

concluding at 12 noon, except the Duluth meeting which will begin at 2 p.m. and conclude at 4:30 p.m., and the Milwaukee meeting which will begin at 1 p.m. and conclude at 3:30 p.m., and will be at the following dates and places: March 7, 1995, in the conference room of the Seaway Port Authority of Duluth, 1200 Port Terminal Drive, Duluth, Minnesota; March 14, 1995, in the conference room of the Port of Milwaukee, 2323 South Lincoln Memorial Drive, Milwaukee, Wisconsin; April 5, 1995, in the conference room of Burns International Harbor, 6600 U.S. Highway 12, Portage, Indiana; April 11, 1995, in the conference room of the Port Authority Office, 1 Maritime Plaza, Toledo, Ohio; and April 26, 1995, in the board room of the Ogdensburg Bridge and Port Authority, Bridge Plaza, Ogdensburg, New York.

Issued at Washington, D.C. on February 24, 1995.

Saint Lawrence Seaway Development Corporation.

**Marc C. Owen,**  
*Chief Counsel.*

[FR Doc. 95-5144 Filed 3-1-95; 8:45 am]

BILLING CODE 4910-61-M

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[ET Docket No. 95-18; FCC 95-39]

#### Allocation of Spectrum at 2 GHz for Use by the Mobile-Satellite Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** By this Notice of Proposed Rule Making, the Commission proposes to allocate 70 megahertz of spectrum at 1990-2025 MHz and 2165-2200 MHz to the Mobile-Satellite Service (MSS). This proposal responds to petitions filed by Celsat, Inc., TRW, and the Personal Communications Satellite Corporation for spectrum in the 2 GHz range to operate satellites providing personal communications services. This Notice of Proposed Rule Making solicits comment on the proposed allocation, including the necessity and means of moving incumbent Broadcast Auxiliary Service and microwave licensees to another band; on technical requirements for MSS in the proposed bands; and on awarding MSS licenses in the proposed bands by competitive bidding.

**COMMENT DATES:** Comments are due March 9, 1995. Reply comments are due March 27, 1995.

**FOR FURTHER INFORMATION CONTACT:** Sean White, Office of Engineering and Technology, (202) 776-1624.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, adopted January 30, 1995, and released January 31, 1995. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

#### Summary of Notice of Proposed Rule Making

1. In this Notice of Proposed Rule Making, the Commission proposes to allocate 70 megahertz of spectrum at 1990-2025 MHz and 2165-2200 MHz to the Mobile-Satellite Service (MSS). The 1992 World Administrative Radio Conference (WARC-92) allocated the 1970-1980 MHz (Earth-to-space) and 2160-2170 MHz (space-to-Earth) bands in Region 2 and the 1980-2010 MHz (Earth-to-space) and 2170-2200 MHz (space-to-Earth) bands worldwide to MSS. In the June 1994 Memorandum Opinion and Order in GEN Docket No. 90-314, 59 FR 32830, June 24, 1994, we allocated the 1850-1990 MHz band to terrestrial broadband personal communications services (PCS). Because of this, it does not appear to be practicable to make a domestic allocation of 2 GHz spectrum for MSS that is consistent with the international allocation without jeopardizing the availability of spectrum for PCS.

2. We believe that a need exists for allocating a substantial amount of spectrum for MSS. There is significant consumer demand for convenient mobile services such as telephone, high-rate data and fax, and video. MSS can provide such communications in remote or rural areas not covered by terrestrially based mobile services, and can provide nationwide public safety coverage. We also believe that use of 2 GHz frequencies can help minimize transmission costs and ensure a relatively low cost service that will be within the economic reach of a large segment of the population. Thus, the proposed allocation of 70 MHz of spectrum to MSS should give the public, especially rural Americans, access to new and competitive services and technologies.

3. Any 2 GHz MSS allocation should be as consistent as possible with the WARC-92 worldwide MSS allocation,

to help ensure a truly universal service. We therefore believe that incorporating use of the 1990-2010 MHz and 2170-2200 MHz bands allocated for MSS by WARC-92 is desirable. At the same time, we believe that 70 megahertz is needed to accommodate all MSS demand, and so propose to allocate 1990-2025 MHz and 2165-2200 MHz to MSS.

4. This allocation would require that the candidate bands be cleared of Broadcast Auxiliary Service (BAS) incumbents in the 1990-2025 MHz band. In order to accommodate these incumbents, we propose to add 35 megahertz at the upper end of the BAS spectrum to offset the 35 megahertz we are allocating to MSS, making the BAS allocation 2025-2145 MHz. MSS providers would have to bear the costs of moving BAS licensees to their new band. The proposed MSS allocation would also require relocation of microwave incumbents. We addressed this issue in the First Report and Order and Third Notice of Proposed Rule Making in ET Docket No. 92-9, 58 FR 46457, September 2, 1993, and propose to follow the same procedures, requiring that MSS licensees bear the entire cost of relocating BAS and microwave incumbents in the 1990-2025 MHz and 2165-2200 MHz bands.

5. The Commission solicits public comment on the proposed allocation, the proposal to relocate BAS and microwave incumbents, any other sharing or technical matters pertinent to the proposed allocation, and our proposal to allocate licenses in the proposed MSS spectrum by competitive bidding.

#### List of Subjects in 47 CFR Part 2

Frequency allocations and radio treaty matters, Radio.

Federal Communications Commission.

**William F. Caton,**  
*Acting Secretary.*

[FR Doc. 95-5128 Filed 3-1-95; 8:45 am]

BILLING CODE 6712-01-M

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### 47 CFR Part 63

[IB Docket No. 95-22, FCC 95-53]

#### Foreign-Affiliated Entities: In the Matter of Market Entry and Regulation

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Communications Commission is proposing to modify its approach to determining the public interest in cases where a foreign carrier

or its affiliate applies for authority under Section 214 of the Communications Act to enter the U.S. market to provide international facilities-based services. In reviewing such applications, the Commission proposes to examine whether effective market access is available, or will soon be available, to U.S. carriers in the primary markets of the foreign carrier seeking entry. This would be an important element of the Commission's public interest determination. In addition, the Commission requests comment on whether it should modify certain aspects of its regulation of U.S. international carriers. It also clarifies and requests comment on its definition of an international facilities-based carrier. Finally, the Commission asks whether it should incorporate the proposed effective market access test as an important element of the Section 310(b)(4) public interest analysis it applies to foreign entities seeking to acquire an indirect ownership interest in U.S. radio licenses. The proposals contained in the Notice are intended to establish standard rules to regulate foreign carrier entry into the U.S. marketplace in order to promote effective global competition, prevent anti-competitive conduct and encourage foreign governments to open their communications markets.

**DATES:** Comments must be submitted on or before March 28, 1995. Reply comments must be submitted on or before April 28, 1995.

**ADDRESSES:** All comments and reply comments concerning these proposals should be addressed to: Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Troy F. Tanner or Susan Lee O'Connell, Attorney-Advisors, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418-1470.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking adopted on February 7, 1995 and released February 17, 1995. The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text of this Notice also may be purchased from the Commission's copy contractor, International Transcription

Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

### Regulatory Flexibility Act

#### A. Reason for Action

This rulemaking proceeding is initiated to obtain comment regarding proposed changes to the Commission's entry standard for foreign carriers desiring to enter the U.S. international telecommunications market, as well as changes to the Commission's public interest standard for foreign entities that seek to acquire an indirect interest in a U.S. common carrier, aeronautical, or broadcast radio license. Comment is also requested on proposed modifications to the Commission's dominant carrier safeguards as well as to other non-discrimination safeguards. Comment is also sought on the Commission's definition of an international facilities-based carrier.

#### B. Objectives

The Commission seeks to establish standard rules and procedures to regulate foreign entry into the U.S. marketplace in order to promote effective competition and prevent anti-competitive conduct in the market for international communications services, as well as to encourage foreign governments to open their communications markets.

#### C. Legal Basis

The proposed action is authorized under Sections 4 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 303(r).

#### D. Reporting, Recordkeeping and Other Compliance Requirements

The actions contained in this Notice of Proposed Rulemaking may affect large and small carriers. We propose to require that dominant, foreign-affiliated carriers maintain or provide certain records regarding their foreign carrier affiliates. These U.S. carriers may be required to comply with proposed requirements to file certain reports, but this is not estimated to be a significant economic burden for these entities.

#### E. Federal Rules That Overlap, Duplicate or Conflict With These Rules

None.

#### F. Description, Potential Impact, and Number of Small Entities Involved

To the extent that the proposals discussed in this Notice of Proposed Rulemaking propose to make equity investment by foreign carriers in U.S. carriers more difficult, carriers seeking foreign investment greater than the

proposed threshold will be adversely affected. These proposals are intended to ensure that U.S. carriers can compete effectively in international markets and to open closed foreign markets. Copies of this Notice will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

#### G. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

The Notice solicits comment on a variety of alternatives to achieve Commission objectives.

### Summary of Notice of Proposed Rulemaking

This Notice of Proposed Rulemaking proposes new policies governing the participation of foreign carriers in the U.S. international telecommunications market. The Commission proposes three goals of its regulation of the U.S. international telecommunications market: (1) To promote effective competition in the global market for communications services; (2) to prevent anticompetitive conduct in the provision of international services or facilities; and (3) to encourage foreign governments to open their communications markets. The Commission considers how to achieve these goals through implementation of Sections 214 and 310 of the Communications Act. The Commission finds that allowing foreign carrier entry into the U.S. international services market will further the public interest by providing additional competition that will benefit consumers. The Commission tentatively concludes, however, that unrestricted foreign carrier facilities-based entry is not in the public interest when U.S. carriers do not have effective opportunities to compete in the provision of services and facilities in the foreign carrier's primary markets.

The Commission proposes to modify its public interest standard for considering foreign carrier applications under Section 214 of the Act to enter the U.S. market to provide international facilities-based services. The Commission seeks comment on requiring as an important element of its public interest standard a demonstration that effective market access is, or will soon be, available to U.S. carriers seeking to provide basic, international telecommunications facilities-based services in the primary markets served by the carrier desiring entry. The Commission also would continue to consider other factors as part of its public interest analysis, such as national security, the openness of other telecommunications segments of the

foreign carrier's primary markets, and the ability and incentives of the foreign carrier to discriminate against unaffiliated U.S. carriers.

In addition, the Notice proposes a specified level of foreign carrier ownership in a U.S. carrier at which the proposed entry standard would apply. The Commission asks whether it is desirable to consider an applicant to be "affiliated" with a foreign carrier for purposes of the new rules when the foreign carrier acquires an ownership interest of a certain minimum level or a controlling interest at any level. The Notice requests comment on whether the minimum level of ownership should be set at greater than ten percent, twenty-five percent, or some other level of the capital stock of the applicant.

The Commission also seeks comment on whether the affiliation standard it adopts should replace the current affiliation standard it uses for purposes of classifying an affiliated U.S. carrier as dominant or nondominant on a particular U.S. international route, based on the market power of its foreign carrier affiliate on the foreign end of the route. In addition, the Commission requests comment on whether certain safeguards applied to dominant carriers should be modified to improve their effectiveness. It additionally asks for comment on other proposed nondiscrimination safeguards, including safeguards that would apply to all U.S. international carriers. The Commission also clarifies the definition of a facilities-based carrier and requests comment on its proposal to codify that definition in this proceeding.

Finally, the Notice asks whether the goals of the proceeding would be served by incorporating the proposed effective market access test as an element of the Section 310(b)(4) public interest analysis applicable to foreign entities seeking to acquire an indirect ownership interest of more than 25 percent in U.S. radio licensees. Thus, the Notice asks whether the Commission's evaluation of the public interest should consider whether the primary markets of the foreign entity offer effective market access to U.S. licensees to provide the same type of radio-based services as requested in the United States. The Notice also seeks comment on other public interest factors the Commission should consider.

The Notice seeks public comment on whether these proposals are administratively feasible and whether these approaches or other alternatives will best serve the Commission's goals.

#### List of Subjects in 47 CFR Part 63

Communications common carriers.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95-5127 Filed 3-1-95; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF ENERGY

### 48 CFR Parts 933 and 970

#### Regulation Identifier Number 1991-AB20 Acquisition Regulation; Department of Energy Management and Operating Contracts

**AGENCY:** Department of Energy.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Energy (DOE) today issues a Notice of Proposed Rulemaking to amend the Department of Energy Acquisition Regulation (DEAR) to modify requirements for management and operating contractor purchasing systems. DEAR subpart 970.71 will be revised to identify certain purchasing system objectives and standards; eliminate the application of the "Federal norm"; and place greater reliance on commercial practices.

**DATES:** Written comments on the proposed rulemaking must be received on or before May 1, 1995.

**ADDRESSES:** Comments on the proposed rulemaking should be addressed to the U.S. Department of Energy, Director, Procurement and Property Review and Evaluation Division (HR-525.1), Attention: James J. Cavanagh, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** James J. Cavanagh, Director, Procurement and Property Review and Evaluation Division (HR-525.1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone 202-586-8257.

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## I. Background

The Government-wide approach to evaluating contractor purchasing systems, as set forth in Federal Acquisition Regulation (FAR) Subpart 44.301, is to "evaluate the efficiency and effectiveness with which the contractor spends Government funds and complies with the Government policy when subcontracting." Most Federal contracts require purchases to be made in accordance with the applicable laws and the terms and conditions of the contract, with minimal references back to acquisition regulations. The policy for the extent of reviews of these purchasing systems is set forth at FAR 44.303.

Unlike other contractors, however, a DOE management and operating contractor historically has been expected to conform its purchasing practices to the "Federal norm." As provided at the DEAR 970.7103, the Federal norm is an "evolving concept", which attempts to balance commercial purchasing practices with Federal procurement principles embodied in law and regulation. The DEAR identifies a number of tenets of Federal policy and practices to which DOE's management and operating contractors must adhere. As a result of the Federal norm, and iterations of related reviews, audits, and protest decisions, management and operating contractor purchasing has, over the years, become increasingly Federal-like, replacing efficient and effective commercial business practices.

In accordance with the objectives of the National Performance Review and the Secretary of Energy's Contract Reform Team Report, the Department intends to revise its expectations for management and operating contractor purchasing systems by eliminating the concept of the "Federal norm." In lieu of the detailed tenets contained in DEAR subpart 970.71, which have resulted in the inefficient layering of non-commercial systems and practices, the Department has identified certain purchasing system objectives and standards which it believes are common to superior purchasing activities, whether they be commercial or public.

In addition, as the Department eliminates the concept of the "Federal norm," the Department intends that any disagreements with management and operating contractor purchasing decision(s) be a matter to be settled between the contractor and potential subcontractor(s). Such disagreements are typically handled in this manner in the commercial sector. The Department expects that its management and operating contractors shall handle any