

*Reconsideration of the Part 1 Third Report and Order*, the Commission dismisses as repetitive NextWave's second challenge to modifications to the installment payment rules adopted in the 1997 *Part 1 Third Report and Order*. In addition, the Commission, on its own motion, makes certain conforming rule revisions to the part 1 general competitive bidding rules to clarify the requirement that applicants fully disclose the real party or parties in interest.

*B. Summary of Significant Issues Raised by Public Comments in Response to the FRFA Contained in the Order on Reconsideration of the Part 1 Third Report and Order*

58. No petitions for reconsideration or comments were filed directly in response to the FRFA or on issues affecting small businesses.

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

59. 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.

60. The rule revision adopted in this *Second Order on Reconsideration of the Part 1 Third Report and Order* rule is of general applicability to all services and does 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, this rule revision will apply to all entities that apply to participate in Commission auctions, including both large and small 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, Record-keeping, and Other Compliance Requirements*

61. All license applicants, as contemplated by the actions the Commission takes take in this *Second Order on Reconsideration of the Part 1 Third Report and Order*, are subject to the reporting and record-keeping requirements of the competitive bidding rules. These requirements apply in the same way to both large and small entities. 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.

62. As a result of the actions taken in the *Second Order on Reconsideration of the Part 1 Third Report and Order*, all applicants, as part of the Commission's ownership disclosure requirements, are required to fully disclose all "real party or parties in interest" including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant.

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

63. 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.

64. The Commission has considered the economic impact on small entities of the reorganizing § 1.2112(a) and making other conforming revisions to this rule as adopted in this *Second Order on Reconsideration of the Part 1 Third Report and Order* and has taken steps to minimize the burdens on small entities.

65. *Ownership disclosure requirements.* In the *Order on Reconsideration of the Part 1 Third Report and Order*, the Commission revised § 1.2112(a) which requires each application for competitive bidding (*i.e.*, short-form application), or for a license, authorization, assignment or transfer for control to disclose fully the real party or parties in interest. Specifically, the Commission deleted unnecessary language, clarified certain sections, and reordered the disclosure requirements in order to provide applicants with a clearer understanding of the information that must be disclosed. Although the reorganization has generally resulted in greater clarity for applicants, the Commission is concerned that the current structure of the rule may be construed by some applicants as allowing them to provide less than a full disclosure of all the real parties in interest.

66. Accordingly, the Commission reorders § 1.2112 to move the requirement that an applicant to fully disclose all "real party or parties in interest" in the applicant or application 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 to a section of the rule. This rule revision is preferred over a revision that would require disclosure of less information, because it is decidedly more 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 an application.

*F. Report to Congress*

67. The Commission will send a copy of the *Second Order on Reconsideration of the Third Report and Order*, and *Order on Reconsideration of the Fifth Report and Order*, including this second SFRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the