

eligibility such as partnership agreements, shareholder agreements, management agreements, spectrum leasing arrangements, and all other agreements, including oral agreements, establishing *de facto* and *de jure* control of the qualifying Tribal entity. A qualifying Tribal entity also must provide the date(s) on which each of the agreements listed was entered into.

(f) An applicant seeking eligibility as a qualifying Tribal entity must attach with its long-form application a certification from the Tribal government stating that the applicant is authorized by the Tribal government to site facilities and provide service on its Tribal lands.

(g) *Tribal land(s)*. Any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(h) *Unserved and/or underserved Tribal land(s)*. Those Tribal lands with Wireless Radio Services coverage to no more than 65 percent of the population of the Tribal land area based on the most recently available U.S. Census Data.

#### § 1.1003 Tribal Licensing Priority.

During a window announced by the Commission for the filing of applications for a Tribal licensing priority, a qualifying Tribal entity having jurisdiction over unserved or underserved Tribal lands within the geographic area of a Wireless Radio Service license that has not been assigned, may submit a long-form license application for an authorization to use the Tribal land portion of that license. In the event that license applications filed by qualifying Tribal entities are mutually exclusive, the Commission will resolve these mutually exclusive applications by means of a competitive bidding process open only to those qualifying Tribal entities.

#### § 1.1004 Tribal Lands Construction Safe Harbor.

*Satisfaction of Construction Requirements through Service to Tribal Lands*. A Wireless Radio Licensee with Tribal lands within the geographic area of its license will be deemed to have satisfied its construction obligations for its entire service area if it deploys coverage to at least 75% of the geographic area of such Tribal lands.

[FR Doc. 2011-7825 Filed 4-1-11; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 64

[CG Docket No. 11-47; FCC 11-38]

#### Contributions to the Telecommunications Relay Service Fund

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission proposes rules to implement the "Twenty-First Century Communications and Video Accessibility Act of 2010" (CVAA) which requires each interconnected voice over Internet Protocol (VoIP) service provider and each provider of non-interconnected VoIP service to participate in and contribute to the Telecommunications Relay Services (TRS) Fund. The law directs that within one year after the date of enactment of the CVAA, such VoIP providers shall participate in and contribute to the Fund in a manner prescribed by the Commission by regulation. The regulations must oblige such participation in a manner that is consistent with and comparable to the obligations of other contributors to the fund.

**DATES:** Comments are due on or before May 4, 2011. Reply comments are due on or before May 19, 2011. Written comments on the proposed information collection requirements, subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13, should be submitted on or before June 3, 2011.

**ADDRESSES:** You may submit comments, identified by [CG Docket No. 11-47], by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS) <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments and transmit one electronic copy of the filing to each docket number referenced in the caption, which in this case is CG Docket No. 11-47. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number.

- Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and

include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in response.

- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. In addition, parties must send one copy to the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Washington, DC 20554, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). Filings can be sent by hand or messenger delivery, 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.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners.

- Envelopes must be disposed of *before* entering the building. The filing hours are 8 a.m. to 7 p.m.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

In addition, document FCC 11-38 contains proposed information collection requirements subject to the PRA. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collection requirements contained in this document. PRA comments should be submitted to Cathy Williams, Federal Communications Commission via e-mail at [PRA@fcc.gov](mailto:PRA@fcc.gov) and [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) and Nicholas A. Fraser, Office of Management and Budget via fax at 202-395-5167 or via e-mail to [Nicholas\\_A.\\_Fraser@omb.eop.gov](mailto:Nicholas_A._Fraser@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Rosaline Crawford, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418-2075 or e-mail [Rosaline.Crawford@fcc.gov](mailto:Rosaline.Crawford@fcc.gov).

For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission,

at (202) 418-2918, or via e-mail [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Contributions to the Telecommunications Relay Service Fund*, Notice of Proposed Rulemaking (NPRM), document FCC 11-38, adopted March 2, 2011, released March 3, 2011, in CG Docket No. 11-47.

The full text of document FCC 11-38 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: (800) 378-3160, fax: (202) 488-5563, or Internet: <http://www.bcpweb.com>. Document FCC 11-38 can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/cgb/dro/trs.html#orders>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

Pursuant to 47 CFR 1.1200 *et. seq.*, this matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations 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. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in 47 CFR 1.1206 (b).

#### **Initial Paperwork Reduction Act of 1995 Analysis**

The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the proposed information collection requirements contained in this document, as required by the PRA. Public and agency comments are due June 3, 2011. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506 (c)(4), the Commission seeks specific comment on how it may "further reduce the information collection burden for small business concerns with fewer than 25 employees."

*OMB Control Number:* 3060-0855.

*Title:* Telecommunications Reporting Worksheets and Related Collections.

*Form No.:* FCC Forms 499-A and 499-Q.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Businesses or other for-profit entities; Not-for-profit institutions.

*Number of Respondents and Responses:* 8,183 respondents and 46,957 responses.

*Estimated Time per Response:* .25 hours to 25 hours.

*Frequency of Response:* Annual, on-occasion and quarterly reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

*Obligation to Respond:* Mandatory. Statutory authority for this information collection is contained in sections 151, 154(i), 154(j), 155, 157, 201, 205, 214, 225, 254, 303(r), 715 and 719 of the Act, 47 U.S.C. 151, 154(i), 154(j), 155, 157,

201, 205, 214, 225, 254, 303(r), 616, and 620.

*Total Annual Burden:* 313,881 hours.

*Total Annual Costs:* None.

*Nature and Extent of Confidentiality:*

The Commission will allow respondents to certify that data contained in their submissions is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the FCC worksheets. If the Commission receives a request for or proposes to disclose the information, the respondent would be required to make the full showing pursuant to the Commission's rules for withholding from public inspection information submitted to the Commission.

*Privacy Act Impact Assessment:* No impact(s).

*Needs and Uses:* In document FCC 11-38, the Commission proposes rules to require contributions to the Telecommunications Relay Service Fund (TRS Fund) by non-interconnected Voice over Internet Protocol (VoIP) service providers with interstate end-user revenues. In section 103(b) of the CVAA, Congress added a new section 715 to the Communications Act of 1934, as amended (the Act), which directs the Commission, within one year after the date of enactment of the CVAA, to require each interconnected VoIP service provider and each provider of non-interconnected VoIP service to participate in and contribute to the TRS Fund established in § 64.604(c)(5)(iii) of the Commission's rules, as in effect on the date of enactment of such Act, in a manner, to be prescribed by the Commission by regulation, that is consistent with and comparable to the obligations of other contributors to the TRS Fund. In 2007, the Commission added interconnected VoIP service providers to the providers of interstate and international telecommunications services that contribute to the TRS Fund. *See VoIP TRS Order*, published at 72 FR 43546, August 6, 2007.

The NPRM proposes to extend these obligations to non-interconnected VoIP service providers. This would require them to register using blocks 1, 2, and 6 of the FCC Form 499-A, and to annually file the completed form with the Commission. The NPRM makes other proposals regarding the TRS Fund rules that do not contain any paperwork requirements.

#### **Synopsis**

1. In document FCC 11-38, the Commission proposes rules to

implement section 103(b) of the CVAA, Public Law 111-260. The CVAA added a new section 715 to the Act which requires each interconnected VoIP service provider and each provider of non-interconnected VoIP service to participate in and contribute to the TRS Fund. Section 715 of the Act also requires the Commission to adopt regulations to provide for obligations of such providers that are consistent with and comparable to the obligations of other contributors to the TRS Fund. Currently, providers of interstate and international telecommunications services and interconnected VoIP service contribute to the TRS Fund but non-interconnected VoIP providers do not. In document FCC 11-38, the Commission proposes: to conform the definition of "interconnected VoIP service" with the definition in the CVAA and to define "non-interconnected VoIP service"; amend the Commission's rules to specifically require interconnected and non-interconnected VoIP service providers to contribute to the TRS Fund in a manner that is consistent with and comparable to the obligations of other contributors to the Fund; amend the Commission's rules to apply the \$25 per year minimum contribution requirement only to contributors who have subject revenues; and make other editorial changes to the Commission's Rules deemed appropriate and necessary. Document FCC 11-38 also seeks comment on issues relating to the provision of free services, administrative costs of providers, possible zero and *de minimis* contributions, registration requirements, the completion and submission of Telecommunications Reporting Worksheets (FCC Form 499-A), adopting an interim safe harbor percentage for calculating interstate end-user revenues, reporting billed or collected revenues, and the implementation deadline.

## Background

### Interconnected VoIP Services

2. In 2007, the Commission extended section 225's TRS requirements to interconnected VoIP service providers, including that such providers must contribute to the TRS Fund. Since 2006, interconnected VoIP service providers have been required to report their annual interstate end-user telecommunications revenue information on FCC Form 499-A for the purpose of the Universal Service Fund (USF) contribution requirements.

3. Providers of "non-interconnected VoIP service" have not been required to contribute to the TRS Fund and have

not been required to register or report revenues through the annual filing of FCC Form 499-A for any purpose. Examples of VoIP services that are not within the Commission's definition of "interconnected VoIP" include one-way VoIP services (*i.e.*, services that enable users to terminate calls to the Public Switched Telephone Network (PSTN), but do not permit users to receive calls that originate on the PSTN, or enable users to receive calls from the PSTN, but do not permit the user to make calls terminating to the PSTN) and IP-based voice services that do not require a broadband connection.

### Discussion

4. The CVAA defines "non-interconnected VoIP" service as a service that "enables real-time voice communications that originate from or terminate to the user's location using Internet protocol or any successor protocol; and requires Internet protocol compatible customer premises equipment; and does not include any service that is an interconnected VoIP service".

5. Section 9.3 of the Commission's rules defines "interconnected VoIP service" as a service that enables real-time, two-way voice communications; requires a broadband connection from the user's location; requires Internet protocol-compatible customer premises equipment ("CPE"); and permits users generally to receive calls that originate on the PSTN and to terminate calls to the PSTN. Section 101 of the CVAA requires the Commission to define "interconnected VoIP service" as that term is defined under § 9.3 of the Commission's rules, "as such section may be amended from time to time." Document FCC 11-38 proposes to amend the TRS rules to remove the actual text of the definition, and instead codify the following language provided in the CVAA: "The term 'interconnected VoIP service' has the meaning given such term under § 9.3 of title 47, Code of Federal Regulations, as such section may be amended from time to time." It seeks comment on this proposal.

### Participation in and Contribution to the TRS Fund

6. Carriers and interconnected VoIP service providers are currently required to contribute the TRS Fund and, since 2007, interconnected VoIP service providers have been reporting revenues for this purpose on FCC Form 499-A. The NPRM proposes to continue using that form for interconnected VoIP service and to extend that requirement to non-interconnected VoIP service

providers. It seeks comment on this proposal.

7. The current FCC Form 499-A and instructions are not designed to collect revenue or other information from providers of "non-interconnected VoIP services." The NPRM proposes that the Wireline Competition Bureau, in consultation with the Commission's Consumer and Governmental Affairs Bureau, make any revisions to the FCC Form 499-A or its instructions that may be necessary to effectuate the requirements of section 715 of the Act. It seeks comment on this proposal.

8. *Revenue Base.* Currently, contributions to the TRS Fund are assessed based on "interstate end-user telecommunications revenues." The NPRM proposes to require non-interconnected VoIP service providers to report their interstate end-user revenues as "telecommunications revenues" on the FCC Form 499-A, for the limited purpose of determining required TRS Fund contributions, and to contribute to the TRS Fund. Requiring providers of non-interconnected VoIP services to report interstate end-user revenues as "telecommunications revenues" would be consistent with how interconnected VoIP providers have been reporting assessable revenues on the FCC Form 499-A.

9. Because some VoIP service providers offer some or all of their services free to the public, the NPRM asks for comment on how the Commission can ensure their participation and contributions are consistent with and comparable to the obligations of other contributors to the TRS Fund. For example, it asks whether it would be appropriate to assess contributions from providers of free VoIP services based on revenues from sources other than the "interstate end-user revenues of such services" such as revenues from advertisers, donors, or other revenue sources. The NPRM also seeks input on whether and how to account for end-user revenues associated with VoIP services when those services are provided as part of or in combination with other services such as Internet-based customer services or video games that generate revenue, or can the revenues associated with the VoIP service be disaggregated from the revenue, if any, associated with the non-VoIP service. The NPRM seeks comment on these issues.

10. *Administrative Costs to the Provider.* The Senate Report to the CVAA permits the Commission to "consider administrative costs to the provider when calculating contributions" and to "determine that an

obligation for any one provider could be zero or a *de minimis* amount.” The *NPRM* seeks comment on the types of “administrative costs to the provider” that could be reported and how these may be considered when calculating contributions. It also seeks comment on how “administrative costs to the provider” might be considered when calculating contributions for a TRS Fund contributor that provides free services and therefore reports no subject revenues. Additionally, if administrative costs of interconnected or non-interconnected VoIP service providers are taken into consideration when calculating contributions, the *NPRM* seeks comment on the extent to which they should be considered any differently than the administrative costs of carriers or others required to contribute to the TRS Fund under the Commission’s rules.

**11. Minimum Contribution Requirement.** Currently, carriers and interconnected VoIP service providers are required to file with USAC, by April 1st of each year, a completed FCC Form 499-A, which is used in part to calculate contributions to the TRS Fund. Filers are instructed to enter “0” on any line for which the filer had no revenues for the year. The *NPRM* seeks comment on whether a service that is offered wholly for free to the public would result in a filer reporting no end-user revenues for such service for the year.

12. The Commission has previously held that the \$25 minimum TRS Fund contribution requirement applies to all telecommunications carriers that have end-user revenues. The *NPRM* tentatively concludes that VoIP service providers that have no subject revenue for the respective reporting year should not be subject to this minimum contribution amount and seeks comment on this tentative conclusion. Alternatively, the *NPRM* seeks comment on whether VoIP service providers that report no subject revenue for the reporting year should be assessed a *de minimis* contribution amount.

**13. Conforming Amendments to Rules.** The *NPRM* also proposes making conforming amendments to the Commission’s rules. The *NPRM* proposes, and seeks comment on, replacing the terms “carrier,” “carriers,” and “service providers” in § 64.604(c)(5)(iii)(B) of the Commission’s rules with the term “contributor(s)” and replacing “interstate end-user telecommunications revenues” in § 64.604(c)(5)(iii)(B) of the Commission’s rules and “interstate end-user revenues of such services” in § 64.604(c)(5)(iii)(B) of the

Commission’s rules with the phrase “revenues subject to contributions.”

**14. Meaning of “Participate In.”** Section 715 of the Act requires each interconnected VoIP service provider and each provider of non-interconnected VoIP service to “participate in and contribute to the [TRS] Fund.” The *NPRM* tentatively concludes that the term “participate in” includes the requirement for contributors to complete and submit a Telecommunications Reporting Worksheet (FCC Form 499-A) annually and seeks comment on this conclusion and the meaning of the term “participate in” in this context.

**15. Contributor Registration.** The process of completing and submitting the FCC Form 499-A includes a registration process of the filing entity. All current TRS Fund contributors have completed this registration process. The *NPRM* tentatively concludes that requiring all providers of non-interconnected VoIP services to similarly register with the Commission and designate a District of Columbia agent for service of process using the FCC Form 499-A in accordance with its instructions will facilitate the Commission’s enforcement of TRS Fund contribution obligations and is consistent with the congressional mandate for consistent and comparable obligations. The *NPRM* proposes to amend the registration requirements in § 64.1195 of the Commission’s rules to include non-interconnected VoIP service providers or to adapt those rules for non-interconnected VoIP service providers under the Commission’s TRS rules. Finally, the *NPRM* seeks comment on whether § 1.47(h) of the Commission’s rules should be amended to include providers of non-interconnected VoIP services among those required to designate a District of Columbia agent for service of process.

**16. Safe Harbor.** The *NPRM* seeks comment on whether, for purposes of TRS Fund contribution calculations, a non-interconnected VoIP service provider should be permitted to report its interstate end-user revenues in FCC Form 499-A by using actual revenues, using a traffic study, or using the interim safe harbor percentage (64.9 percent).

**17. Billed or Collected Revenues.** FCC Form 499-A filers are instructed to provide information about interstate end-user telecommunications revenues that are “billed” (or “earned”) or “uncollectible” rather than revenues “collected.” The *NPRM* seeks comment on whether calculations of TRS Fund contributions should be based on each

contributor’s collected revenues rather than billed revenues.

**18. Implementation Deadline.** Section 715 of the Act requires “[w]ithin one year after the date of enactment of the CVAA” each interconnected VoIP service provider and each provider of non-interconnected VoIP service to participate in and contribute to the TRS Fund “in a manner prescribed by the Commission by regulation.” The one-year deadline has already been met with regard to interconnected VoIP service providers because they have been reporting revenues and contributing to the TRS Fund annually since 2007. The *NPRM* proposes to require non-interconnected VoIP service providers to register and designate a District of Columbia agent for service of process by September 30, 2011, using the FCC Form 499-A in accordance with its instructions. It also proposes to require all non-interconnected VoIP service providers to complete and submit FCC Form 499-A by April 1, 2012 to report interstate end-user revenues for such services for the period from October 1 through December 31, 2011. Finally, it proposes to begin assessing non-interconnected VoIP service providers for TRS contributions based on revenues reported for the October through December 2011 period for the 2012 through 2013 TRS Fund year (July 1, 2012 through June 30, 2013). The *NPRM* seeks comments on these proposals.

#### Initial Regulatory Flexibility Analysis

19. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The Commission has certified that the rules proposed in document FCC 11–38, if promulgated, will not have a significant economic impact on a substantial number of small entities.

20. 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 that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

21. In document FCC 11–38, the Commission seeks comment on its

proposal to implement section 103(b) of the CVAA, signed into law by President Obama on October 8, 2010, that requires the Commission to establish rules requiring each interconnected VoIP service provider and each provider of non-interconnected VoIP service to participate in and contribute to the interstate TRS Fund beginning within one year of the enactment of the CVAA.

22. The TRS Fund compensates providers of TRS for their reasonable costs of providing the service on an interstate basis. Document FCC 11–38 seeks comment on, and proposes rules, to implement section 103(b) of the CVAA and to require providers of non-interconnected VoIP service to participate in and contribute to the TRS Fund in a manner that is consistent with and comparable to other contributors. Document FCC 11–38 also seeks comment on issues relating to the possible zero and *de minimis* contributions in connection with the provision of free services and the administrative costs of providers, registration requirements, the completion and submission of Telecommunications Reporting Worksheets (FCC Form 499–A), the adoption of an interim safe harbor percentage for calculating interstate end-user revenues, and the implementation deadline.

23. Specifically, document FCC 11–38 proposes: to require providers of non-interconnected VoIP service to register with the Commission and designate a District of Columbia agent for service of process for purposes of contributing to the TRS Fund; to complete and file FCC Form 499–A annually; to permit providers of non-interconnected VoIP service to determine interstate end-user revenues by using actual revenues, a traffic study or to utilize a safe harbor; and to exempt service providers with no end user revenues for the reporting year from the \$25 minimum contribution requirement to the TRS Fund. It also seeks comment on whether sources of revenue other than interstate end-user revenues (e.g., advertising, donations) should be considered when a service provider has no end-user revenues (*i.e.*, when services are provided to the public for free) and whether TRS Fund contributions should be based on each contributor's collected revenues rather than billed revenues.

24. The Commission proposes to require that non-interconnected VoIP service providers register and designate a District of Columbia agent for service of process by filling out blocks 1, 2, and 6 of the FCC Form 499–A and to annually file the completed Form with the Commission. This is consistent with

the Congressional mandate in section 103(b) of the CVAA to require providers of non-interconnected VoIP service to participate in and contribute to the TRS Fund in a manner that is consistent with and comparable to the obligations of other contributors to the Fund. Such reporting would be for the limited purpose of determining required TRS Fund contributions and would not prejudice issues concerning the appropriate regulatory classification of VoIP services. It has previously been estimated that filling out the FCC Form 499–A takes 13.5 hours (*i.e.*, less than two work days of a single full-time employee) annually. Thus, filling out the form does not have a significant economic impact upon small entities.

25. Document FCC 11–38 seeks comment on how the Commission can best ensure that the obligations of VoIP service providers that offer some or all of their interstate services free to the public are consistent with and comparable to the obligations of other contributors to the TRS Fund. Section 225(d)(3)(B) of the Act requires the Commission to adopt regulations that costs caused by interstate telecommunications relay service be recovered from “all subscribers” for every interstate service. Document FCC 11–38 seeks comment on whether it would be necessary or appropriate to assess contributions from providers of free VoIP services based on revenues from sources other than the “interstate end-user revenues of such services,” such as advertising and donor contributions, or whether TRS Fund contributions of VoIP providers should be based solely on interstate end-user revenues, even if that results in a zero contribution. Because the typical contribution historically has been slightly less than 1% of revenues annually, this will not have a significant economic impact upon small entities.

26. Additionally, the TRS rules currently impose a minimum \$25 contribution on all entities, regardless of their reported revenues. Document FCC 11–38 proposes that if the Commission determines that contributions to the TRS Fund are to be based solely on interstate end-user revenues, VoIP providers and other carriers subject to TRS Fund contribution requirements with a zero contribution calculation (*i.e.*, they either did not charge for end-user service or generated some end-user revenue but it was offset by administrative costs that cancelled out the revenue) not be subject to the minimum \$25 contribution. If this proposal is not adopted, alternatively, document FCC 11–38 seeks comment on whether a VoIP service provider that

reports no revenue for the reporting year should be assessed a “*de minimis*” contribution amount. Even if the Commission applies the minimum \$25 annual contribution to the TRS Fund to providers with a zero contribution calculation, it would not constitute a significant economic impact upon small entities.

27. The Commission has previously recognized that some interconnected VoIP service providers may have difficulty complying with the end-user revenue reporting requirements because they do not have the ability to identify whether calls are interstate. As a result, the Commission established a safe harbor which estimated the percentage of interconnected VoIP service revenues attributable to interstate calls to be 64.9%. These VoIP service providers may report their interstate end-user revenues on the FCC Form 499–A by using actual revenues, a traffic study or the safe harbor. Document FCC 11–38 seeks comment on whether the Commission should also apply the safe harbor to non-interconnected VoIP service providers. Because the safe harbor is used when it reduces TRS Fund contributions, application of it to non-interconnected VoIP services will not have any significant negative economic impact upon small entities.

28. Document FCC 11–38 also requests input on whether to modify the FCC Form 499–A to ask filers to provide information on “collected” (*i.e.* earned) revenues rather than, as currently, on “billed” (*i.e.*, potentially uncollectible) revenues. This would harmonize the basis for TRS Fund contributions with those for the Universal Service Fund, which bases contributions on “collected” revenues. Because it would relieve providers of basing their contribution to the TRS Fund on billed revenues, it would reduce TRS Fund contributions and therefore would not have any significant negative economic impact upon small entities.

29. Finally, the CVAA requires that VoIP service providers begin participating in, and contributing to, the TRS Fund within one year of the date of the CVAA's enactment. This deadline has been met with regard to interconnected VoIP service providers who have been participating in the Fund since 2007. To meet the statutory deadline, document FCC 11–38 proposes to require non-interconnected VoIP service providers to register by September 30, 2011 by completing blocks 1, 2 and 6 of the FCC Form 499–A, and to complete and submit the Form by April 1, 2012, reporting their end-user revenues for the period from October 1 through December 31, 2011.

This uniform registration deadline is mandated by statute and will not have a significant adverse economic impact upon small entities.

30. With regard to whether a *substantial number* of small entities may be economically impacted by the requirements proposed in document FCC 11–38, the Commission notes that a substantial number of small entities will be likely be affected; however, for the reasons stated above, the cumulative economic impact on such entities will be *de minimis*. Most participating entities are likely to meet the definition of a small entity as a “small organization.” VoIP service providers are included in the census business category “All Other Telecommunications.” This category comprises “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or VoIP services via client-supplied telecommunications connections are also included in this industry.” For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,347 firms had annual receipts of under \$25 million and 12 firms had annual receipts of \$25 million to \$49,999,999. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

31. Historically, the contributions to the TRS Fund have totaled slightly less than 1% of revenues. Moreover, many non-interconnected VoIP service providers offer their services for free and, unless revenue sources other than end-user interstate revenues are included, will have no annual contribution or the *de minimis* \$25 contribution, depending on the outcome of this proceeding. Accordingly, the Commission concludes that a zero or \$25 contribution is a *de minimis* amount.

32. Therefore, based on the foregoing analysis of all foreseeable economic impacts, the Commission certifies that the proposals in document FCC 11–38, if adopted, will not have a significant economic impact on a substantial number of small entities.

33. The Commission will send a copy of the document FCC 11–38, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

#### Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 4(j), 225, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 225, and 616, document FCC 11–38 IS ADOPTED. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of document FCC 11–38, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

##### 47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications.

##### 47 CFR Part 64

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**Bulah Wheeler,**  
Deputy Manager.

#### Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 64 as follows:

#### PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

**Authority:** 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

2. In § 1.47, revise paragraph (h) to read as follows:

##### § 1.47 Service of documents and proof of service.

\* \* \* \* \*

(h) Every common carrier and interconnected VoIP provider, as defined in § 54.5 of this chapter, and non-interconnected VoIP provider, as defined in § 64.601(a)(15) of this chapter, that is subject to the Communications Act of 1934, as amended, shall designate an agent in the District of Columbia, and may designate additional agents if it so chooses, upon whom service of all notices, process, orders, decisions, and requirements of the Commission may be made for and on behalf of such carrier, interconnected

VoIP provider, or non-interconnected VoIP provider in any proceeding before the Commission. Such designation shall include, for the carrier, interconnected VoIP provider, or non-interconnected VoIP provider and its designated agents, a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address. Such carrier, interconnected VoIP provider, or non-interconnected VoIP provider shall additionally list any other names by which it is known or under which it does business, and, if the carrier, interconnected VoIP provider, or non-interconnected VoIP provider is an affiliated company, the parent, holding, or management company. Within thirty (30) days of the commencement of provision of service, such carrier, interconnected VoIP provider, or non-interconnected VoIP provider shall file such information with the Chief of the Enforcement Bureau’s Market Disputes Resolution Division. Such carriers, interconnected VoIP providers, and non-interconnected VoIP providers may file a hard copy of the relevant portion of the Telecommunications Reporting Worksheet, as delineated by the Commission in the **Federal Register**, to satisfy this requirement. Each Telecommunications Reporting Worksheet filed annually by a common carrier, interconnected VoIP provider, or non-interconnected VoIP provider must contain a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address for its designated agents, regardless of whether such information has been revised since the previous filing. Carriers, interconnected VoIP providers, and non-interconnected VoIP providers must notify the Commission within one week of any changes in their designation information by filing revised portions of the Telecommunications Reporting Worksheet with the Chief of the Enforcement Bureau’s Market Disputes Resolution Division. A paper copy of this designation list shall be maintained in the Office of the Secretary of the Commission. Service of any notice, process, orders, decisions or requirements of the Commission may be made upon such carrier, interconnected VoIP provider, or non-interconnected VoIP provider by leaving a copy thereof with such designated agent at his office or usual place of residence. If such carrier, interconnected VoIP provider, or non-interconnected VoIP provider fails to designate such an agent, service of any notice or other process in any proceeding before the Commission, or of

any order, decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the Office of the Secretary of the Commission.

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

3. The authority citation for part 64 is revised to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 404(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, 254(k), 616, and 620, unless otherwise noted.

**Subpart F—Telecommunications Relay Services and Related Customer Premises Equipment for Persons With Disabilities**

4. The authority citation for subpart F is revised to read as follows:

**Authority:** 47 U.S.C. 151–154; 225, 255, 303(r), 616, and 620.

5. In § 64.601, revise paragraph (a)(10), redesignate paragraphs (a)(15) through (a)(27) as paragraphs (a)(16) through (a)(28), and by adding new paragraph (a)(15) to read as follows:

**§ 64.601 Definitions and provisions of general applicability.**

(a) \* \* \*

(10) Interconnected VoIP service. The term “interconnected VoIP service” has the meaning given such term under § 9.3 of title 47, Code of Federal Regulations, as such section may be amended from time to time.

\* \* \* \* \*

(15) Non-interconnected VoIP service. The term “non-interconnected VoIP service”—

(i) means a service that—

(A) enables real-time voice communications that originate from or terminate to the user’s location using Internet protocol or any successor protocol; and

(B) requires Internet protocol compatible customer premises equipment; and

(ii) does not include any service that is an interconnected VoIP service.

\* \* \* \* \*

6. In § 64.604, revise paragraphs (c)(5)(iii)(A) and (c)(5)(iii)(B), remove paragraph (c)(5)(iii)(D), redesignate paragraph (c)(5)(iii)(C) as paragraph (c)(5)(iii)(D), and add new paragraph (c)(5)(iii)(C) to read as follows:

**§ 64.604 Mandatory minimum standards.**

\* \* \* \* \*

(c) \* \* \*

(5) \* \* \*

(iii) \* \* \*

(A) *Contributions.* Every carrier providing interstate telecommunications services (including interconnected VoIP service providers pursuant to § 64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund on the basis of interstate end-user telecommunications revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services. For purposes of this paragraph, telecommunications revenues include revenues from non-interconnected VoIP services.

(B) *Contribution computations.* Contributors’ contributions to the TRS fund shall be the product of their subject revenues for the prior calendar year and a contribution factor determined annually by the Commission. The contribution factor shall be based on the ratio between expected TRS Fund expenses to the contributors’ revenues subject to contribution. In the event that contributions exceed TRS payments and administrative costs, the contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future years’ contributions. Each subject contributor that has revenues subject to contribution must contribute at least \$25 per year. Contributors whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Contributors whose contributions total \$1,200 or more may divide their contributions into equal monthly payments. Contributors shall complete and submit, and contributions shall be based on, a

“Telecommunications Reporting Worksheet” (as published by the Commission in the **Federal Register**). The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors’ statements in the worksheet shall be subject to the

provisions of section 220 of the Communications Act of 1934, as amended. The fund administrator may bill contributors a separate assessment for reasonable administrative expenses and interest resulting from improper filing or overdue contributions. The Chief of the Consumer and Governmental Affairs Bureau may waive, reduce, modify or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the TRS Fund.

(C) Registration Requirements for Providers of Non-Interconnected VoIP Service.

(1) *Applicability.* A non-interconnected VoIP service provider that will provide interstate service shall file the registration information described in paragraph (c)(5)(iii)(C)(2) of this section in accordance with the procedures described in paragraphs (c)(5)(iii)(C)(3) and (c)(5)(iii)(C)(4) of this section. Any non-interconnected VoIP service provider already providing interstate service on the effective date of these rules shall submit the relevant portion of its FCC Form 499–A in accordance with paragraphs (c)(5)(iii)(C)(2) and (c)(5)(iii)(C)(3) of this section.

(2) Information required for purposes of TRS Fund contributions. A non-interconnected VoIP service provider that is subject to the registration requirement pursuant to paragraph (c)(5)(iii)(C)(1) of this section shall provide the following information:

(i) The provider’s business name(s) and primary address;

(ii) The names and business addresses of the provider’s chief executive officer, chairman, and president, or, in the event that a provider does not have such executives, three similarly senior-level officials of the provider;

(iii) The provider’s regulatory contact and/or designated agent;

(iv) All names that the provider has used in the past; and

(v) The state(s) in which the provider provides such service.

(3) Submission of registration. A provider that is subject to the registration requirement pursuant to paragraph (c)(5)(iii)(C)(1) of this section shall submit the information described in paragraph (c)(5)(iii)(C)(2) of this section in accordance with the Instructions to FCC Form 499–A. FCC Form 499–A must be submitted under oath and penalty of perjury.

(4) Changes in information. A provider must notify the Commission of any changes to the information provided

pursuant to paragraph (c)(5)(iii)(C)(2) of this section within no more than one week of the change. Providers may satisfy this requirement by filing the relevant portion of FCC Form 499–A in accordance with the Instructions to such form.

\* \* \* \* \*

[FR Doc. 2011–7798 Filed 4–1–11; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 11–54, RM–11624; DA 11–499]

#### Television Broadcasting Services; Augusta, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission has before it a petition for rulemaking filed by Southern Media Holdings, Inc. (“SMH”), the licensee of station WFXG, Augusta, Georgia, requesting the substitution of channel 51 for channel 31 at Augusta. SMH seeks this channel substitution as it cannot obtain the credit necessary to construct the channel 31 facility and states that the money required to construct the channel 31 facility will instead be used to serve other aspects of the public interest.

**DATES:** Comments must be filed on or before May 4, 2011, and reply comments on or before May 19, 2011.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Harry C. Martin, Esq., Fletcher, Heald & Hildreth, PLC, 1300 N. 17th Street, 11th Floor, Arlington, VA 22209.

**FOR FURTHER INFORMATION CONTACT:** Joyce L. Bernstein, [joyce.bernstein@fcc.gov](mailto:joyce.bernstein@fcc.gov), Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s Notice of Proposed Rule Making, MB Docket No. 11–54, adopted March 15, 2011, and released March 16, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC’s Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents

will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

**Barbara A. Kreisman,**  
*Chief, Video Division, Media Bureau.*

#### Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

##### § 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments

under Georgia, is amended by adding channel 51 and removing channel 31 at Augusta.

[FR Doc. 2011–7787 Filed 4–1–11; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 2, 31, 32, 45, 49, 52, and 53

[FAR Case 2010–009; Docket 2010–0009; Sequence 1]

RIN 9000–AL95

#### Federal Acquisition Regulation; Government Property

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify reporting, reutilization, and disposal of Government property and the contractor requirements under the Government property clause.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before June 3, 2011, to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2010–009 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “FAR Case 2010–009” under the heading “Enter Keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “FAR Case 2010–009.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2010–009” on your attached document.

- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street, NE., 7th Floor, Washington, DC 20417.

*Instructions:* Please submit comments only and cite FAR Case 2010–009, in all correspondence related to this case. All