

or transfer of control. Accordingly, the Commission makes conforming edits to § 1.2112(b) to correct these inadvertent errors to fully implement its intent that all applicants claiming small business status, including those filing applications for a license, authorization, assignment, or transfer of control as well as those filing short-form applications, are required to disclose the controlling interest information.

29. Section 1.2112(b)(1)(i) requires an applicant to list, as part of the disclosure obligations, the “names, addresses, and citizenship of all officers, directors, and other controlling interests of the applicant.” However, in addition to these disclosures, certain service-specific rules also require the applicant to disclose the same information for affiliates and small and very small business consortium. Section 1.2112(b)(1)(i) does not require the applicant to disclose this additional information. The Commission removes the service-specific short-form disclosure requirements and revises subsection 1.2112(b)(1)(i) to add affiliate and small or very small business consortium language as part of the short-form disclosure obligations.

30. Additionally, the Commission revises § 1.2112(b)(1)(ii) to comport with the Commission’s previous correction made to § 1.2112(a)(6) in the *Part 1 Erratum*. Specifically, the Commission revises § 1.2112(b)(1)(ii) to require applicants claiming eligibility for small business provisions to list any *FCC-regulated entity* (instead of the current requirement to list any FCC-licensed entity) or applicant for an FCC license in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This revision is consistent with the Commission’s intent, as stated in the *Part 1 Fifth Report and Order*, to require that FCC-regulated entities be reported when there is a connection between such entity and the applicant at issue through a common owner.

31. *Women- and minority-owned businesses.* The Commission’s rules set forth certain provisions applicable to designated entities—small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies. In particular, § 1.2110(c)(3) of the part 1 general competitive bidding rules defines and provides the eligibility criteria for businesses owned by members of minority groups and/or women. However, § 24.720 (c), (d), and (i)(2) also define women- and minority-owned businesses and qualifying

minority and/or woman investor. In light of the Commission’s ongoing efforts to eliminate from the Code of Federal Regulations service-specific competitive bidding rules that are either repetitive with or have been superseded by the part 1 general competitive bidding rules, the Commission removes § 24.720 (c), (d), and (i)(2). The Commission’s action is technical in nature and does not substantively affect the status of women- and minority-owned businesses.

III. Second Order on Reconsideration of the Third Report and Order

A. Installment Grace Periods and Imposition of Late Payment Fees

32. NextWave urges the Commission to restore the original installment payment rules as adopted in the *Competitive Bidding Second Report and Order*, 59 FR 22980 (May 4, 1994). This Order does not address the petitions for reconsideration challenging the Commission’s statement that § 1.2104(g)(2) does not apply to licensees who default on their installment payments, *see Order on Reconsideration of the Part 1 Third Report and Order*, 66 FR 51594 (October 10, 2001). The Commission received three petitions for reconsideration on this point. NextWave Petition, TeleCorp/Tritel/Poplar/Summit Petition, and MetroPCS Petition. The Commission will address this point in a subsequent order. In its petition, NextWave again relies upon the arguments that the modifications to the rules constitute impermissible retroactive rulemaking, that the changes were unreasonable and not consistent with commercial practices, and that contract-based theories precluded the Commission from modifying the installment payment rules. These arguments were previously the subject of reconsideration and fully considered and rejected in the *Order on Reconsideration of the Part 1 Third Report and Order. Part 1 Fifth Report and Order; Compare* NextWave Petition, filed September 28, 2000, in response to the *Order on Reconsideration of the Part 1 Third Report and Order* with NextWave Petition, filed February 17, 1998, in response to the *Part 1 Third Report and Order*. Additionally, as also noted, the Court of Appeals for the District of Columbia Circuit has substantially addressed and rejected these arguments in the context of a challenge to the application of the revised installment payment rules to the 218–219 MHz Service licensees. In light of these circumstances, the Commission declines to grant reconsideration.

33. The Commission does not grant reconsideration for the purpose of allowing a petitioner to reiterate arguments already presented. This is particularly true where a petitioner advances arguments that the Commission previously considered and rejected in a prior order on reconsideration. If this were not the case, the Commission would be involved in a never-ending process of review that would frustrate the Commission’s ability to conduct business in an orderly fashion. However, the Commission will entertain a petition for reconsideration if it is based on new evidence or changed circumstances or if the reconsideration is in the public interest. In this instance, NextWave’s arguments were previously raised and fully addressed in the *Order on Reconsideration of the Part 1 Third Report and Order*. NextWave did not plead or otherwise establish new facts, changed circumstances, or new public interest considerations that would merit review of its request for reconsideration. Thus, the Commission dismisses NextWave’s arguments here as repetitious.

B. Ownership Disclosure Requirements

34. The Commission reorders § 1.2112 to move the requirement that each application for competitive bidding, or for a license, authorization, assignment or transfer for control fully disclose all “real party or parties in interest” from § 1.2112(a) to § 1.2112(a)(1). At the same time, the Commission conforms § 1.2112(a)(1) to the disclosure requirements as set forth in § 1.919(e) to ensure that applicants include a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant. The Commission also reminds applicants that, if the information disclosed pursuant to § 1.2112(a) changes while the application is pending, § 1.65 of the Commission’s rules requires that additional or corrected information be submitted. These rule revisions are consistent with the Commission’s efforts to provide specific guidance to applicants, to provide transparency at all stages in the competitive bidding and licensing process; and, finally to ensure that the Commission, the public, and interested parties, are aware of the real party or parties in interest before the Commission acts on a pending application.