of this information collection, we also refer to ''broadband'' lines as ''high-speed'' lines. The applicable portions of the form are: (1) The Cover Page; (2) Part I; (3) Part IV (if necessary); and Part V. The term ''state'' includes the District of Columbia and the ''Territories and possessions.''

Note: An entity is considered a ''facilities-based'' broadband provider if it provides broadband lines (as defined above) over facilities that it (including all commonly-owned and commonly-controlled entities) owns or provisions/equips as broadband. More specifically, facilities-based providers include entities that provide broadband connections to end-user premises over their own local loop facilities, or over unbundled network elements (UNEs), special access lines, and other leased lines and wireless channels that they obtain from unaffiliated entities and equip as broadband.

• Providers of Local Telephone Services: Incumbent and competitive local exchange carriers (LECs) must complete and file the applicable portions of the form for each state in which they provide 10,000 or more ''voice-grade equivalent lines (or wireless channels).'' For purposes of determining whether this threshold applies, the filer (including all commonly-owned and commonly-controlled entities) need only consider the sum of the number of voice-grade equivalent lines (or wireless channels) that would be reported in Line A.II–1(a), Line B.II–2(a), and Line B.II–3(a) of the form. The applicable portions of the form are: (1) The Cover Page; (2) Part II; (3) Part IV (if necessary); and Part V.

• Providers of Mobile Telephony Services: Facilities-based providers of mobile telephony services (*see* 47 CFR 20.15(b)(1)) must complete and file the applicable portions of this form for each state in which they serve 10,000 or more mobile telephony subscribers. Entities providing mobile telephony services using spectrum obtained via lease or other agreement with a Band Manager must also complete the applicable portions of this form. The applicable portions of the form are: (1) The Cover Page; (2) Part III; (3) Part IV (if necessary).

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

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

III. Line-by-Line Instructions for Completing FCC Form 477

(**Note:** Key terms that appear in this section are summarized in VI. Glossary of Selected Terms Appearing on FCC Form 477.)

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

Line 1: Select from the drop-down menu the applicable filing status.

Line 2: Provide the name of the entity whose data is contained in the form. (If the filer has a holding company or controlling entity with a different name, that name must be reported in Line 5 of the Cover Page.)

Line 3: Select the category that best describes the type of technology that you use to provide services. Choose from Cable Coaxial, Fiber, Fixed Wireless, Mobile Wireless, Reseller, Satellite, Wireline Local Exchange Carrier, or Other.

Line 4: In general, you can combine operations in a state or report them separately. However, entities that are, or are affiliated with, an incumbent LEC must complete and file separate forms for their incumbent LEC and non-incumbent LEC operations. All filers should indicate whether this filing is for an incumbent LEC filing or a non-incumbent LEC filing.

Line 5: You must provide a single name, such as a holding company name, so that all affiliated or commonly-controlled entities can be identified. See ''Important Note for All Providers about Calculating Reporting Thresholds,'' above, for more information on which entities should be considered to be affiliated or commonly-controlled. The Excel 2002 spreadsheet version of the form (preferred) has a drop down box with standardized names. The Lotus 123 spreadsheet version of the form has a list of standardized names. If your holding company or controlling entity's name is not in the list, enter that name in the space provided. (If you have no holding company or controlling entity, enter in Line 5 the same name as you entered in Line 2.)

Line 6: File a separate form for each state in which you meet the filing threshold. In this line, indicate the state for which you are filing data. The term ''state'' is defined to include the District of Columbia and the ''Territories and possessions.'' *See* 47 U.S.C. 153(40).

Line 7: Provide a contact name for the person who prepared this filing.

Line 8: Provide the telephone number and e-mail address for the contact person listed in Line 7.

Line 9: File a revised form if you discover mistakes. Use Line 9 to indicate whether this filing is an original or a revised filing.

Line 10: Indicate whether you request non-disclosure of some or all of the information reported in the Form 477. You may request non-disclosure if you believe that this information is

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

Line 11: Indicate whether this file is a complete file or a redacted version of a complete file. *See* Sections IV–B and IV–C of the instructions for information on preparing a redacted file.

B. Part I.A.: Broadband (Broadband Providers Only)

Include in Part I.A.: In this section, facilities-based broadband providers report information about their broadband lines/wireless channels (for purposes of this section ''lines'') in service to end users. End users are residential, business, institutional and government entities who use broadband services for their own purposes and who do not resell such services to other entities or incorporate such services into retail Internet-access services that they market to end users. (Note that an Internet Service Provider is not an ''end user'' for purposes of Part I of FCC Form 477.) The end users of retail services delivered over the lines reported in Part I may be billed by the filer (including affiliates), by an agent of the filer, or by an unaffiliated entity. For purposes of this information collection, broadband lines carry information between the Internet and the end-user location at information transfer rates exceeding 200 kbps in at least one direction. (For purposes of this information collection, we also refer to ''broadband'' lines as ''high-speed'' lines.) In categorizing lines as ''broadband,'' filers should consider the end user's authorized maximum usage (''speed'') on that connection. Filers must report wired broadband lines provisioned over ''local loop'' facilities owned by the filer (including affiliates), as well as broadband lines provisioned over UNEs, special access lines, and other leased lines that the filer obtains from an unaffiliated entity and equips as broadband. Filers also must report broadband lines that they provision over the wireless last-mile equivalent of the local loop. Do not convert into voice-grade equivalent measures any lines reported in Part I.

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

Lines in Part I.A.

Report broadband lines on Lines A.I–1 through A.I–9 based on the technology employed by the part of the line that actually connects to the end-user premises. If different technologies are used in the two directions of information transfer (''downstream'' and ''upstream''), report the line in the technology category for the higher-rate direction. Count only lines that are in service connecting the end user to the Internet, including lines over which you (including affiliates or agents) provide an Internet-access service to the end user and lines over which an unaffiliated entity (which is not your agent) provides an Internet-access service to the end user.

Line A.I–1: Report the number of broadband lines provided over asymmetric xDSL technologies. Do not convert these lines into a voice-grade equivalent measure.

Line A.I–2: Report the number of broadband lines provided over symmetric xDSL technologies. Do not convert these lines into a voice-grade equivalent measure.

Line A.I–3: Report the number of broadband lines provided over other traditional wireline facilities. Do not include broadband lines provided over symmetric xDSL service, but report such lines in Line A.I–2. Do not convert these lines into a voice-grade equivalent measure.

Line A.I–4: Report the number of broadband lines provided over coaxial carrier systems including hybrid fiber-coaxial systems (*i.e.*, ''cable modem'' connections). Do not convert these lines into a voice-grade equivalent measure.

Line A.I–5: Report the number of broadband lines provided over optical carrier terminations at the end-user premises. Note that broadband lines that are provisioned over optical fiber facilities used elsewhere in the network should not be reported in this category. For example, lines provisioned as ''fiber to the curb'' do not qualify (because, by using a non-fiber ''drop,'' they are not ''fiber to the home.'') Do not convert these lines into a voice-grade equivalent measure.

Line A.I–6: Report the number of broadband lines provided over satellite facilities. Do not convert these lines into a voice-grade equivalent measure.

Line A.I–7: Report the number of broadband lines provided over terrestrial fixed wireless facilities (whether using licensed or unlicensed spectrum). Do not convert these lines into a voice-grade equivalent measure.

Line A.I–8: Report the number of broadband lines provided over terrestrial mobile wireless facilities (whether using licensed or unlicensed spectrum). Do not convert these lines into a voice-grade equivalent measure.

Line A.I–9: Report the number of broadband lines provided over electric power lines. Do not convert these lines into a voice-grade equivalent measure.

Line A.I–10: Report the number of broadband lines provided over all other technologies. Do not convert these lines into a voice-grade equivalent measure. Note that the filer must identify each specific technology used to provide the lines reported in Line A.I–10, and the corresponding number of connections for each specific technology, in the comment section of Part IV of FCC Form 477.

Columns in Part I.A.

General Note about Reporting Percentage Breakouts: Parts I, II, and III of Form 477 direct filers to provide percentages breakouts for specific line counts. If disaggregated counts exist for another purpose, then these must be used to calculate the requested percentage breakouts. However, filers are not expected to calculate percentages based on exhaustive counts performed solely for this task. Rather, where disaggregated counts do not exist, filers may provide good faith estimates of percentages based on the best information available to the filer. For example, if there is a pricing distinction between services provided to residential, small business, and large business customers, then billing information may be used to estimate the percentage of lines provided to residential and small business customers. In the absence of such

information, however, filers should rely on studies done for other purposes, such as marketing and business plan information, demographic data, *etc.* A filer should conduct limited special studies only in the event that it cannot provide estimates of percentage breakouts that it reasonably expects to be accurate within plus or minus five percentage points.

Column (a): Report the total number of broadband lines (*i.e.*, connections in service to end users that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in at least one direction) as described in each of Lines A.I–1 through A.I–10, above.

Column (b): Report the percentage of total lines reported in column (a) that are in service to residential and small business end users (as opposed to large business, institutional, or other end users). In Part I of FCC Form 477, classify lines as being used by residential and small business end users if the end user has a broadband connection of a type (as indicated by, *e.g.*, information transfer rates, features, and price) that is most typically associated with (*i.e.*, primarily designed for, or marketed to) residential end users.

Column (c): Report the percentage of total lines reported in column (a) that are provided over your own local loop facilities, or the wireless last-mile equivalent, connecting to the end user's premises. Count as your own such facilities, those wired local loop facilities that you (including your affiliates) owned, those wireless connections to end-user premises that are deployed over unlicensed spectrum or spectrum for which you hold a license, manage, or have obtained the right to use via lease or other arrangement with a Band Manager, and facilities you obtained the right to use from unaffiliated entities as dark fiber or satellite transponder capacity (and that you used as part of your own system). Do not include, in column (c), broadband lines that you provided over UNEs, special access lines, and other leased lines that you obtained from an unaffiliated entity and equipped as broadband.

Column (d): Report the percentage of total lines reported in column (a) that are billed (or incorporated in a service billed) to end users by the filer (including affiliates) or by the filer's agents. Do not include in this percentage any lines reported in column (a) that are billed to an unaffiliated Internet Service Provider (ISP) that has incorporated the filer's broadband service into a premium Internet-access service marketed under the unaffiliated ISP's own name.

Note on columns (e)–(j) of Part I.A: The percentages reported in columns (e)–(j) of Part I.A refer, in each case, to lines that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in both directions. In categorizing lines in this manner, filers should consider the end user's authorized maximum usage (''speed'') on that connection.

Column (e): Report the percentage of total lines reported in column (a) that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in both directions and that are used by residential and small business end users. (As noted in instructions for column (b), above, classify lines as ''residential and small business'' if the end user has in service a broadband connection of a type most typically associated with residential end users.)

Column (f): Report the percentage of total lines reported in column (a) that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in both directions and, in the faster direction, at rates greater than 200 kbps and less than 2.5 mbps.

Column (g): Report the percentage of total lines reported in column (a) that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in both directions and, in the faster direction, at rates greater than or equal to 2.5 mbps and less than 10 mbps.

Column (h): Report the percentage of total lines reported in column (a) that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in both directions and, in the faster direction, at rates greater than or equal to 10 mbps and less than 25 mbps.

Column (i): Report the percentage of total lines reported in column (a) that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in both directions and, in the faster direction, at rates greater than or equal to 25 mbps and less than 100 mbps.

Column (j): Report the percentage of total lines reported in column (a) that carry information, at the end-user location, at information transfer rates exceeding 200 kbps in both directions and, in the faster direction, at rates greater than or equal to 100 mbps.

C. Part I.B.: Broadband (Providers of Asymmetric xDSL Connections, Symmetric xDSL Connections, or Cable Modem Connections Only)

Lines in Part I.B.

Filers that report xDSL (asymmetric or symmetric) connections in Part I.A and filers that report cable modem connections in Part I.A must complete Part I.B.

Line B.I–11: Complete column (a) of Line B.I–11 if there is a non-zero entry in column (a) of Line A.I–1 or in column (a) of Line A.I–2.

Line B.I–12: Complete column (a) of Line B.I–12 if there is a non-zero entry in column (a) of Line A.I–4.

Columns in Part I.B.

Column (a): Report in column (a) your best estimate of the percentage of mass-market end-user premises in your service area, in this state, to which broadband lines were available over your own local loop facilities, as of the date specified for a particular filing (*e.g.*, as of December 31, 2004, for the filing due March 1, 2005). Mass-market end user premises include residential living units (*e.g.*, single family dwellings and individual households in multiple dwelling units such as apartments, condominiums, mobile home parks, *etc.*) and also individual living units in such institutional settings as college dormitories and nursing homes. Mass-market end-user premises also include small businesses to the extent that you consider small business end users to be target customers for broadband services that you (including your affiliates), or your agents, primarily design for, or market to, residential end users. Guidance on generating a ''best estimate'': Rather than setting out detailed methodologies to which filers must adhere in reporting estimated service availability by state, we intend to rely on best practices in the cable and local exchange industries to provide us with carefully considered estimates. Filers should note the following points. (1) If your ''franchise area'' or ''traditional service area'' (as those terms would be understood by the relevant municipal or state regulatory body) includes areas to which your existing plant has not been ''built out,'' you must include—in the denominator of the fraction that generates your best-estimate percentage—an estimate of the number of mass-market end-user premises that are located in those non-built out areas. Thus, for example, the number of mass-market end-user premises in a cable TV franchise area may be larger than the number of ''video homes passed'' by a cable system

operating in that franchise area. (2) The best estimate of service availability should not require degradation, outside of normal operating parameters, of the service quality of the filer's most heavily purchased type(s) of mass-market broadband connection. (3) Filers should take into account rule-of-thumb lessons from the experience of deploying particular broadband services in similar areas (*e.g.*, differences between actual and theoretical availability of xDSL service to mass-market end-user premises in areas in which the service already has been deployed, such as may arise due from loop-conditioning factors and loop lengths).

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

Include in Part II: Report all local exchange service lines (or wireless channels) and all lines (or wireless channels) that are used for exchange access services that you do not report in Part I. (Hereafter, for purposes of this section, we use the terms ''local exchange lines'' or ''lines.'') *See* ''Note for reporting channelized service'' and definition of ''voice telephone service,'' below.

Exclude in Part II: Do not report in Part II lines not yet in service, lines used for interoffice trunking, lines that connect two locations of the same customer, company official lines, or lines that you provide as a broadband service reported in Part I. Do not report in Part II transport lines between your switching center and Internet protocol, ATM or circuit switched networks, where you already are reporting the portion of the line between the end user and your switching center, even if you multiplexed those lines and provided higher capacity lines between your switching center and those networks. Note for reporting channelized service: In Part II–A and Part II–B, providers are to report voice-grade *equivalent* lines. Count as one voice-grade equivalent line: traditional analog POTS lines, Centrex-CO extensions, and Centrex-CU trunks. Count lines based on how they are charged to the customer rather than how they are physically provisioned. That is, when a customer is charged for channelized service, report the number of activated, charged-for channels rather than the theoretical capacity of the line. Examples: Count Basic Rate Integrated (BRI) Services Digital Network (ISDN) lines as two voice-grade equivalent lines. Report 8 voice-grade equivalent lines if a customer is charged for 8 trunks that happen to be provisioned over a DS1 circuit. If a customer is charged for a fully-channelized DS1 circuit, report 24 voice-grade equivalent lines. Lines reported in Part II–C, however, should not be reported in voice-grade equivalents, but should reflect actual circuit counts. Note for competitive LECs providing local exchange service over hybrid fiber-coaxial cable television systems: If you cannot determine the number of lines from your records, you are permitted to report the number of subscribers.

Lines in Part II

In Lines A.II–1 (service provided to end users) and Lines B.II–2 through B.II–3 (service provided to other carriers), report voice-grade equivalent lines used to provide voice telephone service. By ''voice telephone service,'' we mean local exchange or exchange access services that allow end users to originate and/or terminate local telephone calls on the public switched network, whether used by the end user for voice telephone calls or for other types of calls carried over the public switched network (for example, lines used for facsimile equipment or lines used occasionally or exclusively for ''dial-up'' connection to the Internet). Filers report voice telephone service in terms of voice-grade equivalent lines. Thus, a voice-grade equivalent line directly connects an end user to a carrier and allows the end user to originate and/or terminate local telephone calls on the public switched network. Voice-grade equivalent lines include high capacity lines that are channelized to provide voice-grade service. *See* ''Note for reporting channelized service,'' above.

Line A.II–1: Report total voice-grade equivalent lines you provided—that is, billed—directly to end-user consumers. Include lines provided to end users by your agents or under traditional marketing arrangements. For example, include lines provided to shared-tenant service providers. Note that an Internet Service Provider (ISP) may be an end user of local exchange service lines.

Line B.II–2: Report total voice-grade equivalent lines you provided to unaffiliated telecommunications carriers under a Total Service Resale arrangement (*i.e.*, provided pursuant to section 251(c)(4) of the Communications Act of 1934, as amended).

Line B.II–3: Report total voice-grade equivalent lines you provided to unaffiliated telecommunications carriers under other resale arrangements, including reselling Centrex/Centron.

In Lines C.II–4 through C.II–6, report the actual number of lines billed to the customer (*i.e.*, reflecting actual circuit counts). Do not convert into voice-grade equivalent measures any high capacity lines reported on Lines C.II–4 through C.II–6. As noted in the instructions for Part I, where a provider does not know whether a high capacity line is being used as a broadband line or as a telephone service line, it should report that line on Line C.II–6, rather than in Part I of its filing. Also, if you provide a line to another filer who is likely to include broadband services provided over that line in its own report (for example, because the other filer equips the line or UNE as broadband), then that line should be reported in Part II–C of your filing, not in Part I.

Line C.II–4: Report lines that you provided to unaffiliated telecommunications carriers under an unbundled network element (UNE) loop arrangement, where you do not provide switching for the line. Include the high frequency portion of the loop if sold as a UNE. Do not convert any high capacity lines provided under such UNE arrangements into voice-grade equivalent measures.

Line C.II–5: Report lines that you provided to unaffiliated telecommunications carriers under a UNE loop arrangement, where you also provide switching for the line (*i.e.*, ''UNE-Platform''). Do not convert any high capacity lines provided under such UNE arrangements into voice-grade equivalent measures.

Line C.II–6: Report connections not reported in Part I (*i.e.*, as broadband) that are either special access or private lines and that connect an end-user premises to a telecommunications carrier. Note that for lines reported on Line C.II–6, your customer may be either an end user or another telecommunications carrier. Do not convert lines reported on Line C.II–6 into voice-grade equivalent measures.

Columns in Part II

Column (a): For Lines A.II–1 (service provided to end users), and Lines B.II–2 through B.II–3 (service provided to other carriers), report voice-grade equivalent lines used to provide local exchange services.

For Lines C.II–4 through C.II–6 (UNEs, and special access and private lines not provided as broadband), report the number of circuits (*i.e.*, not the voice-grade equivalent of those circuits) that are used for local exchange or exchange access services that you do not report in Part I.

Note: *See* note above, page 5, about reporting data on percentages.

Column (b): Where indicated (*i.e.*, for Line A.II–1), report the percentage of the lines reported in column (a) for which you (including affiliates) are the default

interstate long distance carrier, *i.e.*, the (facilities-based or reseller) carrier to which an interstate long distance call is routed automatically, without the use of any access code by the end user.

Column (c): Where indicated (*i.e.*, for Lines A.II–1, A.II–2, and A.II–3), report the percentage of the lines reported in column (a) that are used for ''residential and small business'' service. In Part II of FCC Form 477, consider your own end-user customer to be ''residential and small business'' if you provide fewer than four (4) voice-grade equivalent lines to that customer location. Also, consider any lines you provide to a shared-tenant service provider in an apartment building to be residential and small business lines. For end-user lines you provide to other carriers as Total Service Resale (*i.e.*, in Line A.II–2.) or under other resale arrangements such as resold Centrex/Centron (*i.e.*, in Line A.II–3.), classify lines as ''residential and small business'' if the carrier orders fewer than four (4) voice-grade equivalent lines for its use in serving a particular end user. If such information on the number of voice-grade lines to the end user is not available, you may estimate a comparable classification based on tariffs or on marketing information, such as demographic information associated with the geographic areas where the lines are provided.

Column (d): Where indicated (*i.e.*, for Line A.II–1) report the percentage of the lines reported in column (a) that are used for ''residential and small business'' service and for which you (including affiliates) are the default interstate long distance carrier.

Column (e): Report the percentage of the lines reported in column (a) that are provided over your own local loop facilities, or the wireless last-mile equivalent, connecting to the end user's premises. Count as your own such facilities, those wired local loop facilities that you (including your affiliates) owned, those wireless connections to end-user premises that are deployed over spectrum for which you hold a license, manage, or have obtained the right to use via lease or other agreement with a Band Manager, and facilities you obtained the right to use from unaffiliated entities as dark fiber or satellite transponder capacity (and that you used as part of your own system). Do not include, in column (c), lines provided over UNE loops that you obtained from an unaffiliated carrier.

Note for competitive LECs that own telephone switches: A competitive LEC should include, in column (e), a line for which it provided its own switching only if it also owned (as just discussed) the local loop facilities that connect to the end user's premises.

Column (f): Report the percentage of lines reported in column (a) that are provided over UNE loops obtained from an unaffiliated carrier without also obtaining UNE switching from that carrier.

Column (g): Report the percentage of lines reported in column (a) that are provided over UNE-Platform (*i.e.*, the combination of loop UNE, switching UNE, and transport UNE) obtained from an unaffiliated carrier.

Column (h): Report the percentage of lines reported in column (a) that are provided by reselling an unaffiliated carrier's retail service, including Centrex/Centron as well as other retail services.

Column (i): Report the percentage of lines reported in column (a) that are delivered over coaxial cable facilities used in the part of the line that connects to the end-user premises (''cable telephony'').

Column (j): Report the percentage of lines reported in column (a) that are delivered over fixed wireless facilities used in the part of the line that connects to the end-user premises.

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

Line A. III–1: Report all mobile voice telephony subscribers served over your own facilities that give customers the ability to place or receive calls from the public switched telephone network. (*See* column (a), below, for how to count subscribers.) Include: Satellite, cellular, and PCS telephone service and other terrestrial mobile services; and, units in service that combine voice telephone with other services. Report subscribers that you (including affiliates) serve using spectrum for which you hold a license, manage, or have obtained the right to use via lease or other agreement with a Band Manager. Do not report any subscribers that you serve by reselling an unaffiliated carrier's mobile telephone service.

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

Column (a): Report the total number of mobile voice telephony subscribers in the state that are served over your own facilities. Count as a subscriber a mobile handset, car-phone, or other revenue-generating, active, voice unit that has a unique phone number and that can place and receive calls from the public switched network. Include in column (a) subscribers that you (including affiliates) bill directly (including through agents), pre-paid subscribers, and subscribers served via unaffiliated mobile telephone service resellers. Subscriber counts by state should be based on the area codes of the phone numbers provided to subscribers.

Column (b): Report the percentage of subscribers in column (a) that you bill directly (including through agents) or serve on a pre-paid basis. Do not include subscribers that are billed by an unaffiliated mobile telephone service reseller.

Column (c): Report the percentage of subscribers in column (a) that you bill directly (including through agents) or serve on a pre-paid basis and for which you (including affiliates) are the default interstate long distance carrier. For purposes of this reporting requirement, a default interstate long distance carrier is the (facilities-based or reseller) carrier to which an interstate long distance call is routed automatically, without the use of any access code by the end user.

F. Part IV: Explanations and Comments (All Filers, As Necessary)

Filers that must report: If there is a non-zero entry in column (a) of Line A.I–10, the filer must identify each specific technology used to provide the broadband connections reported in Line A.I–10, and the corresponding number of connections for each specific technology, in the comment section of Part IV.

Other filers: Complete Part IV to furnish relevant explanatory information with your data. For example, an explanation should be provided if a percentage figure has changed noticeably from earlier filings. In Part IV, filers should identify the Part and Line to which their comment applies in the columns provided.

G. Part V: ZIP Code Listings (Broadband Providers and Local Telephone Service Providers)

Line V–1: Report, in the appropriate column, the 5-digit ZIP Codes—for this state—in which you provide at least one of the broadband connections reported in Part I or at least one of the voice grade telephone services reported in Part II.

Column (a)–(g): If you file broadband information in Part I, you must provide, for each individual technology indicated by the column head, a list of ZIP Codes in the state in which you provide at least one of the broadband connections reported in Part I.

Column (h): If you file local exchange service information in Part II, you must provide a list of ZIP Codes in the state in which you have customers for your local exchange telephone service. Providers of mobile telephony services that report data in Part III should not report this ZIP Code information.

Note: These ZIP Code lists should correspond to areas in which service is actually being used by customers, including ''point ZIP Codes'' (*i.e.*, a ZIP Code assigned to a particular customer). The list should not include authorized territory in which you have no customers in service, planned build-out, location of facilities, etc. The list can be based on engineering information (such as maps showing actual service territory) or on billing information, such as the ZIP Codes of actual customers. If the latter approach is selected, please review the resulting list and delete any ZIP Codes which clearly are out of your service territory and which appear only because the billing address is likely different from the service address.

IV. General Information

A. Where and When To File

1. When To File

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

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

2. Where To File

All filers must deliver to the FCC the signed, original paper copy of the Certification Statement. The Certification Statement is the single page that constitutes Section V of these Instructions. Filers must deliver completed Form 477(s) to the FCC on electronic media. Paper copies of completed Form 477s may not be submitted. Acceptable electronic media are spreadsheet files attached to an e-mail message, or one or more IBM format compact discs or 3.5-inch floppy diskettes containing such files. The latter should be clearly labeled to identify contents by (at a minimum): FCC Form 477 (12/31/04 data), name of filer, whether the item contains ''complete'' or (if relevant) ''redacted'' versions of Form 477, and the states for which data are included. In all cases, filers should use up-to-date virus detection software to ensure that electronic media are virus-free.

Attention: The United States Postal Service (USPS) requires all First Class, Priority, and Express Mail addressed to the ZIP Code in which the FCC Headquarters is located to be irradiated (cleaned) prior to delivery. Because the irradiation process can have an adverse effect on electronic media (*e.g.*, compact discs and floppy diskettes), the Commission encourages filers to submit Form 477 using one of the following alternatives, preferably e-mail. (Use only one filing method; do not make duplicate filings.) Because requirements for overnight, hand, or messenger delivery may change, filers who choose not to use e-mail should consult the Office of the Secretary (*http://www.fcc.gov/osec*) for the most current information about address and other delivery requirements.

E-mail: Filers are encouraged to deliver completed Form 477(s) as attachments to one or more e-mail messages sent to *FCC477@fcc.gov.* Filers submitting multiple files are encouraged to use a zip utility to compress them into one ''complete'' file and (if relevant) one ''redacted'' file. The subject field of the e-mail should contain the following phrase: FCC Form 477 due 3/1/05. If multiple e-mails must be sent, the subject line should so indicate; for example: FCC Form 477 due 3/1/05 (message 1 of 3). Filers submitting Form 477(s) by e-mail may deliver the signed, original paper copy of the Certification Statement by USPS first-class mail addressed to: FCC FORM 477 (ATTN: WCB/IATD, Room 6–A220), Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. (Alternatively, filers may deliver the signed, original copy of the Certification Statement by one of the following methods.)

Overnight delivery service other than USPS Express Mail or Priority Mail: Compact discs, or floppy diskettes, containing completed Form 477(s)—accompanied by the signed, original copy of the Certification Statement—may be delivered by an overnight delivery service other than USPS Express Mail or Priority Mail (*e.g.*, UPS, DHL, Federal Express). Such deliveries must be addressed and delivered to: FCC FORM 477 (ATTN: WCB/IATD, Room 6–A220), Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, MD 20743. Filers who want a confirmation of receipt may include a stamped, self-addressed envelope and a photocopy of the Certification Statement, which will be receipt-stamped and returned by mail.

Hand delivery or messenger delivery: Local hand and messenger deliveries directed to the Commission's Secretary are accepted at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. All Form 477 filing materials delivered to this location must be clearly identified to be re-directed to: FCC FORM 477 (ATTN: WCB/IATD, Room 6–A220).

A filer who is unable to use one of the three delivery methods should contact the Industry Analysis and Technology Division, Wireline Competition Bureau, at (202) 418–0940 of via TTY at (202) 417–0484.

B. How To File

1. Preparation of Data Files

You must file your local competition and broadband deployment data using the electronic version of Form 477 that is available at *http://www.fcc.gov/formpage.html* or by purchase from the FCC's duplicating contractor, Qualex International at (202) 863–2893; fax (202) 863–2898; TTY (202) 863–2897; e-mail *qualexint@aol.com* Form 477 will change over time, and filers must obtain the latest version for each filing period. Filers should also obtain the latest version of Instructions for Form 477.

The electronic version of Form 477 is provided in two formats: Excel 2002 and Lotus 123 Version 5. The Excel 2002 version contains drop-down boxes and some edit checks. The Lotus version should be usable in most spreadsheet programs. Once you complete a filing, name the file in accordance with instructions provided below. If you wish to assert confidentiality for any information provided in the filing, you must provide a redacted version of the file, renamed in accordance with the instructions provided below. If you do not provide a redacted version of the file using the proper file names, you risk having confidential information released.

Note: If you are required to complete a particular Part of Form 477, answer all the questions within that Part; if a particular question in that Part does not apply to you, enter the number ''0'' (zero) as your response. (If you are not required to complete a particular Part of Form 477, you may leave all cells in that particular Part blank.) For non-zero entries, enter all digits of the number. You may not move cells, insert or delete rows, or change the validation or formatting characteristics of any cell. If the FCC cannot load your files into its databases as a result of modifications to the file, you will be required to correct and resubmit those files. Filers must save each Form 477 as a separate spreadsheet file. Do not submit multiple Form 477 worksheets within a single Excel 2002 workbook or as multiple levels in a single Lotus file. (Filers choosing to submit Form 477(s) on a floppy diskette(s), or compact disc(s), may place multiple spreadsheet files on a single diskette or compact disc.)

Each file name must adhere to the following convention:

SST#Hyearname.XLS or SST#Hyearname.WK4; where:

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

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

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

is a ''sequence number'' (*i.e.*, 1, 2, 3, etc.) to be used to differentiate what would otherwise be identically named files when the file names are constructed according to the convention specified here. If no such redundancy of file names occurs, use the number ''1'' in place of the character ''#''.

H is the half of the year of the data being filed. *Use:* ''J'' for data as of June 30 ''D'' for data as of December 31

year is the last two digits of the year of the data being filed (*e.g.*, for the filing due March 1, 2005, reported data will be as of December 31, 2004, so 2004 = 04).

name is the name identified on Line 2 of the Cover Page of Form 477. If you use software that limits file names to 8 characters plus a three character file extension, then use a one-character name abbreviation and identify that name in the Certification Statement.

Example: NCB1D04BellSouth.XLS or NCB1D04BellSouth.WK4.

2. Additional Directions for Filing

Filers must submit the original, signed paper copy of the Certification Statement (which is the single page that constitutes Section V of these Instructions). The Certification statement must be signed in ink by an officer of the filer of one of the legal entities whose data is included. An officer is a person who occupies a position specified in the articles of incorporation (or partnership agreement), and would typically be president, vice president for operations, vice president for finance, comptroller, treasurer or a comparable position. If the filer is a sole proprietorship, the owner must sign the certification.

C. Requesting Confidentiality

Some information from the FCC Form 477 may be made publicly available. Any respondent to this form may submit a request that information on the FCC Form 477 not be made routinely available for public inspection by so indicating on Line 10 of the Cover Page of the form and on the Certification Statement. See also 47 CFR 0.457, 0.459, 1.7001(d), 43.11(c); *Examination of the Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, FCC 98–184 (rel. Aug. 4, 1998). Respondents seeking confidential treatment of data in an electronic file must provide a separate version of that file in which the specific items of data the filer believes to be privileged and confidential are redacted. Note that a redacted file must be given a different name from the complete version of the file, as specified above. Redacted data should be replaced with xxxxxx (**Note:** enter precisely six x's) in the redacted version of the file.

D. Obligation To File Revisions

Filers must submit a revised form if the filer discovers a significant error in the data. For counts, a difference amounting to 5 percent of the filed number must be refiled. For percentages, a difference of 5 percentage points is significant and must be refiled. Revisions should consist of a certification statement and one or more electronic files. Carriers should refile all data for a state if one or more data element must be revised. A refiled Form 477 spreadsheet should contain all appropriate data for the state, not just the corrected figures. Note that files containing revisions must be given different names from the original filings, as specified above, Section IV–B.1.

E. Compliance

Service providers that are required to file the Form 477 but fail to do so may be subject to enforcement action under sections 502 and 503 of the Communications Act and any other applicable law, 47 U.S.C. 502, 503.

BILLING CODE 6712–01–P

V. CERTIFICATION STATEMENT

FCC Form 477 Local Telephone Competition and Broadband Reporting (ATTENTION: WCB/IATD, Room 6-A220)

CERTIFICATION STATEMENT

Check the method (use ONLY one) used to deliver completed Form 477(s) to the FCC. See Instructions, Section IV, for the proper address to use for each delivery method:

___ E-mail ___ Overnight service other than United States Postal Service
___ Messenger or hand delivery ___ Other (specify: _____)

Also see Instructions, Section IV, for separate directions on how to submit the signed, original paper copy of this Certification Statement to the FCC.

This filing is an (check one) ___original filing ___revised filing

Organization name: _____
Number of files provided for this reporting period: _____
Year (of the data): _____ Data as of: [Check one: June 30___; December 31 ___]

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

_____

If I have requested non-disclosure of some or all of the information in FCC Form 477 by so indicating on Line 10 of the Cover Page of the form, I certify that this information is privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the respondent.

PRINTED NAME: _____

POSITION: _____

SIGNATURE: _____

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

CONTACT PERSON: _____

TELEPHONE: _____ E-MAIL: _____

FEDERAL COMMUNICATIONS COMMISSION

BILLING CODE 6712–01–C

VI. Glossary of Selected Terms Appearing on FCC Form 477

The following selected terms are noted on FCC Form 477. The filer must interpret these terms in the specific context of the detailed reporting instructions, above. All terms are as defined for the specific purposes of this information collection.

Part I: Broadband

Broadband: Lines (or wireless channels) that terminate at an end user location, connect the end user to the Internet, and carry information—at the end-user location—at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction.

End user: Residential, business, institutional and government entities who use services for their own purposes and who do not resell such services to other entities. (For purposes of this information collection, an Internet Service Provider is not an ''end user'' of a broadband connection.)

Local loop: For purposes of this data collection, the ''last mile'' facilities (either wired or wireless) between a central office and the end-user premises in a telephone network, a node and the end-user premises in a cable network, or the analogous portion of the facilities of other providers of telephone service or broadband connections.

Mass-market end user premises: Residential living units (*e.g.*, single family dwellings and individual households in multiple dwelling units such as apartments, condominiums, mobile home parks, *etc.*) and also individual living units in such institutional settings as college dormitories and nursing homes. Also includes small businesses to the extent that the filer considers small business end users to be target customers for broadband services that the filer (including affiliates), or the filer's agents, primarily design for, or market to, residential end users.

Own local loop facilities: Those local loop facilities that the filer (including affiliates) actually owned as well as facilities that the filer obtained the right to use from unaffiliated entities as dark fiber or satellite transponder capacity (and that the filer used as part of its own system). For the purposes of Part I of this data collection, the term does not include unbundled network element (UNEs), special access lines, and other leased lines the filer obtained from an unaffiliated entity and equipped as broadband.

Residential and small business: For the purposes of Part I of Form 477, end users that have a broadband connection of a type (as indicated by, *e.g.*, information transfer rates, features, and price) that is most typically associated with (*i.e.*, primarily designed, marketed to, and purchased by) residential end users.

Part II: Wireline and Fixed Wireless Local Telephone

Default interstate long distance carrier: The (facilities-based or reseller) carrier to which an interstate long distance call is routed automatically, without the use of any access code by the end user.

End user: Residential, business, institutional and government entities who use services for their own purposes and who do not resell such services to other entities.

Local loop: See the definition provided for Part I, above.

Own local loop facilities: Those local loop facilities connecting to end-user premises that the filer (including affiliates) actually owned as well as facilities the filer obtained the right to use from unaffiliated entities as dark fiber or satellite transponder capacity (and that the filer used as part of its own system). For the purposes of Part II of this data collection, the term does not include telephone lines provided over UNE loops that the filer obtained from an unaffiliated carrier.

Residential and small business: For the purposes of Part II of Form 477, lines in service to end-user locations to which the filer provides fewer than four (4) voice-grade equivalent lines. Also, the term includes any lines the filer (or its affiliate or agent) provides to a shared-tenant service provider in an apartment building.

UNE-Platform: The combination of unbundled network elements (UNEs) consisting of loop UNE, switching UNE, and transport UNE. (Unbundled network elements are defined in the FCC Rules. *See* 47 CFR 51.319.)

Voice-grade equivalent: Generally, the number of DS0 (64 kbps) lines/channels in a higher-capacity circuit. In the specific context of Part II of Form 477, *see* ''Note for reporting channelized service'' in the detailed instructions, above.

Voice telephone service: Local exchange or exchange access services that allow end users to originate and/or terminate local telephone calls on the public switched network, whether used by the end user for voice telephone calls or for other types of calls carried over the public switched network (for example, lines used for facsimile equipment or lines used occasionally or exclusively for ''dial-up'' connection to the Internet).

Part III: Mobile Local Telephone

Default interstate long distance carrier: The (facilities-based or reseller) carrier to which an interstate long distance call is routed automatically, without the use of any access code by the end user.

Mobile voice telephony subscribers: A mobile handset, car-phone, or other revenue-generating, active, voice unit that has a unique phone number and that can place and receive calls from the public switched network.

Own facilities: Spectrum for which the filer (including affiliates) holds a license, manages, or has obtained the right to use via lease or other agreement with a Band Manager.

VII. Disclosure, Privacy Act, Paperwork Reduction Act Notice

The Privacy Act of 1974 and the Paperwork Reduction Act of 1995 require that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory under the law. *See* Privacy Act of 1974, Pub. L. 93–579, December 31, 1974, 5 U.S.C. 552a (e)(3), and the Paperwork Reduction Act of 1995, Pub. L. 104–13, 44 U.S.C. 3501, *et seq.*

Our legal right to ask for this information is sections 1.7000–1.7002, 20.15, 43.01, 43.11 of the Federal Communications Commission's rules. 47 CFR 1.7000–1.7002, 20.15, 43.01, 43.11. Your response is mandatory.

This collection of information stems from the Commission's authority under sections 4(i), 201, 218–220, 251–252, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 218–220, 251–252, 303(r), 332, and 403, and section 706 of the Telecommunications Act of 1996. The data in the worksheet will be used to monitor the deployment of broadband services and the development of local telephone service competition. Selected information provided in the worksheet will be made available to the public in a manner consistent with the Commission's rules and orders. We have estimated that each response to this collection of information will take, on average, xx hours. Note that many companies will file multiple responses and that this estimated average reflects the fact that many companies will be required to file only a single service count that should be readily available from internal company records. Our estimate includes

the time to read the instructions, look through existing records, gather and maintain the required data, enter the data in a Form 477 spreadsheet, prepare a floppy diskette or compact disc (if the filer decides to submit completed Form 477(s) by a method other than e-mail) and certification, and actually file the report. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD–PERM, Washington, DC 20554, Paperwork Reduction Project (3060–0816). We also will accept your comments via the Internet if you send them to *Judith-B.Herman@fcc.gov.* Do not send completed FCC form 477 to this address. Remember—You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060–0816.

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

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

List of Subjects

47 CFR Parts 1 and 43

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 20

Communications common carriers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–11322 Filed 5–26–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH55

Endangered and Threatened Wildlife and Plants; Proposed Reclassification From Endangered to Threatened Status for the Mariana Fruit Bat from Guam, and Proposed Threatened Status for the Mariana Fruit Bat from the Commonwealth of the Northern Mariana Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provide notice of the reopening of the comment period on the proposed threatened status for the Mariana fruit bat (*Pteropus mariannus mariannus*) throughout its range, to allow peer reviewers and all interested parties to submit comments on the proposal. Comments already submitted on the March 26, 1998, proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: Comments from all interested parties must be received by June 28, 2004.

ADDRESSES: Comments and materials concerning the proposal should be sent to the Assistant Field Supervisor, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, P.O. Box 50088, Honolulu, HI 96850. For further instructions on commenting, refer to the Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: Gina Shultz, Assistant Field Supervisor, at the above address (telephone 808/792–9400; facsimile 808/792–9580).

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1998, we published a proposed rule to reclassify the Mariana fruit bat from endangered to threatened on Guam and list the Mariana fruit bat as threatened in the Commonwealth of the Northern Mariana Islands (CNMI) (63 FR 14641).

This subspecies of the Mariana fruit bat is found throughout the Mariana Archipelago, which includes both the United States Territory of Guam and the CNMI. In the CNMI, the Mariana fruit bat occurs primarily on private and Commonwealth lands, including inhabited and uninhabited islands. On Guam, it is known to roost primarily on Federal lands and to forage widely throughout the island. Currently, fewer than 100 individual Mariana fruit bats remain on Guam and several thousand individuals are distributed among the islands of the CNMI. The Mariana fruit bat and its habitats have been impacted or are now threatened by one or more of the following: illegal hunting, predation by introduced predators such as brown treesnakes (*Boiga irregularis*), rats, and feral cats; habitat loss to agriculture and development; habitat degradation or destruction by feral ungulates; disturbance from human activities; natural disasters or random environmental events such as hurricanes; fire; vandalism; and inconsistent enforcement of territorial and Federal laws and international conventions to protect this species. The best available scientific and commercial information indicates that the Mariana fruit bats in the CNMI and Guam represent one population, but also recognizes that the survival of these bats on Guam continues to be threatened by a variety of factors. However, when viewed in the context of representing a portion of the entire Mariana fruit bat population in the Mariana Islands, rather than as a distinct population as previously thought, reclassification from endangered to threatened is appropriate and biologically justified. Therefore, proposing to list the entire population of *Pteropus mariannus mariannus* as threatened throughout its range, including bats in both the CNMI and Guam, retains an appropriate level of protection for this bat on Guam while increasing the overall protection to the Mariana fruit bat throughout the Mariana Islands.

In our March 26, 1998, proposed rule and associated notifications, we requested that all interested parties submit comments, data, or other information that might contribute to the development of a final rule. A 60-day comment period closed on May 26, 1998. On May 29, 1998, we reopened the public comment period until July 10, 1998. A legal notice containing this information also was published in the Marianas Variety on June 8, 1998. We held public hearings on June 24, 1998,