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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 20, and 43

[WC Docket No. 04–141; FCC 04–266]

Local Telephone Competition and Broadband Reporting

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission extends and modifies 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: The rules in this document contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

Compliance date: September 1, 2005. Providers subject to the requirements and regulations adopted herein shall complete and file the amended FCC Form 477 on the compliance date and semiannually thereafter.

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 Report and Order (Order) in WC Docket No. 04–141, adopted on November 9, 2004, and released on November 12, 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, Best Copy and Printing, Inc., Room CY–B402, 445 Twelfth Street, SW., Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or through *www.bcpiweb.com*.

Paperwork Reduction Act

This Order contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to OMB for review under section 3507(d) of the PRA.

Summary of the Report and Order

1. In this Order, we adopt rules and a standardized form to improve our Form 477 local competition and broadband data gathering program, including extending the program for five years beyond its currently designated sunset in March 2005, eliminating existing reporting thresholds, and gathering more granular data from service providers. The information collected in the Form 477 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 improvements we adopt here, which include some but not all of the modifications proposed in our recent *Data Collection NPRM*, are necessary to ensure that the Commission can continue to effectively evaluate broadband and local competition developments as they affect all Americans. At the same time, we have acted to minimize, wherever possible, the administrative burdens imposed on reporting entities by the modified Form 477 program.

2. The *Data Gathering Order* 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. The Commission concluded that collecting this information would materially improve its ability to develop, evaluate, and revise policy in these rapidly changing areas and provide valuable benchmarks for Congress, the Commission, other policy makers, and consumers. Since adoption of the Form 477 in 2000, broadband service providers and local telephone service providers have reported data ten times, and we have issued regular reports based in significant part on this information. In the *Data Gathering Order*, the Commission adopted a sunset provision pursuant to which the collection program terminates after five years (*i.e.*, in March 2005) unless the Commission acts to extend it.

3. Form 477 includes separate sections on broadband deployment, local telephone service competition, and mobile telephone service provision. In the *Data Gathering Order*, the Commission required entities to report only when they meet or exceed defined reporting thresholds, and, then, to complete only those portions of the form for which they meet or exceed the reporting thresholds. The Commission required entities that meet a threshold to file data on a state-by-state basis. The Commission also required facilities-based providers of broadband connections and local exchange carriers (LECs) to report lists of the 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.

4. In the *Data Collection NPRM*, we proposed to: (1) Extend the data collection for an additional five years; (2) modify Form 477 to collect more-detailed information about broadband connection speeds and the localized deployment of broadband technologies; (3) collect information about subscribership to bundled local and interstate long distance telephone services; and (4) eliminate or revise those local telephone service questions that elicit imprecise or infrequently used information. We also invited comment on whether we should eliminate or lower the current reporting thresholds; modify our policies for publishing or sharing Form 477 data; require filers to categorize broadband connections according to the information transfer rates observed by end users; and require filers to report numbers of broadband connections in service by Zip Code or technology, or, alternatively, by Zip Code, technology, and speed.

5. We have considered the record of this proceeding, including comment about reporting burdens associated with current Form 477 reporting requirements, potential burdens associated with additional reporting requirements proposed or otherwise noticed for discussion in the *Data Collection NPRM*, and potential burdens associated with alternatives suggested by the parties, as well as our experience with the Form 477 to date. As discussed below, in this Order we: (1) Extend the Form 477 program for five years beyond

its currently designated sunset in March 2005; (2) eliminate reporting thresholds; and (3) adopt various modifications to the Form 477.

6. *Five-Year Extension.* We conclude that it is reasonable to extend the Form 477 program for five years beyond the current March 2005 sunset given our statutory obligations to study and report on the availability of broadband capability, as well as our continuing obligations to promote telecommunications services competition generally. We conclude that extending the Form 477 program for an additional five years with the modifications discussed below will materially improve the Commission's ability to develop, evaluate, and revise policy in the rapidly changing areas of broadband deployment and local telephone competition, and provide valuable benchmarks for Congress, the Commission, other policy makers, and consumers. As discussed in more detail in the following sections and in the Final Regulatory Flexibility Analysis attached to this Order, we also conclude that extending the Form 477, as modified, will not impose an undue burden on the entities that are required to report. In this regard, we have taken or will take the following steps to reduce associated burdens: (1) We decline to adopt certain modifications to the Form 477 proposed in the *Data Collection NPRM*, including the proposed requirement that filers categorize broadband connections according to the information transfer rate (speed) actually observed by the end user; (2) we eliminate various questions from the wireline local telephone section of the form; (3) we eliminate the requirement that filers seeking confidential treatment of Form 477 data prepare and submit a separate, redacted Form 477; (4) responding to comments submitted by the Office of Advocacy of the Small Business Administration, we will publish a *Small Entity Compliance Guide* to provide a set of user-friendly explanations to direct small entities to those sections of the Form 477 relevant to their operations.

7. We reject calls for extending the Form 477 program for less than five years because our statutory responsibilities to study and report on broadband deployment and encourage the development of local telephone service competition are on-going. We find that a five-year extension is prudent given continuing and rapidly-evolving developments in broadband and local telephone services markets. Reviewing the adequacy of our form at regular intervals is essential to ensure that it is, in fact, capturing the most relevant and critical information given the dynamic nature of these markets. Accordingly, we affirm our analysis and conclusion in the *Data Gathering Order*, namely, that a five-year program best balances our continuing need to understand evolving market developments against our desire to minimize costs and ensure that adopted regulation does not outlive its usefulness. Moreover, we disagree with comments that the availability of alternative data sources is an adequate substitute for the Form 477. In our experience, most if not all commercially available studies of residential services adoption derive their data in significant part from the Commission's Form 477-based public reports. And, no nationwide studies of broadband deployment or of local telephone competition are based on better sources of data for rural and other hard-to-serve areas. Voluntary membership surveys conducted by commenters NTCA and OPASTCO, and also by the National Exchange Carrier Association (NECA), provide welcome evidence that the incumbent LECs that *respond* to the surveys are deploying broadband services to substantial—and increasing— percentages of their customer base. Entities that choose not to participate in these voluntary surveys may have a different experience. By contrast, surveys such as those about Internet use conducted by the Pew Internet & American Life Project, and the Census Bureau's Current Population Survey, use random samples that are constructed to avoid overlooking particular population groups. To obtain statistically significant results for particular rural populations, however, a large (and therefore expensive) random sample is required. For example, because the random sample (of about 57,000 households) for the Current Population Survey does not over-sample households located in rural areas in particular states, the Department of Commerce was able to discuss nationwide differences between rural and urban households in its report, *A Nation Online: How Americans Are Expanding Their Use of the Internet* (February 2002), but was not able to discuss such differences *within* particular states. Similarly, the Pew Internet & American Life Project has compared only *nationwide* differences in Internet use by residents of rural and urban areas on the basis of random samples of about 20,000 Americans age 18 and older.

8. *Elimination of Reporting Thresholds.* We also modify the Form 477 program to require all facilities-based providers of broadband connections to end users to report broadband data, all local exchange carriers to report local telephone service data, and *all* mobile telephone carriers to report mobile telephone data. In reaching this conclusion, we note that comments from state agencies, and from some service providers, generally supported eliminating, or substantially reducing, the reporting thresholds. As we stated in the *Data Collection NPRM*, we believe that the current data collection misses several hundred small facilities-based broadband providers, *e.g.*, rural incumbent LECs, wireless Internet service providers, and municipalities. Moreover, we agree with those commenters who argue that it is important to capture a more accurate picture of broadband deployment and local telephone competition in rural, sparsely populated areas, which are more likely to be served by small carriers.

9. In reaching our conclusion, we recognize that in the *Data Gathering Order* the Commission concluded that a reporting threshold for broadband and local competition appropriately balanced its need for an inclusive reporting requirement against the burdens imposed on small entities. At the same time, the Commission stated ''[we] are committed to revising these thresholds (either upward or downward) should it be necessary based either on our experience or on changes in the relevant markets.'' And, the Commission pointed out that ''[by] excluding any providers we necessarily face the possibility of understating the amount of competitive activity and broadband deployment in smaller, rural areas.'' Based on our experience with the Form 477 over the past nearly five years, we now conclude that the current thresholds render impossible a thorough understanding of the dynamics of broadband deployment in states with rural and/or underserved areas. We find that lowering the existing thresholds to some other, more or less arbitrary, number means that certain of these areas will continue to elude our scrutiny. Such a result seems inimical to Congress's charge, in section 706 of the Act, that we make determinations on the ''availability of advanced telecommunications capability to all Americans.'' Thus, we believe that are better equipped to make sound policy determinations affecting the broadband market to the extent we have the most accurate and comprehensive data possible upon which to base our decisions.

10. Similarly, based on our extensive experience in collection local competition data, we now conclude that we must gather an appropriate amount of information about the status of local competition from all areas of the country. We believe that the current 10,000 line reporting threshold significantly understates the amount of local competition in states that include rural and/or other underserved areas. As a result, our understanding of rural and underserved market development is not as precise as it could be. Having more accurate information about competition in rural markets will assist the Commission in its review of portability and eligibility policies. Merely lowering existing thresholds to some arbitrary number does not overcome this problem or mitigate its effects.

11. Moreover, this problem predictably will only get worse as networks continue to evolve, *i.e.*, as network architectures reflect the continued convergence of traditional telephony and broadband. Given such convergence, which was only at its initial stages when we adopted the *Data Gathering Order* almost five years ago, it becomes essential that our broadband and local competition data collection methodologies are equally comprehensive. We therefore conclude that we should collect local telephone service information on the same comprehensive basis upon which we collect information about broadband connections.

12. We conclude that the benefits to the policy making process that derive from the additional data outweigh the reporting burdens on new Form 477 filers (*i.e.*, entities that would not be required to file Form 477 if we retained the current mandatory reporting thresholds). As we noted in the *Data Collection NPRM*, the small facilities-based broadband providers that currently file Form 477 on a voluntary basis find that only a few questions apply to their situations. Moreover, among the smaller entities that are currently required to report broadband data on Form 477 (*i.e.*, entities that report between 250 and 499 broadband connections in a state), 68 percent reported connections in only one technology category, and 98 percent reported connections in two or fewer technology categories. Accordingly, we conclude that the broadband reporting requirements we adopt here are not overly burdensome for small providers. Similarly, among the smaller incumbent LECs that are currently required to report wireline local telephone data (*i.e.*, carriers that report between 10,000 and 24,999 voice-grade equivalent local exchange lines), 95 percent report only one of the five rows of information that will appear in the modified form. Therefore, we conclude that the local telephone reporting requirements we adopt here are not overly burdensome for small carriers. We also note that, for many new incumbent LEC filers, some answers (*e.g.*, percent of local exchange lines provided over the filer's own local loops) are unlikely to change from filing to filing, and that, more generally, filers will be able to complete their filings more efficiently as they gain experience with the data collection. We conclude that it is not possible to develop an adequately comprehensive picture of broadband deployment and local telephone competition in the United States without including information about the situation in rural, sparsely populated areas. As NECA emphasizes, the more than 1,100 rural carriers that belong to NECA's Traffic Sensitive pool generally serve sparse populations over wide geographical areas—frequently fewer than 10 customers per square mile. Therefore, we conclude that the benefits to policy making of developing a more accurate picture of broadband deployment and local telephone competition—including in rural, sparsely populated areas—outweigh the costs of reporting that we impose on carriers that have previously been exempt from filing Form 477.

13. We recognize, however, the particular concerns about reporting burden that have been raised by smaller incumbent LECs, and we consequently decide not to pursue at this time certain options about which we requested comment in the *Data Collection NPRM*. In particular, we decide not to require filers to determine what information transfer rate an end user actually observes on his or her broadband connection, and, as discussed below, we also decide to eliminate from the form several questions about local telephone service.

14. *Broadband Data.* Based on our review of the record in this proceeding and on our experience with the Form 477, we adopt a number of modifications to the broadband data collected by the Form 477. We conclude that these modifications are necessary to ensure that we have a full picture of developing broadband deployment trends nationwide. First, we modify the Form 477 to require filers to determine what percentage of their broadband or high-speed connections are faster than 200 kbps in both directions, and to categorize these connections into five ''speed tiers'' based on the information transfer rate in the connection's faster direction: (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. Some comments in this proceeding assert that collecting information about connections with very high speeds (*e.g.*, above 10 mbps) would be irrelevant (*e.g.*, because connections operating at such speeds are now not generally available to consumers in the United States). As we noted in the *Fourth 706 Report*, however, we have observed some service providers offering faster and faster connections, perhaps because they are able to do so at relatively little cost, and thereby differentiate their products from competitors' slower services. As these faster services are introduced, it is vitally important that we understand the evolving dynamics of higher speed broadband availability in order to fulfill our statutory responsibilities to report about whether broadband capability is available to all Americans.

15. We also modify Form 477 to require filers to report symmetric xDSL broadband connections separately from traditional wireline (such as T-carrier) connections, and to separately report broadband connections delivered over electric power lines. Thus, we require filers to report broadband connections in the following technology categories: asymmetric xDSL, symmetric xDSL, traditional wireline (such as T-carrier), cable modem, optical carrier (fiber to the end user), satellite, terrestrial fixed wireless, terrestrial mobile wireless, electric power line, or ''all other.'' In contrast to asymmetric xDSL, symmetric xDSL is well-suited to applications, such as videoconferencing, that require high-speed capacity in the upstream path as well as the downstream path. When Form 477 was implemented, it was the Commission's understanding that symmetric xDSL service was being deployed and marketed principally to businesses, as a substitute for the more traditional T-carrier services, and the Commission therefore specified that symmetric xDSL connections should be reported along with connections over ''other traditional wireline'' technologies. We now observe that some symmetric xDSL services are being offered to residential end users. For example, while we note that information about a broad range of symmetric high-speed xDSL services appears in marketing materials, such as Web pages, that are directed to business customers, we also observe that some

relatively low priced symmetric xDSL connections are being advertised on Web pages identified specifically for residential customers. We therefore disagree with comments that it is unnecessary or meaningless to distinguish symmetric xDSL services from traditional wireline services in the data collection. We also decide to establish electric power line as a separate broadband technology category to enable us to monitor its deployment specifically.

16. Additionally, we modify Form 477 to require incumbent LECs that report DSL connections (or whose affiliates report DSL connections) to report the extent to which DSL connections are available to the residential end user premises to which the incumbent LEC offers local telephone service. Similarly, we modify Form 477 to require cable system operators that report cable modem connections (or whose affiliates report cable modem connections) to report the extent to which cable modem connections are available to the residential end user premises to which the cable system offers cable television service. We adopt these requirements in order to obtain state-level ''availability'' estimates from the major providers of the broadband services with the greatest residential acceptance in the United States to date, to better enable us to monitor the extent to which these broadband platforms are available to all Americans, and to ascertain with more precision the pattern of competition between these platforms.

17. In response to commenter concerns, we modify the availability metric that we proposed in the *Data Collection NPRM* to conform more closely with the system-wide metrics with which cable system operators are generally familiar. By relying as much as possible on such industry practices, we believe that we can collect, in a minimally burdensome manner, more-detailed information about the extent to which the widely deployed and widely utilized cable modem and DSL infrastructures are available to potential residential end users in a minimally burdensome manner. We note that residential broadband connections in service in the United States are primarily cable modem or DSL connections. Because of the relatively small numbers of residential subscribers to broadband services that are provided by means of satellite, fixed wireless, mobile wireless, optical carrier, and other technologies, at this time, we do not require providers of those services to report availability estimates. We may, however, propose to do so in the future if circumstances warrant.

18. We also modify Form 477 to require all filers that report information about wired or fixed wireless broadband connections to end user locations to report technology-specific lists of the Zip Codes *in which at least one such connection is in service*. Specifically, we require separate such lists for connections provided by mean of asymmetric xDSL, symmetric xDSL, cable modem, optical carrier (fiber to the end user), satellite, terrestrial fixed wireless, electric power line, and (as a single category) other wireline technologies. With respect to mobile wireless broadband services, which are now beginning to be deployed commercially, we note that the end user of such a service must be within a broadband service coverage area to make use of the service, but may move around within and among coverage areas. Particularly during the initial stages of commercial deployment, moreover, there may be a mismatch between the billing addresses of some early-adopter subscribers, such as persons who travel frequently on business, and the physical locations where the subscriber can actually use the service. Because of the particular characteristics of mobile services, some have argued that CMRS providers should be completely exempt from reporting broadband data on Form 477. We disagree. Rather, we acknowledge that mobile broadband services differ in particular respects from fixed broadband services and make provision for such differences in this data collection. In particular, we specify that mobile wireless service providers will report the number of subscribers to their mobile wireless broadband services. And, we require, at this time, that filers reporting mobile wireless broadband subscribers on Form 477 also provide a list of Zip Codes that best represent the filer's mobile wireless broadband coverage areas. We observe mobile wireless broadband service providers using Zip Code-based information in their own marketing initiatives, and we conclude that providing such information on Form 477 will not be overly burdensome.

19. Finally, we note that various commenters argued that the Commission did not adequately identify and justify the need for the broadband (and local competition) reporting modifications proposed in the *Data Collection NPRM*. We disagree. In the *Data Collection NPRM*, we carefully noted justifications for gathering information about broadband deployment and local telephone competition in the Form 477. We also stated that additional information ''would be extremely useful'' in identifying and tracking relevant developments, particularly in rural areas. Moreover, in the context of broadband deployment, we specifically noted ''the emergence of competing platforms to deliver high-speed services, increasing data speeds of services offered, and a steady improvement in mass-market acceptance of services.'' Our discussion of changes to the current Form 477 was clearly tied to these observations, as well as to the Commission's experience with the Form 477. We have carefully reviewed the record developed in response to these proposals, and find that it supports extending the Form 477 program with the modifications adopted in this Order. We also draw attention to the Commission's statements in its most recent Report to Congress, pursuant to section 706 of the 1996 Act, regarding the availability of broadband services in the United States. In that Report, the Commission affirmed the need to track broadband deployment in sparsely served, rural areas, as well as the need to better track the developing consumer appetite for broadband services at speeds well in excess of the Commission's current minimum 200 kbps speed. We find that all of the Form 477 modifications proposed in the *Data Collection NPRM* and adopted here derive from these two basic concerns, as well as from regulatory mandates imposed by section 706 of the Telecommunications Act of 1996 and, more generally, by the Communications Act.

20. *Local Telephone Data.* Based on our review of the record in this proceeding and our experience with the Form 477, we adopt far fewer modifications to the local telephone data reported on the form. In fact, we adopt only two. First, we modify Form 477 to require LECs to report the extent to which they are also the end user's default interstate long distance carrier. We disagree with those commenters that argued such information is not relevant for monitoring local telephone service competition. As we noted in the *Data Collection NPRM*, consumers increasingly can choose among telephone service offerings that permit both local and long distance calling, often for a single price. Indeed, it appears to us that offering combinations of services at attractive prices appears to be an important, rapidly evolving way for providers to compete by providing potential end users more, and higher value, choices. It is important for us to more precisely understand how such

bundling affects the overall development of local telephone service competition.

21. Second, we modify Form 477 to require LECs to report their use of UNE loops to serve their own end-user customers separately from their use of UNE-Platform to do so. Because the current form does not require this distinction to be made, we are not able at this time to compare data and thereby evaluate, for accuracy and completeness, the information reported to us about the numbers of UNE loops and UNE-Platform *provided to* unaffiliated carriers. Therefore, we modify the form to require LECs to report the extent to which they provision voice-grade equivalent lines to their own local telephone service customers over their own local loop facilities (or the fixed wireless last-mile equivalent), over UNE loops obtained from an unaffiliated carrier without switching, over UNE-Platform, or by reselling another carrier's services (such as Centrex or special access) or facilities obtained under commercial arrangements.

22. Finally, to simplify the form and thus minimize reporting burdens where possible, we eliminate from the Form 477 several questions about local telephone service that, in our experience, have confused filers or otherwise have provided information of limited usefulness. Specifically, we eliminate current requirements that force LECs to: (1) Estimate the types of customers unaffiliated carriers serve by means of the lines and UNE arrangements the LEC provides; (2) report the extent to which they use local loop facilities they own and UNE loops they obtain from another carrier to provision the services the LEC provides to unaffiliated carriers for resale; and (3) report information related to ''collocation'' arrangements with unaffiliated carriers.

23. We also eliminate the current requirement that LECs report on the Form 477 information about special access circuits that they provide to unaffiliated carriers or to end users. (Filers' *use* of channelized special access circuits to provide local exchange service to their own end user customers will continue to be reflected in the Form 477 data, however.) The current Form 477 collects information about the number of special access circuits provided to unaffiliated carriers or end users irrespective of the capacity of those circuits (*e.g.*, DS1, DS3, OCn), which seriously limits the usefulness of these data in evaluating the extent of competition. We may, however, consider collecting more precise information about special access services in the future if circumstances warrant. Finally, we decide not to adopt the proposal in the *Data Collection NPRM* to require mobile telephone carriers to report the extent to which they are the default interstate long distance carrier for the mobile telephone subscribers they report.

24. *Other Issues.* We will retain our current policies and procedures regarding the confidential treatment of submitted Form 477 data, including the exclusive use of aggregated data in our published reports. Moreover, we have decided not to adopt a different approach with regard to historical data. Almost all commenters supported our current data protection policies, and most argued that even historical data remains competitively sensitive. We believe our current policies and procedures afford more than adequate protection to any entity submitting competitively sensitive information in the Form 477. We will continue, however, our current practice of publishing most of the local telephone information reported by the Bell operating companies after consultation with the individual companies.

25. Because filers submitting Form 477 data routinely assert that some or all such data are competitively sensitive, we see no need to continue to require them to provide a separate, redacted file. Accordingly, we eliminate that requirement. We expect that this action by itself will substantially reduce the reporting burden imposed on a large number of individual filers.

26. We also decide to retain our current policies and procedures regarding the sharing of Form 477 data with state commissions. Such data sharing only occurs where state entities formally declare to us that they are willing and able to treat submitted information subject to restrictions on data release that are at least as stringent as federal requirements. Commenters generally do not oppose continuing data-sharing arrangements on these terms.

27. Upon careful consideration of the record in this proceeding, we decline to adopt certain modifications proposed or discussed in the *Data Collection NPRM*. We decide not to modify Form 477 to require filers to categorize broadband connections according to information transfer rate (speed) that is actually observed by the end user of the broadband connection. The record of this proceeding does not identify a methodology or practice that currently could be applied, consistently and by all types of broadband filers, to measure the information transfer rates actually observed by end users. Moreover, we expect broadband service providers to be mindful of general consumer protection law and to advertise their services with sufficient accuracy to enable end users to select the offering—as distinguished by ''speed tier'' and other features—that best fits the end user's needs and budget.

28. We also decide not to require filers to report the number of broadband connections, by technology, in particular Zip Codes, or to report, for each Zip Code, any information about the number of connections provided in various ''speed tiers.'' Rather, by requiring filers to report technology-specific lists of broadband Zip Codes in the modified Form 477—and removing the reporting threshold to require all facilities-based broadband providers to report—we believe we will substantially enhance our ability to monitor the deployment of established and emerging broadband platforms. Moreover, the comments of several broadband providers asserted that developing the software and systems necessary to generate such Zip Code-level data would impose a large burden on the filer's financial and personnel resources, or would require a number of months to implement. Accordingly, we decline to require broadband providers to report this level of detail at this time. We continue to recognize, however, that the presence of reported subscribers in a Zip Code does not necessarily mean service is available throughout the Zip Code, and we may revisit our decisions about reporting detailed Zip Code-level data in the future. To this end, we direct the Wireline Competition Bureau to assess more fully the extent to which our Zip Code data adequately reflect the availability of service throughout a Zip Code and to report its conclusions in the next section 706 report.

29. Similarly, we also decide not to adopt at this time any additional requirements that were not specifically proposed in the *Data Collection NPRM*. For example, we decide not to require broadband providers to report information about the prices at which they offer broadband services to end users in particular Zip Codes, to require mobile telephone carriers to estimate the percentage of wireless subscribers that use their service as a replacement for traditional landline service, or to require entities to report data according to city boundaries. We are not convinced at this time that potential benefits derived from collecting these additional data outweigh their associated costs.

Procedural Matters

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Data Collection NPRM* (Notice). The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. The comments received are discussed below. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

I. Need for, and Objectives of, the Report and Order

2. The Commission initiated this rulemaking and made 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 the Spring of 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 decisions reached in this Order will further that goal while minimizing burdens on marketplace competitors and innovators, as well as small businesses.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. In the IRFA, we stated that we would seek to minimize the burden imposed on smaller entities by establishing requirements for reporting that balanced the needs of the Commission to receive data on the development of local competition and deployment of broadband against the burden such reporting places on smaller entities. In response to the Notice, the Commission received comments from 14 parties and reply comments from 7 parties. In addition, the Office of Advocacy, U.S. Small Business Administration (SBA), Verizon and the Vermont Public Service Department (VPSD) made *ex parte* presentations. Among those parties, only the SBA, the National Cable Television Association (NCTA), the National Telecommunications Cooperative Association (NTCA), and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) commented specifically on the IRFA. We note that many other commenters raised issues about the proposed rules and we encourage readers of this FRFA to consult the complete text of this Order, which describes in detail our analysis of commenter proposals.

4. In its *ex parte* presentation regarding the IRFA, the VPSD made recommendations to simplify the expanded Form 477 proposed in the Notice. In its *ex parte* presentation, SBA recommends that the Commission consider less burdensome alternatives for small carriers, such as simplifying the proposed Form 477 or establishing a ''short form or Form 477–EZ'' for small carriers previously exempt from reporting. OPASTCO stated that the Commission's estimated time to complete the proposed Form 477 of 15 hours is understated, and that the real number is 23 to 28 hours. NTCA agreed with OPASTCO and urged the Commission to develop a new Form 477 that will reduce the amount of information required from small carriers and take 30 minutes or less to complete. NTCA further stated that the lowering or removing of the current threshold exemption would result in an unwarranted burden on small carriers. NCTA further recommended that the Commission establish a new threshold of ''not lower than 100 broadband lines per state'' to reduce that burden, while at the same time achieving the Commission's objectives.

5. In an effort to balance the needs of the Commission with the costs our data gathering may place on smaller entities, the Commission has taken the suggestions of OPASTCO, NTCA and the SBA and simplified the Form 477 proposed in the Notice. By doing so, we will lessen the burden on all entities required to submit reports. We believe that these modifications satisfy SBA's request that we significantly reduce the burdens for those small entities that must comply. Moreover, we conclude that these modifications will allow the Commission to comply with Congress' charge in section 706 of the 1996 Act to determine whether advanced telecommunications capability, commonly known as ''broadband,'' is being deployed to *all* Americans. In order to gain the comprehensive understanding—as called for in section 706—of the broadband market, particularly in rural and inner-city areas and among demographic groups that are traditionally underserved, it is necessary to gather data from entities that are most likely to serve these areas and groups, which includes some smaller entities.

6. Among the other actions taken to reduce the overall burden on small entities, we retain the ''decoupled'' feature where the broadband and local competition reporting requirements are separate on the Form 477. Thus, we reduce reporting burdens on traditionally smaller providers by only requiring data that covers services they actually offer.

7. To further reduce the potential burden this data gathering program may place on smaller entities, we retain several of the time-saving and burden-reducing features of the original Form 477. Specifically, the report frequency remains semiannual. We still require carriers to report information about broadband connections and local telephone services on a state-by-state basis. To supplement this information, we ask providers of broadband connections and local exchange services to provide lists of the Zip Codes in which they serve at least one customer. Finally, we reaffirm that this reporting scheme continues to offer the best balance of our need to achieve geographically disaggregated information while minimizing burdens on all entities, including small entities.

8. Overall, we believe that our approach (*e.g.*, simplifying the form and retaining the burden-reducing features of the original Form 477) will result in a program that is not overly burdensome on reporting entities, and thus balances the concerns raised by SBA and other commenters with the Commission's need to gain a better understanding of developments in these markets.

III. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

9. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

10. 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, is 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.

11. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' 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.

12. *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.

13. *Incumbent Local Exchange Carriers (ILECs).* 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, 1,310 carriers reported that they were engaged in the provision of local exchange services. Of these 1,310 carriers, an estimated 1,025 have 1,500 or fewer employees and 285 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.

14. *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, 563 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 563 companies, an estimated 472 have 1,500 or fewer employees and 91 have more than 1,500 employees. In addition, 37 carriers reported that they were ''Other Local Exchange Carriers.'' Of the 37 ''Other Local Exchange Carriers,'' an estimated 36 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.

15. *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, 281 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 281 companies, an estimated 254 have 1,500 or fewer employees and 27 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.

16. *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.

17. *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.

18. *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.

19. *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.

20. *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.

21. *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.

22. *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.

23. *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.

24. *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.

25. 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.

26. *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.

27. *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.

28. *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.

29. *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.

30. *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. The license terms require the licensees to build their wireless facilities within ten years of the grant. As a result, more information on the licensees will become available in the year 2008, when the licensees are required to show the Commission that they have achieved substantial service as part of the application renewal process.

31. *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 Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

32. The Order extends the data collection for five years and adopts changes to the Form 477 that will affect reporting, recordkeeping, and other compliance requirements. The Order requires all facilities-based providers of broadband connections to end users to report broadband data, all LECs to report local telephone service data, and all mobile telephone carriers to report mobile telephone data. The other changes to the Form 477 are described below.

33. The Form 477 changes:

- Require cable systems that use (or whose affiliates or agents use) the cable system's own plant to provide broadband cable modem connections also to report a best estimate of the extent to which those connections are available to the residential end user premises to which the cable system offers cable programming service.
- Require ILECs that use (or whose affiliates or agents use) the ILEC's own telephone plant to provide broadband DSL connections also to report a best estimate of the extent to which those connections are available to the residential end user premises to which the ILEC provides local telephone service.
- 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. (In the current Form 477 program, filers report the percentage of connections that are faster than 2 mbps in both directions.)
- In place of the previous requirement that all filers report broadband connections over ''other traditional wireline including symmetric xDSL technology'' at the end user location, require filers to report broadband connections separately for ''symmetric xDSL'' and ''traditional wireline such as T-carrier'' technologies.
- Require filers to report Zip Code lists separately for asymmetric xDSL, symmetric xDSL, cable modem, optical carrier (fiber to the end user), satellite, terrestrial fixed wireless, terrestrial mobile wireless, electric power line, and (as a single category) other technologies. (In the current Form 477 program, filers report a single list of Zip Codes in which the filer has at least one subscriber to broadband service without indicating the type of technology used.)
- Require filers to estimate the percentage of reported broadband connections that have information transfer rates exceeding 200 kbps in both directions, and that connect to residential end user premises.
- 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 the extent to which they provide telephone service lines by reselling another carriers' services (such as Centrex or special access) or facilities obtained under commercial arrangements. (In the current Form 477 program, competitive LECs report their use of all types of UNEs together, and competitive LECs' use of resold service and facilities obtained under commercial arrangements must be estimated, as a residual, from other data they report.)
- Remove the requirement, in the current Form 477 program, that LECs must estimate the types of customers unaffiliated carriers serve by means of the services and facilities the LEC provides under ''Total Service Resale'' arrangements, other resale arrangements, or as unbundled network elements (UNEs).
- Remove the requirement, in the current Form 477 program, that LECs must report the extent to which they use local loop facilities that they own and UNE loops that they obtain from another carrier to provision the services they provide to unaffiliated carriers for resale.
- Remove the requirement, in the current Form 477 program, that LECs must report information related to their ''collocation'' arrangements with unaffiliated carriers.
- Require LECs report the extent to which they are also the end user's default interstate long distance carrier.

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

34. 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.

35. We have had the benefit of four year's experience since the adoption of the original Form 477 reporting program. Accordingly, in the Notice, we sought comment on ways that the Commission might improve this data gathering effort. The Notice asked 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 asked for 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 or 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 residential 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.

36. The Notice asked 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 requested that parties identify with specificity any associated burdens. The Notice similarly asked 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 stated 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.

37. In the Order, we take several significant steps to minimize the burdens of reporting broadband information on small entities. First, we simplify the new Form 477 from the one proposed in the Notice. We expect that this simplification will reduce the time and administrative burden to all carriers, including small entities. Next, we eliminate the proposed requirements for carriers to report the number of broadband connections, by technology, in particular Zip Codes, or to report, for each Zip Code, any information about the number of connections provided in various ''speed tiers.''

38. In this Order, we also take several significant steps to minimize the burdens of reporting local telephone service data. We do this by eliminating several reporting requirements of the original Form 477. In the new and simplified Form 477, LECs are no longer required to report information about how they provision the wholesale local telephone service connections that they report they provide to unaffiliated carriers. Also, we no longer require LECs to report information about how they provision unbundled network elements (UNEs) that they report they provide to unaffiliated carriers. We will also no longer require LECs to report information about special access circuits that they provide. To the extent that carriers (*e.g.*, competitive LECs) obtain special access circuits, or private line circuits, from unaffiliated LECs and use them to provision switched access lines to their own end-user customers, however, they will continue to include, in their own Form 477 filings, the switched access lines that they provision in this manner.

39. To further simplify the filing process and reduce the administrative burdens on all carriers, we will no longer require filers to provide a separate, redacted file when the filer requests confidential treatment of reported data. The new and simplified Form 477 promulgated by this Order will continue to enable filers to request confidential treatment of their data by using a drop-down box located on the first page of the Form 477 to indicate that claim. Then, if the Commission receives a request for, or proposes the disclosure of, information reported on that particular Form 477, the filer will be notified and afforded the opportunity to make the necessary showing that the data should not be disclosed. We will continue the current practice of releasing only aggregated broadband information in our published reports to protect against release of filer-specific information directly or indirectly, as might occur, for example, if published aggregates could be compared to redacted files.

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

40. The FCC Form 477 promulgated in this Order 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 high-speed connections to end users in a particular state, and the requirement to report cable-telephony lines applies when the holding company provides local telephone service lines in a particular state. Form 325 collects information based on operations as of a typical day in the last full week of June. Form 477 collects data as of June 30 and December 31. In the new Form 477 promulgated by this Order, facilities-based providers 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 pursuant to section 706 of the Telecommunications Act of 1996, 47 U.S.C. 157nt, this ORDER, with all attachments, is hereby adopted.

The rules in this document contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

It is further ordered that providers subject to the requirements and regulation established in this Order shall complete and file the amended Local Telephone Competition and Broadband Reporting Form (FCC Form 477) no later than September 1, 2005, and semiannually thereafter.

It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of the Local Telephone Competition and Broadband Reporting ORDER, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

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 through 8 of this Cover Page. **Data as of:** June 30, 2005

Review Instructions before completing this form. Instructions are posted at:
http://www.fcc.gov/Forms/Form477/477instr.pdf

1. Company.

2. Filers must report data for ILEC and non-ILEC operations on separate forms.
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

3. 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).

4. Filers must report data for different states in separate forms.
State. Click and select from drop-down list

5. Contact person (person who prepared the data contained below).

6. Contact person telephone number and email address.
Phone.
Email.

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

8. 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

Reminders:

1) Ensure files are virus free by using up-to-date virus detection software. Filers are encouraged to submit files via email (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 June 30, 2005). 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. Filers will be required to correct and resubmit any files that cannot be opened in EXCEL2002, any files whose structure has been altered, and any files with improper names.

4) If you have questions about the form, contact the Wireline Competition Bureau, Industry Analysis and Technology Division at (202) 418-0940; via email 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) 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 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#J05name.XLS

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

OMB NO: 3060-0816

EXPIRATION DATE: __/__/____

Complete Part I.A if you provide one 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", "own local loop facilities", and "residential end user premises".

If you complete Part I.A, you must provide in Part V specified lists of 5-digit Zip Codes. See Instructions.

Do not report anywhere in the form any high-capacity connections between two locations of the same end user customer, ISP or communications carrier.

Data as of June 30, 2005

I.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									
		(b)	(c)	(d)	That have information transfer rates exceeding 200 kbps in both directions, and: (e)	(f)	(g)	(h)	(i)	(j)
	Total connections to end users (information transfer rates exceeding 200 kbps in at least one direction)	Provided to residential end user premises	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	Provided to residential end user premises	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. Traditional wireline such as T-carrier.										
I - 4. Cable modem.										
I - 5. Optical carrier (fiber to the end user).										
I - 6. Satellite.										
I - 7. Terrestrial fixed wireless (licensed or unlicensed).										
I - 8. Terrestrial mobile wireless (licensed or unlicensed).										
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.A, report actual counts of connections. Do not report voice-grade equivalent measures.

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

Complete Part I.B **ONLY IF** you are an ILEC (or an affiliate of an ILEC) that is reporting asymmetric or symmetric xDSL connections in Part I.A **OR** you are a cable system (or an affiliate of a cable system) that is reporting cable modem connections in Part I.A.

For the purposes of completing Part I.B:

(1) "Residential end user premises" include residential living units, individual living units in such institutional settings as college dormitories and nursing homes, and other end user locations to which you (including affiliates and agents) market broadband services that are primarily designed for residential use.

(2) The "service area" of an ILEC consists of those residential end user premises to which the ILEC can deliver telephone service over local loop facilities (or the fixed-wireless last mile equivalent) that it owns.

(3) The "service area" of a cable system consists of those residential end user premises to which the system can deliver cable service over cable plant that it owns.

		(a) Estimated % of residential end user premises
I.B.	Report your best estimate of the percentage of residential end user premises in your service area, in this state, to which your broadband connections could be provided using installed distribution facilities.	
I - 11.	Providers of xDSL (asymmetric or symmetric) connections should base responses on the service area of the affiliated ILECs.	
I - 12.	Providers of cable modem connections should base responses on the service area of the affiliated cable systems.	

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 provided one 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 about including lines provisioned over channelized high-capacity facilities, including PRI circuits used to provide local connectivity to dial-up ISPs. Also see Instructions for definitions of "voice telephone service", "voice-grade equivalent", "end user", "residential lines", "default interstate long distance carrier", "own local loop facilities", and "UNE-Platform".

If in Part II you report voice-grade equivalent lines or voice-grade equivalent wireless channels for service provided to end users, you must provide in Part V a list containing the 5-digit Zip Codes of the locations to which you provide those lines or channels. See Instructions.

Do not report anywhere in the form special access lines or any high-capacity connections between two locations of the same end user customer, ISP or communications carrier. Note that competitive LECs (CLECs) typically do not provide either Total Service Resale or UNE arrangements. Therefore, on Line II-3 of Part II, CLECs typically report any wholesale switched voice lines and channels sold to unaffiliated communications carriers.

Data as of June 30, 2005

	(a) Total voice-grade equivalent lines and voice-grade equivalent wireless channels in service	Percentages of lines and wireless channels reported in (a)								
		(b) Residential lines	(c) For which you (including affiliates) are the default interstate long distance carrier	(d) Residential lines 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 service (including Centrex/Centron or channelized special access service)	(i) Provided over coaxial cable at the end user premises ("cable telephony")	(j) Provided over fixed wireless at the end user premises
II.A. Voice telephone service provided to end users.										
II - 1. Total lines and channels you provided to end users.										
II.B. Voice telephone service that you provided to unaffiliated communications carriers, categorized by:										
II - 2. Lines and channels you provided to unaffiliated communications carriers under Total Service Resale arrangements.										
II - 3. Lines and channels you provided to unaffiliated communications carriers under other resale arrangements, such as resold Centrex or resold channelized special access service.										
II.C. UNE loops that you provided to unaffiliated communications carriers, categorized by:	Total lines and wireless channels									
II - 4. Lines and channels that you provided to unaffiliated communications carriers under a UNE loop arrangement, where you did not provide switching for the line.										
II - 5. Lines and channels that you provided to unaffiliated communications carriers under a UNE loop arrangement, where you also provided switching for the line ("UNE-Platform").										

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 serve one or more mobile voice telephony subscribers in the state over your own facilities. See Instructions for definitions of "mobile voice telephony subscribers" and "own facilities".

Data as of June 30, 2005

	(a) Network telephone service subscribers	(b) Percentage of subscribers reported in (a) that are directly billed or pre-paid subscribers
III.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 and 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

BILLING CODE 6712-01-C

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

OMB NO: 3060-0816

EXPIRATION DATE: __/__/____

Filers reporting broadband connections (Part I) must supply lists of the 5-digit Zip Codes in which the filer provided each type of broadband connection reported in Part I, **except that**: (1) filers reporting mobile wireless broadband connections must report in column (g) the Zip Codes that best represent the "coverage area" in which the filer's mobile wireless broadband service was deployed and offered for sale to end users; and (2) the traditional wireline and other categories are combined in column (i).

Filers reporting voice telephone service provided to end users (Line II-1 of Part II) must provide in column (j) a list of the Zip Codes in which the filer provided such service.

V - 1. 5-digit Zip Codes, in the state, that are associated with the information reported in Part I and Part II, as specified herein. (Do not provide customer counts by Zip Code.)

Data as of June 30, 2005

	Broadband connections reported in Part I									Telephone service reported in Part II
	(a) Asymmetric xDSL	(b) Symmetric xDSL	(c) Cable modem	(d) Optical carrier (fiber to the end user)	(e) Satellite	(f) Terrestrial fixed wireless	(g) Terrestrial mobile wireless	(h) Electric power line	(i) Other including traditional wireline	(j) Wireline and fixed wireless exchange telephone
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FCC Form 477, Instructions for September 1, 2005 Filing (of data as of 6/30/05)

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

Estimated Average Burden Hours Per Response: 10 Hours.

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

I. Purpose

FCC Form 477 collects information about broadband connections to end user locations, and about wired and wireless local telephone services, in individual states. The term ''state'' includes the District of Columbia and the ''Territories and possessions'' (*see* 47 U.S.C. 153(40)). Data obtained from this form will be used to describe the deployment of broadband infrastructure and competition to provide local telecommunications services. *See Local Telephone Competition and Broadband Reporting*, Report and Order, FCC 04–266 (rel. Nov. 12, 2004) for additional information about this data collection.

II. Who Must File This Form?

Three types of entities must file this form. For purposes of this information collection, the term ''entity'' (and synonyms used in these instructions) includes all commonly-controlled or commonly-owned affiliates. (*See* 47 U.S.C. 153(1) (establishing a 10 percent equity interest, or the equivalent thereof, as indicia of ownership.))

- Facilities-based Providers of Broadband Connections to End User Locations: Entities that are facilities-based providers of broadband connections—which, for purposes of this information collection, are wired ''lines'' or wireless ''channels'' that enable the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction—must complete and file the applicable portions of this form for each state in which the entity provides one or more such connections to end user locations. For the purposes of Form 477, an entity is a ''facilities-based'' provider of broadband connections to end user locations if it owns the portion of the physical facility that terminates at the end user location, if it obtains unbundled network elements (UNEs), special access lines, or other leased facilities that terminate at the end user location and provisions/equips them as broadband, or if it provisions/equips a broadband wireless channel to the end user location over licensed or unlicensed spectrum. Such entities include incumbent and competitive local exchange carriers (LECs), cable system operators, fixed wireless service providers (including ''wireless ISPs''), terrestrial and satellite mobile wireless service providers, MMDS providers, electric utilities, municipalities, and other entities. (Such entities do not include equipment suppliers unless the equipment supplier uses the equipment to provision a broadband connection that it offers to the public for sale. Such entities also do not include providers of fixed wireless services (*e.g.*, ''Wi-Fi'' and other wireless ethernet, or wireless local area network, applications) that only enable local distribution and sharing of a premises broadband facility.) For such entities, the applicable portions of the form are: (1) The Cover Page; (2) Part I; (3) Part IV (if necessary); and (4) The relevant portion(s) of Part V.
- Providers of Wired or Fixed Wireless Local Telephone Services: Incumbent and competitive LECs must complete and file the applicable portions of the form for each state in which they provide local exchange service to one or more end user customers (which may include ''dial-up'' ISPs). For such entities, the applicable portions of the form are: (1) The Cover Page; (2) Part II; (3) Part IV (if necessary); and (4) Column (j) of 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 one or more mobile telephony subscribers. A mobile telephony service is a 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. A mobile telephony service provider is considered ''facilities-based'' if it serves a subscriber using spectrum for which the entity holds a license, that it manages, or for which it has obtained the right to use via lease or other arrangement with a Band Manager. For such entities, the applicable portions of this form. The applicable portions of the form are: (1) The Cover Page; (2) Part III; and (3) Part IV (if necessary).

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 Must Complete the Cover Page)

Line 1: Provide the name of the company or operations whose data are reported in this form. (If the filer has a holding company or other controlling entity with a different name, that controlling entity's name must be reported in Line 3 of the Cover Page.)

Line 2: Use the drop-down box to indicate whether the data in this form are for incumbent LEC (ILEC) operations or for non-ILEC operations. (Data for affiliated operations in a single state may be combined in a single form, except that filers may not combine data for ILEC operations with data for non-ILEC operations.)

Line 3: Use the drop-down box to select the single name, such as a holding company name, that identifies all commonly-owned or commonly-controlled entities that are filing Form 477. (If the appropriate name is not included in the provided list, enter the appropriate name in the space provided. If you have no holding company or other controlling entity, enter in Line 3 the same name as you entered in Line 1 of the Cover Page.)

Line 4: Use the drop-down box to select the state for which data are reported in this form. (You may not combine, in a single form, data for operations in more than one state. For example, the only data that may be reported in a ''headquarters state'' form are data for operations within that specific state.)

Line 5: Provide a contact name for the person who prepared this filing.

Line 6: Provide the telephone number and e-mail address for the contact person listed in Line 5 of the Cover Page.

Line 7: Use the drop-down box in Line 7 to indicate whether this filing is an original or a revised filing. (You must file a revised form if you discover mistakes as specified in Section IV.D. of these instructions.)

Line 8: Use the drop-down box to indicate whether you request non-disclosure of information reported in this form. You may request non-disclosure if you believe some or all of the information reported in this form is privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the filer.

B. Part I.A: Broadband

Include in Part I.A: In Part I.A., facilities-based providers of broadband connections to end user locations report information about those connections. See page 1 of these instructions for definitions of facilities-based provider and broadband connection. 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 broadband connections reported in Part I.A. may be billed by the filer (including affiliates), by an agent of the filer, or by an unaffiliated entity. In categorizing lines as ''broadband,'' filers should consider the end user's authorized maximum information transfer rate (speed) on that connection. Do not convert into voice-grade equivalent measures any connections reported in Part I.A.

Exclude in Part I.A: Exclude subscribership connections for cable television service and other multi-channel video programming service; video-on-demand type service unless it is bundled with Internet-type access or uses Internet-type delivery protocols; and services that do connect to the Internet but restrict the end user to both transmitting data to the Internet and receiving data from the Internet at information transfer rates (speeds) of 200 kbps or less. Exclude connections between two locations of the same business or other end user entity (such as point-to-point connections within private or semi-private data networks or corporate telephone systems). Exclude high-capacity connections between network components within the public switched telephone network or the Internet (note that such connections do not terminate at an end user location). Exclude in Part I.A. high-capacity dedicated connections (special access circuits) between end users and interexchange (telephone) carrier points of presence.

Lines in Part I.A

Report broadband connections to end user locations on Lines A.I–1 through A.I–10 based on the technology employed by the part of the connection that actually connects to the end user location. If different technologies are used in the two directions of information transfer (downstream and upstream), report the connection in the technology category for the higher-rate direction. Count only connections that are in service, including connections over which you (including affiliates or agents) provide an Internet-access service to the end user and connections 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 connections provided over asymmetric xDSL technologies. Do not convert these connections into a voice-grade equivalent measure.

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

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

Line A.I–4: Report the number of cable modem connections. Do not convert these connections into a voice-grade equivalent measure.

Line A.I–5: Report the number of broadband connections provided over optical carrier terminations at the end-user premises. (Note that broadband connections that are provisioned over optical fiber facilities used elsewhere in the network should not be reported in this category. For example, connections 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 connections into a voice-grade equivalent measure.

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

Line A.I–7: Report the number of broadband connections provided over terrestrial fixed wireless facilities (whether provisioned/equipped over licensed spectrum or over spectrum used on an unlicensed basis). Do not convert these connections into a voice-grade equivalent measure. (Do not report those fixed wireless services (*e.g.*, ''Wi-Fi'' and other wireless ethernet, or wireless local area network, applications) that only enable local distribution and sharing of a premises broadband facility.)

Line A.I–8: Report the number of subscribers to broadband services provided over terrestrial mobile wireless facilities (whether provisioned/equipped over licensed spectrum or over spectrum used on an unlicensed basis). Terrestrial wireless broadband providers should report the number of end users whose mobile devices, such as wireless modem laptop cards, smartphones, or handsets, are capable of sending or receiving data at speeds in excess of 200 kbps and whose billing addresses are within the areas of terrestrial mobile wireless broadband availability as reported in Part V.

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

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

Columns in Part I.A

General Note about Reporting Percentage Breakouts: Parts I, II, and III of Form 477 direct filers to provide percentage breakouts for specific counts of connections. 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 end users, then billing information may be used to estimate the percentage of connections provided to such end users. 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 connections as described in each of Lines A.I–1 through A.I–10, above.

Column (b): Report the percentage of total connections reported in column (a) that are residential connections in the

sense that these connections are used to deliver Internet-access services that are primarily purchased by, designed for, and/or marketed to residential end users. (Such Internet-access services may differ in price, ''speed tier,'' and other features from Internet-access services that are primarily purchased by, designed for, and/or marketed to non-residential end users.)

Column (c): Report the percentage of total connections reported in column (a) that are provided over your own local loop facilities, or the wireless last-mile equivalent. Your own such facilities include wired local loop facilities that you (including affiliates) owned, wireless connections to end user locations that you (including affiliates) have provisioned/equipped over spectrum that you use on an unlicensed basis or over 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 connections to end users 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 connections reported in column (a) that are billed (or incorporated in a service billed) to end users by the filer (including affiliates) or its 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 connections that carry information, at the end user location, at information transfer rates exceeding 200 kbps in both directions. In categorizing broadband connections in this manner, filers should consider the end user's authorized maximum information transfer rate (speed) on that connection.

Column (e): Report the percentage of total connections 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 residential connections in the sense that they are used to deliver Internet-access services that are primarily purchased by, designed for, and/or marketed to residential end users. (As noted in the instructions for column (b), above, such Internet-access services may differ in price, ''speed tier,'' and other features from Internet-access services that are primarily purchased by, designed for, and/or marketed to non-residential end users.)

Column (f): Report the percentage of total connections 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 connections 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 connections 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 connections 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 connections 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 (continued)

Incumbent LECs that report xDSL (asymmetric or symmetric) connections in Part I.A (or whose affiliates report such connections) must complete Line B.I–11. Cable system operators that report cable modem connections (or whose affiliates report such connections) in Part I.A. must complete Line B.I–12.

Line B.I–11: Of those residential end user premises in this state to which you (including affiliates) can deliver telephone service over local loop facilities that you own (or over the fixed wireless last-mile equivalent), report your best estimate of the percentage of premises to which broadband (asymmetric or symmetric) xDSL service is also available from you (or your affiliate, or an agent of you or your affiliate) over those facilities.

Line B.I–12: Of those residential end user premises in this state to which you (including affiliates) can offer cable television service over cable plant that you own, report the best estimate of the percentage of premises to which broadband cable modem service also is available from you (or your affiliate, or an agent of you or your affiliate) over that plant.

Residential 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. For the purposes of this data collection, residential end user premises also include other end user locations to which you (including your affiliates and agents) market broadband services that are primarily designed for residential use.

Guidance on generating a ''best estimate': Rather than setting out detailed methodologies to which filers must adhere in reporting information in Part I.B., we intend to rely on current ''best practices'' in the local exchange and cable television industries to provide us with carefully considered estimates. Filers should note the following points. (1) The reported estimate of xDSL or cable modem 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 xDSL or cable modem service. (2) 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 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 Telephone

Include in Part II: Report lines or wireless channels (hereafter, ''lines'') that you (including affiliates) use to provide voice telephone service in this state. For purposes of this data collection, ''voice telephone service'' means 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). See ''Note for reporting channelized service,'' below.

Exclude in Part II: Do not report in Part II lines not yet in service, lines used for interoffice trunking, company official lines, lines used for special access service, or lines that were reported in Part I of this form. Do not report in Part II any lines that connect two locations of the same end user customer, ISP, or communications carrier. Where you are already reporting the portion of a circuit between the end user and your switching center, do not separately count the portion of that circuit between your switching center and a circuit switched, Internet protocol, or ATM network, irrespective of whether you multiplexed the circuit onto a higher-capacity facility between your switching center and that network. Note for reporting channelized service: In Part II.A and Part II.B, providers must 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. Count fully-channelized PRI circuits (including PRIs that are used exclusively to provide local connectivity to ''dial-up'' ISPs) as 23 voice-grade equivalent lines. But report, for example, 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, however, report 24 voice-grade equivalent lines. In Part II.C, however, any high-capacity UNEs should not be reported in voice-grade equivalents. UNEs should be reported as actual circuit counts. Note for competitive LECs providing local exchange service over hybrid fiber-coaxial cable systems: If you cannot determine the number of lines from your records, you may report the number of subscribers.

Lines in Part II

In Line A.II–1 (service provided to end users) and Lines B.II–2 through B.II–3 (service provided to unaffiliated carriers for resale), report voice-grade equivalent lines used to provide voice telephone service. See ''Note for reporting channelized service,'' above.

Line A.II–1: Report total voice-grade equivalent lines that you (including affiliates and agents) provided—that is, billed—directly to end users. 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. (For example, a ''dial-up'' ISP may purchase channelized PRI circuits so that its customers can reach it *via* a local telephone call.)

Line B.II–2: Report total voice-grade equivalent local telephone service lines that 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 local telephone service lines that you provided to unaffiliated telecommunications carriers under other arrangements, such as Centrex/Centron or special access service, that provide the unaffiliated carrier with a connection to the end user premises and enable the unaffiliated carrier to provide local telephone service to the end user.

In Lines C.II–4 and C.II–5, report counts of circuits. Do not convert circuits to voice-grade equivalent measures.

Line C.II–4: Report the number of circuits you provided to unaffiliated telecommunications carriers under an unbundled network element (UNE) loop arrangement, where you do not provide switching for that circuit. Do not convert any high capacity circuits provided under such UNE arrangements into voice-grade equivalent measures.

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

Columns in Part II

Column (a): For Lines A.II–1 through B.II–3, report voice-grade equivalent lines used to provide voice telephone service, as defined above. For Lines C.II–4 and C.II–5, report the number of circuits (*i.e.*, not the voice-grade equivalent of those circuits).

Columns (b)–(j): Complete columns (b)–(j) for Line A.II–1. See also ''General note about reporting percentage breakouts,'' above.

Column (b): Report the percentage of the lines reported in column (a) that are used for residential service. Include lines provided to shared-tenant service providers in apartment buildings and similar residential settings. ILEC filers may report based on the percentage of lines reported in column (a) that are tariffed residential lines, with an appropriate adjustment for lines provided under shared-tenant service arrangements. Carriers that do not have separate residential tariffs or price lists should use marketing or other information about the demographic characteristics of the areas they serve to develop a comparable estimate, or should undertake a limited special study.

Column (c): 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 (d): Report the percentage of the lines reported in column (a) that are used for residential service (as specified in the instructions for column (b), above) and for which you (including affiliates) are the default interstate long distance carrier (as specified in the instructions for column (c), above).

Column (e): Report the percentage of the lines reported in column (a) that are provided over your own local loop facilities connecting to the end user's premises. Count as your own such facilities, those wired local loop facilities you (including affiliates) own, those facilities you obtain the right to use from unaffiliated entities as dark fiber or satellite transponder capacity (and that you use as part of your own system), those fixed-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, or those fixed-wireless connections that are deployed over spectrum that you use on an unlicensed basis. Do not include, in column (c), lines provided over UNE loops, special access lines, or other leased lines 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 that you 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) that you obtained from an unaffiliated carrier.

Column (h): Report the percentage of lines reported in column (a) that are provided by reselling a telecommunications service (such as Centrex/Centron or special access) that you obtained from an unaffiliated carrier, or by using facilities that you obtained from an unaffiliated carrier under a commercial arrangement.

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

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.

F. Part IV: Explanations and Comments

Filers that must report: If there is a non-zero entry in column (a) of Line A.I–10 of Part I of a form, 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 of the form.

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

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.A, or at least one of the voice-grade telephone service lines provided to end users reported in Part II, Line II.A–1. Do not report line counts or subscriber counts by Zip Code.)

Column (a)–(i): 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 at least one of the broadband connections reported in Part I is in service—except that the Zip Codes reported in column (g) should be the Zip Codes in the state in which the mobile wireless broadband service provider's service is advertised and available to actual and potential subscribers.

Column (j): If you file local telephone service information in Part II, Line II.A–1, you must provide a list of Zip Codes in the state in which you have end user customers for your voice telephone service. (See the definition of ''voice telephone service,'' above.) Providers of mobile telephony services that report data in Part III should not report this Zip Code information.

Note: Zip Code lists reported in a form should be reviewed prior to filing to eliminate any out-of-state Zip Codes (such as may appear in Zip Code lists generated directly from billing databases).

IV. General Information

A. Where and When to File

1. When to File

- 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 (6/30/05 data), name of filer, 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 irradiation can damage compact discs and floppy diskettes, filers are encouraged to submit Form 477 using one of the following three alternatives—preferably e-mail. (Use only one filing method; do not make duplicate filings. A filer who is unable to use one of the following delivery methods should contact the Industry Analysis and Technology Division, Wireline Competition Bureau, at (202) 418–0940 or via TTY at (202) 417–0484.)

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 may use a zip utility to compress them. The subject field of the e-mail should contain the

phrase: FCC Form 477 due 9/1/05. If multiple e-mails must be sent, the subject line should so indicate; for example: FCC Form 477 due 9/1/05 (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).

Note: Because the specific requirements for overnight, hand, or messenger delivery may change, you may want to consult the Office of the Secretary (www.fcc.gov/osec) for the most current information.

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 *www.fcc.gov/formpage.html* or by purchase from the FCC's duplicating contractor, Best Copy and Printing, Inc. at (202) 488–5300, facsimile (202) 488–5563, or through *www.bcpiweb.com.* Form 477 will be updated for each filing round, 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 Excel 2002 format. It contains drop-down boxes and some edit checks. Once you complete a filing, name the file in accordance with instructions provided below.

Note: 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. 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, where:

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

T is a single character that indicates whether the file contains incumbent LEC (ILEC) data or non-ILEC data (which must be filed separately) and whether the file contains revised data. Select the appropriate code from the following list:

A = original filing for non-ILEC operations
B = original filing for ILEC operations
C = revised filing for non-ILEC operations
D = revised 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 September 1, 2005, reported data will be as of June 30, 2005, so 2005 = 05).

name is the company name identified on Line 1 of the Cover Page of Form 477.

Example: NCB1J05BellSouth.xls

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

Filers may submit a request that information on Form 477 not be made routinely available for public inspection by so indicating on Line 8 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).

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 re-filed. For percentages, a difference of 5 percentage points is significant and must be re-filed. Revisions should consist of a certification statement and one or more electronic files. Carriers should re-file all data for a state if one or more data element must be revised. A re-filed 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 of these instructions.

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 8 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: _____ TELEPHONE: _____

SIGNATURE: _____ E-MAIL: _____

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 connections: Lines (or wireless channels) that terminate at an end user location and enable the end user to receive information from and/or send information to the Internet 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 Part I of Form 477, an Internet Service Provider (ISP) is not an ''end user'' of a broadband connection.

Facilities-based broadband provider: A provider of broadband connections to end user locations that owns the portion of the physical facility that terminates at the end user location, obtains unbundled network elements (UNEs), special access lines, or other leased facilities that terminate at end user locations and provisions/equips them as broadband, or provisions/equips broadband wireless channels to end user location over licensed spectrum or over spectrum that the provider uses on an unlicensed basis.

Local loop: For purposes of this data collection, the ''last mile'' facilities (either wired facilities or the wireless equivalent) 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.

Own local loop facilities: Those wired local loop facilities that the filer (including affiliates) actually owns as well as facilities that the filer obtains the right to use from unaffiliated entities as dark fiber or satellite transponder capacity (and that the filer uses as part of its own system). Also, for purposes of Part I of Form 477, broadband wireless connections to end user locations that the filer provisions/equips as broadband over licensed spectrum or over spectrum that the filer uses on an unlicensed basis. For the purposes of Part I of Form 477, this term does not include unbundled network elements (UNEs), special access lines, or other leased lines that the filer obtains from an unaffiliated entity and equips as broadband.

Residential broadband connection: For the purposes of Part I of Form 477, broadband connections of a type (as indicated by, *e.g.*, price, ''speed,'' or other features) that is primarily purchased by, designed for, and/or marketed to residential end users.

Residential 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 other end user locations to which you (including affiliates and agents) market broadband services that are primarily designed for residential use.

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 wired local loop facilities that the filer (including affiliates) actually owns as well as facilities that the filer obtains the right to use from unaffiliated entities as dark fiber or satellite transponder capacity (and that the filer uses as part of its own system). Also, for purposes of Part II of Form 477, fixed wireless voice-grade channels to end user locations that the filer provisions/equips over licensed spectrum or over spectrum that the filer uses on an unlicensed basis. For the purposes of Part II of Form 477, the term does not include voice-grade channels to end user premises that the filer provisions over UNE loops, special access lines, or other leased lines that the filer obtains from an unaffiliated carrier.

Residential lines: Lines provided to residential end user premises. Also includes any lines the filer provides to a shared-tenant service provider in an apartment building or similar residential setting.

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 connected to facsimile equipment or lines used occasionally or exclusively for ''dial-up'' connection to the Internet).

Part III: Mobile Local Telephone

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. No. 104–13, 44 U.S.C. 3501, *et seq.*

Our legal right to ask for this information is § 1.7000–1.7002, 20.15, 43.01, 43.11 of the 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, 10 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 Form 477 in a timely fashion may be subject to penalties under the Communications Act, including sections 502 and 503(b).

List of Subjects in 47 CFR Parts 1, 20 and 43

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

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 1, 20, and 43 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 is revised to read as follows:

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, and 303(r).

■ 2. Section 1.7001 is amended by revising paragraph (b) to read as follows:

§ 1.7001 Scope and content of filed reports.

* * * * *

(b) All commercial and government-controlled entities, including but not limited to common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)), cable television companies, Multichannel Multipoint Distribution Service (MMDS/MDS) ''wireless cable'' carriers, other fixed wireless providers, terrestrial and satellite mobile wireless providers, utilities and others, which are facilities-based providers, shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they provide service.

* * * * *

PART 20—COMMERCIAL MOBILE RADIO SERVICES

■ 3. The authority citation for part 20 is revised to read as follows:

Authority: 47 U.S.C. 154, 157, 160, 251–254, 303, and 332 unless otherwise noted.

■ 4. Section 20.15 is amended by revising paragraph (b)(1) to read as follows:

§ 20.15 Requirements under Title II of the Communications Act.

* * * * *

(b) * * *

(1) File with the Commission copies of contracts entered into with other carriers or comply with other reporting requirements, or with §§ 1.781 through 1.814 and 43.21 of this chapter; except that commercial radio service providers that offer broadband service, as described in § 1.7001(a) of this chapter or mobile telephony are required to file reports pursuant to §§ 1.7000 and 43.11 of this chapter. For purposes of this section, *mobile telephony* is defined as real-time, two-way switched voice service that is interconnected with the public switched network utilizing an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

■ 5. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

■ 6. Section 43.11 is amended by revising paragraph (a) to read as follows:

§ 43.11 Reports of local exchange competition data.

(a) All common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)) providing telephone exchange or exchange access service (as defined in 47 U.S.C. 153 (16) and (47)) or commercial mobile radio service (CMRS) providers offering mobile telephony (as defined in § 20.15(b)(1) of this chapter) shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they provide service.

* * * * *

[FR Doc. 04–28415 Filed 12–28–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 15, 27, 87 and 97

[ET Docket No. 00–258; WT Docket No. 02–8; FCC 04–246]

Advanced Wireless Services

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document facilitates the introduction of Advanced Wireless