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I. Introduction

1. By this *Notice of Proposed Rulemaking*, the Commission begins a proceeding to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to section 9 of the Communications Act, has required it to collect for Fiscal Year 1995 (FY 1995). See 47 U.S.C. 159(b)(2). The current Schedule is set forth in §§ 1.1152 through 1.1155 of the Commission's rules. 47 CFR §§ 1.1152–1.1155.

2. We are proposing adjustments to the Schedule in order to recover \$116,400,000 in costs, consistent with the amount that Congress has appropriated for our enforcement, policy and rulemaking and international activities and user information services for FY 1995.¹ 47 U.S.C. 159(a). In addition, we propose to amend the Schedule to assess regulatory fees from licensees of services not now included in the Schedule and to revise our method of assessing fees for certain services currently in the Schedule. 47 U.S.C. 159(b)(1)(A), (b)(3). Further, we propose to amend the format of the Schedule so that its fee categories reflect changes in the Commission's new organizational structure.² 47 U.S.C. 159(b)(3). Finally, we propose to adjust the threshold amounts for eligibility for installment payments and to amend our

procedures governing installment payments. 47 U.S.C. 159(f)(1).

3. In many instances, the regulatory fees that we are proposing for FY 1995 are significantly higher than the fees that we assessed under the statutory fee schedule to recover our regulatory costs for FY 1994. See 47 U.S.C. 159(g); see also *Implementation of Section 9 of the Communications Act (FY 1994 Order)*, 9 FCC Rcd 5333 (1994). These revisions result, in large part, from increases in the amounts that Congress has appropriated for Commission activities whose costs must be recovered through regulatory fees. As noted, the amount appropriated and to be recovered through regulatory fees is \$116,400,000, which is 93 percent more than the \$60,400,000 that the Commission was required to recover through regulatory fees in FY 1994. The impact of this increase is, however, offset to some extent by revenues from services that we propose to add to the Schedule and by increases in the number of payment units, e.g., subscribers, in certain other services.³ Appendix B sets forth our proposed Schedule of Regulatory Fees for FY 1995.

II. Background

4. Section 9(a) of the Act authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international activities, and user information services. 47 U.S.C. 159(a). In our *FY 1994 Order*, we set forth the regulatory fee schedule for FY 1994 and prescribed rules to govern payment of the fees, as required by Congress.⁴ 47 U.S.C. 159(f)(1).

5. For FY 1994, we adopted the Schedule of Regulatory Fees that Congress enacted in section 9(g) of the Act, and required regulatory fee payments from licensees and other regulatees operating in the Private Radio, Mass Media, Common Carrier and Cable Television services. We concluded that Congress did not intend for us to modify section 9(g)'s Schedule of Regulatory Fees for FY 1994, and, thus, declined to amend the statutory fee schedule in any way.⁵ See *FY 1994 Order* at para. 12.

³ Payment units represent the number by which a payor must multiply the fee amount for a particular service in order to calculate its total fee due for the service. For example, "subscribers" is the payment unit applicable to cable television fees. The number of subscribers is multiplied by the cable system fee amount to determine the system's total fee liability.

⁴ See 47 CFR §§ 1.1151 through 1.1166.

⁵ In the *FY 1994 Order*, we adopted rules to implement the collection of regulatory fees,

6. For fiscal years after FY 1994, however, sections 9(b) (2) and (3) provide for annual "Mandatory Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees. In making section 9(b)(2)'s mandatory adjustments, we are first to consider the amount we are to collect as set forth in our Appropriations Act. 47 U.S.C. §§ 159(b)(2), (b)(1)(B). Second, we are to identify the number of Full Time Equivalent (FTE) employees allocated to our enforcement, policy and rulemaking, user information and international activities.⁶ 47 U.S.C. § 159(b)(1)(A). 159(b)(1)(A). Third, we are to determine the amount to be recovered from each fee category, e.g., Common Carrier, by proportionately increasing or decreasing the revenue requirement of each fee category relative to the ratio of FTEs in each category to the total number of FTEs allocated to our regulatory activities. 47 U.S.C. § 159(b)(2). The resulting fee category share of the total amount to be recovered is then prorated among each service within the fee category to determine the cost allocation applicable to each service. Finally, the prorated cost allocation is divided by the number of estimated payment units, e.g., subscribers, for each service within the category in order to determine service fees. 47 U.S.C. § (b)(2)(A).

7. In addition, section 9(b)(3), relating to "Permitted Amendments" to the Schedule, provides that, if we find it necessary, we shall amend the Schedule of Regulatory Fees, as provided in section 9(b)(1)(A) to, *inter alia*, reflect the benefits of our regulation to the payors of the fees by considering their service areas, the nature of their service, and other factors that we determine are necessary in the public interest. 47 U.S.C. §§ 159(b)(3), (b)(1)(A). In making these amendments, we "shall add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services." 47 U.S.C. § 159(B)(3). Finally, we are required to notify Congress of any permitted amendments 90 days before

including payment procedures, specific exemptions from the payment of regulatory fees, procedures for requesting waivers, reductions and deferments of fee payments, and penalties for late payment or non-payment of the fees. We shall in the near future address petitions for reconsideration of the *FY 1994 Order* and consider whether to make amendments to our implementing rules.

⁶ Full Time Equivalent (FTE) employment is the total number of regular straight-time hours (*i.e.*, not including overtime or holiday hours) worked by employees divided by the number of compensable hours applicable to each fiscal year. See Office of Management and Budget Circular A–11, section 13.1, Definitions relating to employment.

¹ See Public Law 103–317, 108 Stat. 1724 at 1737–38 (Approved August 26, 1994).

² Specifically, we propose to add to the Schedule a Wireless Radio Services fee category and an International Services fee category. Concurrently, we propose to delete the Private Radio Service fee category since we have abolished the Private Radio Bureau. Also, we proposed to amend the Common Carrier Service fee category and the Mass Media Service fee category because certain services formerly subject to regulation by the Common Carrier Bureau and the Mass Media Bureau are now regulated by the Wireless Radio Bureau and the International Bureau and are, thus, properly within the scope of the Wireless Radio and International Service fee categories. Finally, we propose to add the Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) to the Mass Media Service fee category, and delete them from the Common Carrier Service fee category, since these services are now regulated by the Mass Media Bureau.