

and PVT reiterate points made by RTG. However, Neoworld seeks to extend RTG's proposal. In particular, Neoworld proposes that the Commission adopt a test under which an officer or director would not be considered to be a controlling interest if the applicant can demonstrate that it has developed insulating mechanisms to prevent such a director from being materially involved directly or indirectly in the management or telecommunications activities of the licensee.

43. Furthermore, TeleCorp, Tritel, Poplar, and Summit ("Petitioners") request that the Commission revise the controlling interest standard to exclude entities operating under the Commission's previously adopted control group structure. Petitioners are concerned that a literal reading of the rule could be used to expand the definition of affiliates so that greater gross revenues and assets would be attributed to an applicant on that basis alone. Specifically, Petitioners request that newly established affiliates of existing restricted C/F block licensees that were structured so as to establish their eligibility under a control group attribution rule be able to utilize the same structure used by the existing restricted C/F block licensee to establish their eligibility. Additionally, Petitioners request that the Commission clarify that the controlling interest standard excludes from attribution the personal assets and revenues of individuals.

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

44. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small organization," "small business," and "small governmental jurisdiction." 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: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the SBA.

45. The rule modifications and clarifications adopted in the *Order on Reconsideration of the Part 1 Fifth Report and Order* are of general applicability to all services and do not apply on a service-specific basis. Therefore, this SFRFA provides a general analysis of the impact of the

revised part 1 rule on small businesses rather than a service by service analysis. Accordingly, the revised rules will apply to all entities that apply to participate in Commission auctions, including both small and large entities. The number of entities that may apply to participate in future Commission auctions is unknown. The number of small businesses that have participated in prior auctions has varied. In all of the Commission's auctions held to date except for the auctions for broadcast licenses, 1,752 out of a total of 2,235 qualified bidders have been small businesses as that term has been defined under rules adopted by the Commission for specific services. Given these statistics, the Commission expects that, in the future, a large percentage of participants in its auctions program generally will continue to be small businesses; although there may not be a large percentage in every auction.

D. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

46. All license applicants, as contemplated by the actions the Commission takes in the *Order on Reconsideration of the Part 1 Fifth Report and Order*, are subject to the reporting and recordkeeping requirements of the competitive bidding rules. These requirements apply in the same way to both large and small entities. Furthermore, applicants are required to apply for spectrum auctions by filing a short-form application (FCC Form 175) prior to the auction. Applicants are also required to file a long-form application (FCC Form 601) at the conclusion of the auction. Specifically, entities seeking status as a small business must disclose on their FCC Form 175s, FCC Form 601s, and on their application for assignment or transfer of control (FCC Form 603), separately and in the aggregate, the gross revenues of the applicant (or licensee), its affiliates, its controlling interests and affiliates of the applicant's controlling interests for each of the previous three years.

47. As a result of the actions taken in the *Order on Reconsideration of the Part 1 Fifth Report and Order*, for purposes of the controlling interest standard, in calculating the gross revenues of any applicant under § 1.2110, the personal net worth of its officers and directors will not be attributed to the applicant. However, auction applicants will be required to disclose the gross revenues received by any business entities such individuals may control. All affiliates of controlling interests are attributable to the applicant. Additionally, in the FCC

Form 601, rural telephone cooperative auction applicants, or those controlled by rural telephone cooperatives, seeking an exemption from the requirement that the gross revenues of entities controlled by an applicant's officers and directors are attributed to the applicant must establish eligibility for this exemption based upon the four factors listed.

E. Steps Taken To Minimize the Economic Impact on Small Entities, and Significant Alternatives Considered

48. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule or any part thereof for small entities. The Commission has considered the economic impact on small entities of the following modifications and clarifications adopted in the *Order on Reconsideration of the Part 1 Fifth Report and Order* and has taken steps to minimize the burdens on small entities.

49. *Personal net worth of officers and directors.* The Commission clarifies that, for purposes of the controlling interest standard, in calculating an applicant's gross revenues under § 1.2110, the controlling interest standard, the personal net worth, including personal income and assets, of its officers and directors will not be attributed to the applicant. The Commission concludes that attribution of personal net worth is not necessary because most wealthy individuals are likely to have their wealth tied to the ownership of other businesses. Although the Commission does not attribute to the applicant the personal net worth of its officers and directors, to the extent that the officers and directors are affiliates of other entities, the Commission attributes the gross revenues of those entities to the applicant. Therefore, this will ensure that small business bidding credits are extended only to *bona fide* small businesses despite the personal net worth of wealthy individuals. An alternative action that would eliminate consideration of the gross revenues of such affiliates would provide an opportunity for large businesses to receive a significant monetary benefit