

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		<p>5. <i>Reopener Language</i>—(A) If, anytime after disposal of the delisted waste, OGAI possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste indicating that any constituent is at a concentration in the leachate higher than the specified delisting concentration, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration in paragraph (1), then OGAI must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (B) Based on the information described in paragraph (A) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (C) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify OGAI in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing OGAI with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. OGAI shall have 30 days from the date of the Regional Administrator's notice to present the information. (D) If after 30 days OGAI presents no further information or after a review of any submitted information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.</p>
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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 05-337, CC Docket No. 96-45; FCC 10-205]

### High-Cost Universal Service Support and Federal-State Joint Board on Universal Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission takes action to reclaim high-cost universal service support surrendered by a competitive eligible telecommunications carrier (ETC) when it relinquishes ETC status in a particular state. This change would reduce the overall cap on competitive ETC support in a state when a competitive ETC relinquishes its designation in the state, rather than redistributing the excess funding to other competitive ETCs in the state.

**DATES:** Effective January 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Burnley, Wireline Competition

Bureau, Telecommunications Access Policy Division, (202) 418-7400 or TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Order in WC Docket No. 05-337, CC Docket No. 96-45, FCC 10-205, adopted December 30, 2010, and released December 30, 2010. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via the Internet at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

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### I. Introduction

1. In this Order, we take action to reclaim high-cost universal service

support surrendered by a competitive eligible telecommunications carrier (ETC) when it relinquishes ETC status in a particular state.

### II. Discussion

2. We adopt the proposal to amend the interim cap rule (WC Docket No. 05-337, CC Docket No. 96-45, 23 FCC Rcd 8834 (2008)) so that a state's interim cap amount will be adjusted if a competitive ETC serving the state relinquishes its ETC status. As discussed in the *September 2010 NPRM*, 75 FR 56494, September 16, 2010, the goal of the *Interim Cap Order*, 73 FR 37882, July 2, 2008, is to rein in high-cost universal service disbursements for potentially duplicative voice services. We find that the proposal is consistent with that goal. It would reduce the overall cap on competitive ETC support in a state when a competitive ETC relinquishes its designation in the state, rather than redistributing the excess funding to other competitive ETCs in the state. Providing the excess support to other competitive ETCs in a state would not necessarily result in future deployment of expanded voice service, much less broadband service. It could simply subsidize duplicative voice service. On the other hand, reducing the pool of support in a state could enable excess funds from the legacy high-cost program to be used more effectively to advance

universal service broadband initiatives, as recommended by the National Broadband Plan. We conclude, on balance, that the public interest would be better served by taking this interim step to reclaim such support rather than redistributing it, particularly as we proceed with broader reforms to transition to a universal service system that promotes broadband deployment more directly.

3. Accordingly, if a competitive ETC relinquishes its ETC status in a state, the cap amount for that state will be reduced by the amount of capped support that the competitive ETC was eligible to receive in its final month of eligibility, annualized. When a carrier relinquishes its ETC designation, USAC shall calculate the new annual interim cap amount for the state in which the carrier had been a competitive ETC. The cap shall be reduced by the amount of support that the ETC was eligible to receive for the last full month during which the ETC retained its designation, annualized. The new cap will be effective beginning the first full month following the effective date of the relinquishment. When a carrier relinquishes its ETC designation in the middle of a funding year, the new cap will be applied only to the remainder of the year on a pro rata basis. We recognize that the ultimate amount that a carrier is eligible to receive during a particular month may not be finalized immediately due to the effect of true-ups on certain high-cost support mechanisms. We instruct USAC to implement the revised interim cap provisionally as of the effective date of the relinquishment and to revise the support amounts for the remaining competitive ETCs as necessary, subject to true-up.

4. We further conclude that there is good cause for this rule change to be effective upon release. The primary purpose of the 30-day effectiveness rule—to allow affected parties sufficient time to take action to comply—does not come into play in this case since ETCs do not have to act to comply with the new rule. Sprint has notified us that it plans to relinquish its ETC designations in a number of states effective December 31, 2010. If the change to the interim cap rule is not effective before then, the high-cost support that Sprint would have been eligible to receive—approximately \$5.4 million—will be redistributed to other competitive ETCs, frustrating the very purpose of this rule change.

### III. Procedural Matters

#### A. Paperwork Reduction Act

5. This order does not contain new, modified, or proposed information collections subject to the Paperwork Reduction Act of 1995. In addition, therefore, it does not contain any new, modified, or proposed “information collection burden for small business concerns with fewer than 25 employees” pursuant to the Small Business Paperwork Relief Act of 2002.

#### B. Final Regulatory Flexibility Analysis

6. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Order and Notice of Proposed Rulemaking* in WC Docket No. 05–337. The Commission sought comment on the possible significant economic impact on small entities by the policies and rules proposed in the *Order and Notice of Proposed Rulemaking (NPRM)*, including comment on the IRFA. We received IRFA-specific comments from MTPCS, LLC d/b/a Cellular One and its affiliates (MTPCS), and reply comments from Verizon and Verizon Wireless (Verizon). These comments are discussed below. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

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

7. In this *Order*, the Commission amends its rule to reclaim high-cost universal service support surrendered by a competitive eligible telecommunications carrier (ETC) when it relinquishes ETC status in a particular state.

8. We note that the rule would reduce the overall cap on competitive ETC support in a state when a competitive ETC relinquishes its designation in the state, rather than redistributing the excess funding to other competitive ETCs in the state. Providing the excess support to other competitive ETCs in a state would not necessarily result in future deployment of expanded voice service. It could simply subsidize duplicative voice service. On the other hand, reducing the pool of support in a state could enable excess funds from the legacy high-cost program to be used more effectively to advance universal service broadband initiatives. We conclude, on balance, that the public interest would be better served by taking this interim step to reclaim such support rather than redistributing it, particularly as we proceed with broader reforms to transition to a universal service system that promotes broadband deployment more directly.

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

9. In the IRFA, we stated that, under certain circumstances, our proposed action, if adopted, may have a significant economic impact on other competitive ETCs that are small entities. For example, as described in footnote 31 of the *NPRM*, the reduction in size of a state interim cap amount could negatively affect a competitive ETC that is a small entity if another competitive ETC is later designated and receives a share of the smaller interim cap amount. While the designation of another competitive ETC would have an impact on the support received by the small entity even without the adoption of the proposed rule, the proposed rule could magnify that impact. We sought comment on our proposal, in part to consider its necessity and any alternatives. In its comments, MTPCS contends that, in accordance to the Small Business Act, the Commission should not harm the interests of small business concerns and the customers who seek their services. MTPCS contends the reduction in competitive ETC support under the cap has limited the effectiveness of companies in their efforts to meet the goals of the universal service provisions, and the proposed changes would exacerbate this situation. MTPCS further contends that, in violation of the Small Business Act, the Commission failed to consider significant alternatives to the proposals which might minimize the significant economic impact of the rule on small entities. Verizon disagrees. As set forth more fully below in Section V, we believe that our actions in the *Order* are consistent with the RFA.

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

10. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, 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 SBA.

11. *Small Businesses.* Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.

12. *Small Organizations.* Nationwide, as of 2002, there are approximately 1.6 million small organizations. A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”

13. *Small Governmental Jurisdictions.* The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.” Thus, we estimate that most governmental jurisdictions are small.

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

15. *Competitive Local Exchange Carriers (“CLECs”), Competitive Access Providers (“CAPs”), “Shared-Tenant Service Providers,” and “Other Local Service Providers.”* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1005 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 1005 carriers, an estimated 918 have 1,500 or fewer employees and 87 have more than 1,500 employees. In addition, 16 carriers have

reported that they are “Shared-Tenant Service Providers,” and all 16 are estimated to have 1,500 or fewer employees. In addition, 89 carriers have reported that they are “Other Local Service Providers.” Of the 89, all have 1,500 or fewer employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, “Shared-Tenant Service Providers,” and “Other Local Service Providers” are small entities that may be affected by our action.

16. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of “Paging” and “Cellular and Other Wireless Telecommunications.” Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate that the majority of wireless firms are small.

17. *2.3 GHz Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the wireless communications services (“WCS”) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business” as an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which was conducted in 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

18. *1670–1675 MHz Services.* An auction for one license in the 1670–1675 MHz band was conducted in 2003. One license was awarded. The winning bidder was not a small entity.

19. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to *Trends in Telephone Service* data, 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. We have estimated that 222 of these are small under the SBA small business size standard.

20. *Broadband Personal Communications Service.* The broadband personal communications services (“PCS”) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional small business size standard 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 small business size standards, 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. In 1999, the Commission reaucted 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.

21. In 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction 35. Of the 35 winning bidders in this auction, 29 qualified as “small” or “very small” businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. In

2005, the Commission completed an auction of 188 C block licenses and 21 F block licenses in Auction 58. There were 24 winning bidders for 217 licenses. Of the 24 winning bidders, 16 claimed small business status and won 156 licenses. In 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction 71. Of the 14 winning bidders, six were designated entities. In 2008, the Commission completed an auction of 20 Broadband PCS licenses in the C, D, E and F block licenses in Auction 78.

22. *Advanced Wireless Services.* In 2008, the Commission conducted the auction of Advanced Wireless Services ("AWS") licenses. This auction, which was designated as Auction 78, offered 35 licenses in the AWS 1710–1755 MHz and 2110–2155 MHz bands ("AWS-1"). The AWS-1 licenses were licenses for which there were no winning bids in Auction 66. That same year, the Commission completed Auction 78. A bidder with attributed average annual gross revenues that exceeded \$15 million and did not exceed \$40 million for the preceding three years ("small business") received a 15 percent discount on its winning bid. A bidder with attributed average annual gross revenues that did not exceed \$15 million for the preceding three years ("very small business") received a 25 percent discount on its winning bid. A bidder that had combined total assets of less than \$500 million and combined gross revenues of less than \$125 million in each of the last two years qualified for entrepreneur status. Four winning bidders that identified themselves as very small businesses won 17 licenses. Three of the winning bidders that identified themselves as a small business won five licenses. Additionally, one other winning bidder that qualified for entrepreneur status won 2 licenses.

23. *700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years. A "very small business" is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years. Additionally, the lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area ("MSA/RSA") licenses. The

third category is "entrepreneur," which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA approved these small size standards. The Commission conducted an auction in 2002 of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)). Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. The Commission conducted a second auction in 2003 that included 256 licenses: 5 EAG licenses and 476 Cellular Market Area licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses. In 2005, the Commission completed an auction of 5 licenses in the lower 700 MHz band (Auction 60). There were three winning bidders for five licenses. All three winning bidders claimed small business status.

24. In 2007, the Commission adopted the *700 MHz Second Report and Order*, 72 FR 48814, August 24, 2007. The *Order* revised the band plan for the commercial (including Guard Band) and public safety spectrum, adopted services rules, including stringent build-out requirements, an open platform requirement on the C Block, and a requirement on the D Block licensee to construct and operate a nationwide, interoperable wireless broadband network for public safety users. In 2008, the Commission commenced Auction 73 which offered all available, commercial 700 MHz Band licenses (1,099 licenses) for bidding using the Commission's standard simultaneous multiple-round ("SMR") auction format for the A, B, D, and E block licenses and an SMR auction design with hierarchical package bidding ("HPB") for the C Block licenses. Later in 2008, the Commission concluded Auction 73. A bidder with attributed average annual gross revenues that did not exceed \$15 million for the preceding three years (very small business) qualified for a 25 percent discount on its winning bids. A bidder with attributed average annual gross revenues that exceeded \$15 million, but did not exceed \$40 million for the preceding three years, qualified for a 15 percent discount on its winning bids. There were 36 winning bidders (who won 330 of the 1,090 licenses won) that

identified themselves as very small businesses. There were 20 winning bidders that identified themselves as a small business that won 49 of the 1,090 licenses won. The provisionally winning bids for the A, B, C, and E Block licenses exceeded the aggregate reserve prices for those blocks. However, the provisionally winning bid for the D Block license did not meet the applicable reserve price and thus did not become a winning bid.

25. *700 MHz Guard Band Licenses.* In the 700 MHz Guard Band Order, the Commission adopted size standards for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years. Additionally, a very small business is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years. SBA approval of these definitions is not required. In 2000, the Commission conducted an auction of 52 Major Economic Area ("MEA") licenses. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced and closed in 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

26. *Specialized Mobile Radio.* The Commission awards "small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than \$15 million in each of the three previous calendar years. The Commission awards "very small entity" bidding credits to firms that had revenues of no more than \$3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 900 MHz Service. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction was completed in 1996. Sixty bidders claiming that they qualified as small businesses under the \$15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels was conducted in 1997. Ten bidders claiming that they qualified as

small businesses under the \$15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was conducted in 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

27. The auction of the 1,053 800 MHz SMR geographic area licenses for the General Category channels was conducted in 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. In an auction completed in 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were awarded. Of the 22 winning bidders, 19 claimed small business status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

28. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. In addition, we do not know how many of these firms have 1,500 or fewer employees. We assume, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is approved by the SBA.

29. *Cellular Radiotelephone Service.* Auction 77 was held to resolve one group of mutually exclusive applications for Cellular Radiotelephone Service licenses for unserved areas in New Mexico. Bidding credits for designated entities were not available in Auction 77. In 2008, the Commission completed the closed auction of one unserved service area in the Cellular Radiotelephone Service, designated as Auction 77. Auction 77 concluded with one provisionally winning bid for the unserved area totaling \$25,002.

30. *Private Land Mobile Radio ("PLMR").* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's

primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. We note that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

31. As of March 2010, there were 424,162 PLMR licensees operating 921,909 transmitters in the PLMR bands below 512 MHz. We note that any entity engaged in a commercial activity is eligible to hold a PLMR license, and that any revised rules in this context could therefore potentially impact small entities covering a great variety of industries.

32. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System ("BETRS"). In the present context, we will use the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies proposed herein.

33. *1.4 GHz Band Licensees.* The Commission conducted an auction of 64 1.4 GHz band licenses in 2007. In that auction, the Commission defined "small business" as an entity that, together with its affiliates and controlling interests, had average gross revenues that exceed \$15 million but do not exceed \$40 million for the preceding three years, and a "very small business" as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding \$15 million for the preceding three years. Neither of the two winning

bidders sought such designated entity status.

#### **IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements**

34. The *Order* does not propose any reporting, recordkeeping, or other compliance requirements.

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

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

36. In this *Order*, we amend our rule to reclaim high-cost universal service support surrendered by a competitive ETC when it relinquishes ETC status in a particular state. We note that the rule would reduce the overall cap on competitive ETC support in a state when a competitive ETC relinquishes its designation in the state, rather than redistributing the excess funding to other competitive ETCs in the state. Providing the excess support to other competitive ETCs in a state would not necessarily result in future deployment of expanded voice service but it may subsidize duplicative voice service. Reducing the pool of support in a state would enable excess funds from the legacy high-cost program to be used more effectively to advance universal service broadband initiatives. We believe, on balance, that the public interest would be better served by taking this interim step to reclaim such support rather than redistributing it, particularly as we proceed with broader reforms to transition to a universal service system that more directly promotes broadband deployment.

37. MTPCS contends that the Commission is adopting the proposed rule without considering any significant alternative to minimize its effect on small entities. In addition, MTPCS contends that reining in high-cost disbursements need not be accomplished at the expense of competitive ETCs. Verizon disagrees. Verizon argues that adjusting a state's

existing competitive ETC cap when a carrier relinquishes its ETC status does not in any way impact the amount of existing support paid to other competitive ETCs, small businesses or otherwise, in the state. Verizon explains that, in such circumstances, the relinquished support is simply returned to the USF. Verizon indicates that the Commission is merely required by the Regulatory Flexibility Act to describe any significant alternatives that it considered. Verizon reasons that, as a practical matter, there is no alternative that the Commission need consider. The proposal does not reduce existing

funding to any competitive ETC. Verizon argues that, even if it did, the universal service program was never intended to fund competition anyway. We conclude that, because the purpose of the adopted rule is to reduce the amount of high-cost universal service support received by competitive ETCs, no significant alternative could be chosen that would minimize the effect of the adopted rule.

#### **VI. Report to Congress**

38. The Commission will send a copy of the *Order*, including this FRFA, in a report to be sent to Congress and the

Government Accountability Office, pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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