(2) An included contract in an umbrella product shall not be amended, unless the amendment remains functionally equivalent to the baseline agreement.

(e) Special rules regarding non-published rates products.

(1) A non-published rates contract template shall not be amended.

(2) An included contract in a non-published rates product shall not be amended, except to:

(i) Change the customer's name to recognize a change to the legal name of the customer;

(ii) Change the customer's address;

(iii) Change the name of any individual identified in the contract;

(iv) Change notice information;

(v) Make rate changes provided that the rates to be charged equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking;

(vi) Extend the included contract's expiration date provided that the rates to be charged equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking;

(vii) Select an alternative optional provision available in the contract template.

(3) An amendment to an existing included contract will take effect without Commission further approval upon filing with the Commission of the notice specified in paragraph (c)(1) of this section.

(f) Special rules regarding standardized distinct products.

(1) A request to amend a standardized distinct product is reviewed in an NSA summary proceeding.

(2) An amendment to an existing standardized distinct product may take effect upon filing with the Commission without Commission approval if:

(i) The Postal Service files the notice specified in paragraph (c)(1) of this section; and

(ii) The amendment modifies the existing standardized distinct product in one or more of the following ways:

(A) Changing the customer's name to recognize a change to the legal name of the customer;

(B) Changing the customer's address;

(C) Changing the name of any individual identified in the contract;

(D) Changing notice information;

(E) Extending the standardized distinct product's expiration date provided that the rates to be charged equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking; or

(F) Implementing changes to rates provided that such changed rates equal or exceed the current minimum rates approved by the Commission in the applicable streamlined-option rulemaking.

(g) Special rules regarding a request to amend a negotiated service agreement to extend the expiration date of the negotiated service agreement.

1. A request to amend a negotiated service agreement to extend the expiration date of the negotiated service agreement must be submitted in accordance with § 3041.515.

2. A proceeding considering a request to amend a negotiated service agreement to extend the expiration date of the negotiated service agreement is not a public proceeding.

(h) When a general rule conflicts with a special rule in this section, the special rule shall take precedence.

§ 3041.510 Renewals of competitive negotiated service agreements.

(a) A renewal of a negotiated service agreement is deemed a new negotiated service agreement.

(b) A renewal of a competitive negotiated service agreement will be added to the competitive product list pursuant to the applicable rules for adding a new negotiated service agreement to the competitive product list.

§ 3041.515 Extensions

(a) A negotiated service agreement may be extended prior to its expiration date upon one of the following:

1. Timely filing of notice with the Commission of the valid exercise of an extension right in the negotiated service agreement; or

2. Approval by the Commission of a timely filed amendment extending the expiration date of the negotiated service agreement.

(b) For the purposes of paragraph (a) of this section, a notice or amendment is timely filed if it is filed at least 10 days prior to the expiration of the negotiated service agreement.

(c) Upon expiration, a negotiated service agreement shall be removed automatically from the competitive product list.

(d) No negotiated service agreement shall remain on the competitive product list following its expiration. An expired negotiated service agreement shall not be extended retroactively.

(e) Notwithstanding any other rule in this chapter, the prohibitions in paragraph (d) of this section shall not be waived.

§ 3041.520 Terminations

(a) The Postal Service shall file notice of the termination of a negotiated service agreement within 7 days after such termination.

(b) Upon termination, a negotiated service agreement shall be removed automatically from the competitive product list. No negotiated service agreement shall remain on the competitive product list after its termination.

Subpart F—Negotiated Service Agreement Reporting and Compliance

§ 3041.605 Competitive negotiated service agreement reporting requirements.

(a) The Postal Service must file, on a quarterly basis, a summary spreadsheet listing all negotiated service agreements active during any part of the prior quarter. Negotiated service agreements must be listed by Mail Classification Schedule section or in such other way as the Commission requires by order. Such spreadsheet must identify all extensions, expirations, and terminations of negotiated service agreements and any other information the Commission requires by order.

(b) A report is due within 7 days after the last day of each quarter of the fiscal year.

(c) Upon finding that any report contains significant omissions, inaccuracies, or other deficiencies, the Commission may take any of the following actions:

1. Require the Postal Service to file such reports on a more frequent basis;

2. Require a Postal Service executive to submit a sworn statement attesting to the accuracy and completeness of each subsequent report; and

3. Impose other conditions the Commission finds reasonable and appropriate to ensure the accuracy and completeness of such reports.

By the Commission.

Jennie Jbara,

Alternate Certifying Officer.

[FR Doc. 2024–02281 Filed 2–6–24; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 24–20; FCC 24–2; FR ID 198390]

Customer Rebates for Undelivered Video Programming During Blackouts

AGENCY: Federal Communications Commission

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission

(Commission) seeks comment on whether to require cable operators and direct broadcast satellite (DBS) providers to give their subscribers rebates when those subscribers are deprived of video programming they expect to receive during programming blackouts that result from failed retransmission consent negotiations or failed non-broadcast carriage negotiations. When such blackouts occur, subscribers often pay the same monthly subscription fee for a service package that does not include all of the channels for which they signed up to receive. In other words, consumers are paying for a service that they are no longer receiving in full. This proceeding seeks comment on whether and how we should address this customer service shortcoming. We also seek comment on how the market addresses this issue currently.

DATES: Submit comments on or before March 8, 2024. Submit reply comments on or before April 8, 2024.

ADDRESSES: You may submit comments, identified by MB Docket No. 24–20, by any of the following methods:

- *Electronic Filers.* Comments may be filed electronically by accessing ECFS at: *http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Paper Filers.* Parties who choose to file by paper must file an original and one copy of each filing. Paper filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
  - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Cathy Williams, FCC, via email to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Brendan Murray, *Brendan.Murray@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–1573.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking,* (NPRM) FCC 24–2, adopted on January 10, 2024, and released on January 17, 2024. These documents will be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.) To request these documents in accessible formats for people with disabilities, send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Background. The Communications Act of 1934, as amended (the Act), requires that cable operators and satellite TV providers obtain a broadcast TV station's consent to lawfully retransmit the signal of a broadcast station to subscribers. Commercial stations may either demand carriage pursuant to the Commission's must carry rules or elect retransmission consent and negotiate for compensation in exchange for carriage. If a station elects retransmission consent but is unable to reach agreement for carriage, or the parties to an existing retransmission consent agreement do not extend, renew, or revise that agreement prior to its expiration, the cable operator or DBS provider loses the right to carry the signal. The same is true if a cable operator or DBS provider cannot negotiate for carriage with a non-broadcast network. In both cases, the result is a blackout of that existing programming on the platform. When these blackouts occur, the cable operator or DBS provider's subscribers typically lose access to the station or network's entire signal on the platform, including both the national and local programming provided by the broadcaster, unless and until the parties are able to reach an agreement.

Over the past decade, data indicates that the number of blackouts resulting from unsuccessful retransmission consent negotiations has increased dramatically. These blackouts often frustrate subscribers because they lose access to programming from their cable operator or DBS provider that they had previously received. A leading cause of these disputes is disagreements over per-subscriber programming fees. However, subscribers may not see rebates or bill reductions during the carriage dispute when the cable operator or DBS provider does not carry the broadcast TV station, even though many cable operators and DBS providers charge a fee on subscribers' bills that purportedly pays programmers for subscriber access to the broadcast signal or network.

Discussion. We seek comment on whether and how to require cable operators and DBS providers to give their subscribers rebates when they blackout a channel due to a retransmission consent dispute or a failed negotiation for carriage of a non-broadcast channel. In the event that we adopt such a requirement, we seek comment below on (i) how to apply the rule, (ii) whether to specify the method that cable operators and DBS providers use to offer the rebates and if so, how they should issue rebates, (iii) our authority to adopt a rebate rule, (iv) how to enforce a rebate rule, (v) the costs and benefits of such a rule, and (vi) the effects that such a rule would have on digital equity and inclusion. We also invite comment on any other proposals to ensure that subscribers are made whole when they lose access to programming that they expected to receive in exchange for paying a monthly subscription fee when they signed up for service.

We seek comment on this proposal at this time because, as discussed above, data indicates that the number of blackouts has increased dramatically in the last several years. Why is this? Is increased consolidation in either the broadcaster or MVPD market leading to an increase in blackouts? Has the proliferation of streaming services, including live linear streaming services (vMVPDs) impacted the amount or duration of blackouts, as these services may provide subscribers with alternative viewing options during a carriage dispute? Are broadcasters or programmers with certain categories of programming (*e.g.* sports) more likely to have negotiations that result in blackouts? Are there certain broadcasters or MVPDs whose negotiations result in blackouts more frequently than others? Are there proposals we should consider to incentivize both broadcasters/programmers and distributors to limit programming blackouts?

Applicability. We seek comment on whether to require cable operators and DBS providers to provide rebates if they blackout video channels due to a retransmission consent dispute or a failed negotiation for carriage of a non-broadcast channel. Below, we seek comment on whether various provisions of the Act give us authority to require cable operators and DBS providers to give their subscribers rebates when the operator or providers ceases to carry a channel due to a retransmission consent or program carriage dispute; given that the authority upon which we base this proposal is cable and DBS-specific, are those the only entities to which this proposal should apply? If we were to require cable operators and DBS providers to give rebates to subscribers who are deprived of programming they expected to receive, should the rule apply to any channel that is blacked out? What if the parties never reach an agreement for carriage? Would subscribers be entitled to rebates in perpetuity and how would that be calculated? Or should the rebate end when the subscriber renews the contract if the channel is still blacked out at the time of renewal? Similarly, if a subscriber initiates service during a blackout, would that subscriber be entitled to a rebate or a lower rate? Does the ''good faith'' negotiation requirement in section 325 of the Act confer unique status on broadcast channels that provides a basis to distinguish broadcast and broadcast-affiliated channels (that is, those channels that are owned by a company that also holds or controls broadcast licenses) from non-broadcast or independent channels? That is, does the ''good faith'' negotiation requirement make an eventual carriage agreement more likely, and therefore suggest that a rebate would be temporary? If so, should this affect whether the rebate policy should apply to such entities, and why? To the extent that the existing terms of service between a cable operator or DBS provider and its subscriber specify that the cable operator or DBS provider is not liable for credits or refunds in the event that programming becomes unavailable, we seek comment on whether to deem such provisions unenforceable if we were to adopt a rebate requirement.

Rebates. We seek comment on how cable operators and DBS providers currently handle this issue. Are there providers who currently provide subscribers with rebates or credits during a programming blackout? If so, does the provider proactively grant that rebate or credit to all subscribers affected, or is the subscriber required to affirmatively request it? How is the rebate or credit calculated? Are there providers who grant rebates or credits for the blackout of certain channels, but not of others? What are the deciding factors in such a case? Are there providers who do not grant rebates or credits during blackouts? If so, what is their rationale? How would requiring cable operators and DBS providers to provide rebates or credits change providers' current customer service relations during a blackout?

We seek comment on how to calculate the rebate to which a subscriber is entitled after a channel is blacked out and what methodology should be used. Would it be reasonable to require a cable operator or DBS provider to rebate the cost that it paid to the programmer to retransmit or carry the channel prior to the carriage impasse? We understand that carriage contracts can be complex; for example, rates may depend on the number of subscribers reached and the number of bundled channels being carried, video service providers can receive advertising time in exchange for carriage, providers' profits for specific channels may vary depending on the packages and bundles that they offer, and specific per-subscriber rates may be confidential. Given these complexities, are there specific nuances that we could adopt as part of a rule to ensure that subscribers are made whole when they lose access to a channel? Should we instead simply require cable operators and DBS providers to provide a rebate or credit to the consumer that in good faith approximates the value of the consumer's access to the channel? Should the Commission specify the method for providing the rebate?

Authority. We tentatively conclude that sections 335 and 632 of the Act provide us with authority to require cable operators and DBS providers to issue a rebate to their subscribers when they blackout a channel. The Commission has relied on this authority to propose and adopt cable customer service regulations for decades, and recently proposed to use this authority to adopt a customer service rule that would apply to DBS as well as cable.

We tentatively conclude that the broad authority we have to adopt ''public interest or other requirements for providing video programming'' under section 335(a) permits us to require DBS providers to give subscribers rebates for blackouts. Section 335(a) authorizes the Commission to impose on DBS providers public interest requirements for providing video programming. Although section 335(a) requires the Commission to adopt certain statutory political broadcasting requirements for DBS providers, the statute is clear that this list is not exhaustive. We tentatively find that requiring rebates for service interruptions due to blackouts pertains to the ''provi[sion] of video programming'' and is in the public interest because the proposed rule would prevent DBS subscribers from being charged for services for the period that they did not receive them. Moreover, we tentatively find that a rebate requirement would ensure that DBS subscribers are made whole when they face interruptions of service that are outside their control. Accordingly, we tentatively conclude that we have authority under section 335(a) to apply our proposed rule to DBS providers. We seek comment on these tentative findings and conclusions. We also seek comment on whether there are alternative or additional statutes or arguments that provide a legal basis for our authority to adopt these requirements for DBS providers. For example, do we have authority under other provisions of Title III?

We also seek comment on whether we have—and should exercise—ancillary authority under section 4(i) of the Act to extend our proposed rule to DBS providers and whether it is necessary to undertake this regulation for the Commission to effectively perform its responsibilities under the foregoing primary sources of statutory authority. Applying the rebate requirement to such providers would ensure uniformity of regulation between and among cable operators (regulated under Title VI and by various state consumer protection laws and local franchising provisions) and DBS providers (under Title III), thereby preventing DBS from gaining a competitive advantage over their competitors because they will not be required to provide rebates to their subscribers for loss of service due to blackouts.

We tentatively conclude that section 632—which directs the Commission to ''establish standards by which cable operators may fulfill their customer service requirements''—grants us the authority to adopt a rebate requirement that would apply to cable operators. Sections 632(b)(2) and (b)(3) direct the Commission to establish standards governing ''outages'' and ''communications between the cable operator and the subscriber (including standards governing bills and refunds).'' Although the statute does not define the term ''outages,'' we tentatively find that Congress intended that term to apply not only to a complete system failure but to broadly cover any interruption of service under the requirements of 632(b)(2). Moreover, because our proposed rules seek to address cable operators' billing and refund practices concerning blacked out programming, we tentatively conclude that these are customer service matters within the meaning of section 632(b)(3). We tentatively find that this interpretation is supported by the legislative history. Specifically, when Congress adopted section 632, it directed us to ''provide guidelines governing the provision of rebates and credits to customers due to system failures or other interruptions of service.'' From a subscriber's perspective, when a cable operator blacks out a signal over failed carriage negotiations, we tentatively find it to be an interruption of service—that is an ''outage'' within the meaning of (b)(2): the subscriber is paying for a service in exchange for a particular package of channels, and that particular package of channels is no longer available in full for a period of time. Regardless of whether the outage is due to a technical issue, a breakdown in retransmission consent negotiations, or for some other reason, we tentatively find that the subscriber's service interruption may be regulated under (b)(2), and entitled to a rebate. We tentatively find that we are also authorized under (b)(3) to require the cable operator to provide a rebate to the affected subscriber for the service loss during that period. In addition, we tentatively find that we may regulate blackout-related rebates under our general authority in 632(b) to establish ''customer service'' standards. Although the term ''customer service'' is not defined in the statute, the legislative history defines the term ''customer service'' to mean ''in general'' ''the direct business relation between a cable operator and a subscriber,'' and goes on to explain that ''customer service requirements'' include requirements related to ''rebates and credits to consumers.'' We tentatively conclude that the proposed rebate requirement satisfies the definition of a ''customer service requirement'' because billing practices governing an interruption of service, such as blackouts, involve the ''direct business relation between a cable operator and a subscriber.'' Furthermore, the list of topics Congress required the Commission to address in terms of customer service was not exhaustive. We tentatively conclude that blackout-related rebates are precisely the type of customer service concerns that Congress meant to address when it enacted section 632. Thus, we tentatively find that our proposed rules are within the statute's grant of authority. We seek comment on this analysis.

We acknowledge that section 623 of the Act limits our authority to regulate rates for cable service in areas where effective competition exists, and that nearly all cable operators now face effective competition and are not subject to rate regulation. However, there is no such limitation in section 632's customer service provision. Furthermore, the availability of other service providers offering video programming in the franchise area may provide some prospective options for subscribers, or some deterrent effect for the conduct we aim to address, but we tentatively find that does not prevent a cable operator offering services under an existing contract from charging a subscriber for a channel that carries no programming due to a business dispute that is at least somewhat within the purview of the cable operator to resolve. We tentatively conclude that a rebate requirement for interruption of service due to blackouts would not be rate regulation. The statute does not define the term ''rates'' or explain the meaning of the phrase ''rates for the provision of cable service'' for purposes of section 623. Recent court decisions distinguish prohibited rate regulations from regulations similar to the one we propose here that provide basic protections for cable customers. In Spectrum Northeast, *LLC* v. *Frey,* the First Circuit upheld a Maine regulation that requires cable operators to issue prorated credits or rebates for the days remaining in a billing period after a subscriber terminates cable service. The court determined that the federal preemption of cable rate regulation ''did not extend to the regulation of termination rebates'' and concluded that the Maine law is not a law governing ''rates for the provision of cable service'' but rather is a ''consumer protection law'' that is not preempted. The New Jersey Supreme Court also recently upheld a similar New Jersey statute. In Matter of Altice, the Supreme Court of New Jersey concluded that a requirement that cable operators issue refunds for the remaining days in a billing cycle is not rate regulation because ''the plain and ordinary meaning of rate regulation . . . is not so broad as to encompass all laws that affect or concern cable prices.'' Both cases involved requirements that addressed cable operator charges to subscribers for services that were no longer being provided to the subscriber. Here, too, our proposed requirement would prohibit cable operators from charging subscribers for the period of time that particular programming is not being provided by the cable operator. That contrasts with our common understanding of rate regulation, which is when the government sets ''the amount charged for a particular product . . . as defined by a particular unit of measurement in relation to the product.'' Our proposal contains no limits on the amount that a cable operator may charge for a channel; rather, it would simply require the operator to rebate the amount it charges if it does not deliver the product. Accordingly, we tentatively conclude that the courts' logic in Spectrum Northeast, *LLC* v. *Frey* and Matter of Altice applies to the rebate requirements for blackouts. We seek comment on this analysis.

We also tentatively conclude that our proposal to require rebates in the event of a blackout is consistent with Section 624(f) of the Act, which provides that ''[a]ny Federal agency . . . may not impose requirements regarding the provision or content of cable services, except as expressly provided in this subchapter.'' As an initial matter, we tentatively conclude that our proposed rebate requirement is authorized by Section 632, as noted above. In any event, we note that courts have interpreted Section 624(f) to prohibit regulations that are based on the content of cable programming (*e.g.,* requirements to carry or not carry certain programming). Because the blackout rebate proposal is not content-based (that is, it does not require the cable operator to carry or not carry certain programming), we tentatively conclude it does not violate Section 624(f). We seek comment on this analysis.

As noted above, based on the language and structure of section 632, Congress authorized the Commission to establish customer service requirements for cable operators, and franchising authorities to adopt additional laws above and beyond the Commission's baseline requirements. Therefore, we tentatively find that our proposed rule for cable operators would not preempt state and local laws applied to cable operators that require rebates for blackouts or otherwise exceed the requirements we adopt in this proceeding, so long as they are not inconsistent with Commission regulations. We seek comment on this analysis.

Enforcement. The Commission shares authority over cable customer service issues under the Act: ''the Commission sets baseline customer service requirements at the federal level, and state and local governments tailor more specific customer service regulations based on their communities' needs.'' Given the bifurcated authority we share with state and local governments, we seek comment on how best to enforce a rebate rule. Do state and local authorities have adequate resources to effectively enforce these rules? If not, is the Commission best equipped to enforce a rebate requirement based on consumer complaints? Is there a better enforcement mechanism to ensure that subscription video providers provide their subscribers with rebates or credit? Given our shared jurisdiction over cable customer service issues, we seek specific comment from State and local authorities regarding their local subscriber complaints and regulation experiences with respect to service interruptions due to blackouts. What is the most effective way to enforce a requirement applicable to DBS providers?

Cost/Benefit Analysis. We invite commenters to address the costs and benefits of requiring cable operators and DBS providers to offer rebates to their subscribers when those subscribers are deprived of video programming for which they paid. What are the burdens and costs of providing rebates? Would the benefits to subscribers outweigh any such costs and burdens? Are the costs and benefits different for small cable entities, and if so, should we impose different obligations on those entities? How would requiring cable operators and DBS providers to offer rebates affect carriage negotiations with broadcast stations and non-broadcast programmers? Specifically, how would this policy affect the likelihood of blackouts, the duration of blackouts if they were to occur, and the carriage fee ultimately negotiated?

Digital Equity and Inclusion. Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

Procedural Matters. Ex Parte Rules—Permit-But-Disclose. The proceeding this NPRM initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. Memoranda must contain a summary of the substance of the ex parte presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b) of the rules. In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable.pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Providing Accountability Through Transparency Act. The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. Accordingly, the Commission will publish the required summary of this Notice of Proposed Rulemaking on: *https://www.fcc.gov/proposed-rulemakings.*

Filing Requirements—Comments and Replies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible/potential impact of the rule and policy changes contained in this Notice of Proposed Rulemaking. Written public comments are requested on the IRFA. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines for comments on the first page of this document.

As required by the Regulatory Flexibility Act of 1980, as amended, the Commission has prepared this IRFA of the possible significant economic impact on a substantial number of small entities by the policies and rule changes proposed in the Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need for, and Objectives of, the Proposed Rules. In the NPRM, we address whether subscriber rebates should be offered by cable operators or direct broadcast satellite (DBS) providers in instances where those operators and providers fail to agree on carriage terms with a broadcaster or programming network and, as a result of the dispute, subscribers lose access to the channels over which the parties are negotiating. At present, the resulting subscriber blackouts lead to subscribers often paying the same monthly subscription fee for a service package that does not include all of the channels that expected to receive when signing up for service. The NPRMaims to address that customer service shortcoming, as well as address how such a rebate program could be implemented in a manner that does not create undue economic hardship to small and other entities in their efforts at compliance with the rules proposed in the NPRM, should they be adopted.

Legal Basis. The proposed action is authorized pursuant to sections 1, 4(i), 4(j), 303, 335(a), and 632(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303, 335(a), and 552(b).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 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 Act. Below, we provide a description of the impacted small entities, as well as an estimate of the number of such small entities, where feasible.

Cable Companies and Systems (Rate Regulation Standard). The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Based on industry data, there are about 420 cable companies in the U.S. Of these, only seven have more than 400,000 subscribers. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Based on industry data, there are about 4,139 cable systems (headends) in the U.S. Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, contains a size standard for a ''small cable operator,'' which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one 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.'' For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 498,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice. Based on industry data, only six cable system operators have more than 498,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note, however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, 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.

Direct Broadcast Satellite (DBS) Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS is included in the Wired Telecommunications Carriers industry which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.

The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service, DIRECTV and DISH Network, which require a great deal of capital for operation. DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, we must conclude based on internally developed Commission data, in general DBS service is provided only by large firms.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities. The NPRM does not specifically propose any new or modified reporting or record keeping requirements for small entities, although comments we receive in response to the NPRM may potentially lead to new compliance requirements in the future. The NPRM seeks comment on whether to require cable operators and DBS providers to give subscribers rebates for channels that are not provided due to a breakdown in retransmission consent negotiations. If subscriber rebates are implemented, the Commission will need to determine how small and other entities may comply with any adopted rules, what the method used to offer rebates should be, and how such rebates could be issued to their subscribers.

In assessing the cost of compliance for small entities, at this time the Commission is not in a position to determine whether, if adopted, our proposals and the matters upon which we seek comment will require small entities to hire professionals to comply with the proposed rules in the NPRM, and cannot quantify the operational and implementation costs of compliance with the potential rule changes discussed herein. To help the Commission more fully evaluate the cost of compliance, in the NPRM we seek comment on the costs and benefits of these proposals. We expect the comments that we receive from the parties in the proceeding, including cost and benefit analyses, will help the Commission identify and evaluate compliance costs and burdens for small entities.

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

At this time, the Commission is not aware of any revisions or new requirements that, if adopted, would impose a significant economic impact or burdens on small entities. The NPRM invites comment on how to accommodate entities for which compliance with the proposed rules would pose an undue hardship.

The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments and costs and benefits analyses filed in response to the NPRM. The Commission's evaluation of this information will shape the final alternatives it considers, the final conclusions it reaches, and any final actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities.

Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules. None.

Paperwork Reduction Act. This document may contain proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on any information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

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

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 303, 335(a), 632(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303, 335(a), and 552(b) this Notice of Proposed Rulemaking *is adopted. It is further ordered* that the Commission's Office of the Secretary SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2024–02097 Filed 2–6–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2021–0106; FF09E21000 FXES1111090FEDR 245]

Endangered and Threatened Wildlife and Plants; Finding for the Gray Wolf in the Northern Rocky Mountains and the Western United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a finding on the gray wolf (*Canis lupus*) in the Northern Rocky Mountains (NRM) and in the Western United States. After a thorough review of the best available scientific and commercial data, we find that gray wolves within the NRM area do not, on their own, represent a valid listable entity; therefore, the NRM is not warranted for listing under the Endangered Species Act of 1973, as amended (Act). We find that the gray wolf in the Western United States is a valid listable entity; however, the gray wolf in the Western United States does not meet the definition of an endangered species or a threatened species. Thus, we find that listing the gray wolf in the Western United States is not warranted at this time.

DATES: The finding in this document was made on February 7, 2024.

ADDRESSES: This finding and the supporting information that we developed for this finding, including the species status assessment (SSA) report and species assessment form, are available on the internet at *https://www.regulations.gov* at Docket No. FWS–HQ–ES–2021–0106. Please submit any new information, materials, comments, or questions concerning this finding to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Marjorie Nelson, Acting Assistant Regional Director, Ecological Services Mountain-Prairie Region, 720–582–3524, *marjorie_nelson@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Previous Federal Actions

Gray wolves were originally listed as subspecies or as regional populations of subspecies in the lower 48 United States and Mexico. We detail these various original rulemakings in the November 3, 2020, rule delisting the gray wolf throughout much of its range in the lower 48 States and Mexico (85 FR 69778).

In 1978, we published a rule reclassifying the gray wolf in Minnesota as a threatened species and gray wolves elsewhere in the lower 48 United States and Mexico as an endangered species. We later revised this listing by designating the population of gray wolves in the NRM, including Idaho, Montana, and Wyoming, the eastern one-third of Oregon and Washington, and a small portion of north-central Utah, as a Distinct Population Segment (DPS) and, following legal challenges and several rulemakings, ultimately delisting this population due to recovery (74 FR 15123, April 2, 2009; 76 FR 25590, May 5, 2011; 77 FR 55530, September 10, 2012; 82 FR 20284, May 1, 2017). Since delisting, gray wolves in the NRM have been managed by the States and Tribes.

On November 3, 2020, we published a final rule removing the Act's protections for gray wolves everywhere they were listed in the lower 48 States and Mexico, not including the Mexican