

Dated: May 12, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-13299 Filed 5-31-95; 8:45 am]

BILLING CODE 4310-22-P

43 CFR Public Land Order 7144

[NM-030-1430-01; NNMN 83840]

Withdrawal of Public Land for The Box Special Management Area; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 39.95 acres of public land from surface entry and mining for a period of 50 years for the Bureau of Land Management to protect the recreational, scenic and natural values in a portion of The Box Special Management Area. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: June 1, 1995.

FOR FURTHER INFORMATION CONTACT: Lois A. Bell, BLM Socorro Resource Area, 198 Neel Avenue, Socorro, New Mexico 87801, 505-835-0412.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the recreational, scenic and natural values within The Box Special Management Area:

New Mexico Principal Meridian

T. 3 S., R. 1 W.,

Sec. 31, lot 18.

The area described contains 39.95 acres in Socorro County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: May 12, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-13375 Filed 5-31-95; 8:45 am]

BILLING CODE 4310-FB-P

43 CFR Public Land Order 7145

[CA-930-1430-01; CACA 30123]

Withdrawal of Public Lands and Minerals for the Ash Valley Research Natural Area and Area of Critical Environmental Concern; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 1,321.51 acres of public lands from surface entry and mining, and 360 acres of federally reserved mineral interests from mining, for a period of 50 years for the Bureau of Land Management to protect the Ash Valley Research Natural Area and Area of Critical Environmental Concern. The lands have been and will remain open to mineral leasing and the Materials Act of 1947. The surface estate of the above 360 acres of federally reserved minerals and an additional 360.53 acres of non-Federal lands, if acquired by the United States, would also be withdrawn by this order.

EFFECTIVE DATE: June 1, 1995.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916-979-2858.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from the Materials Act of 1947, or leasing under the mineral leasing laws, for the Bureau of Land Management to protect the Ash Valley Research Natural Area and Area of Critical Environmental Concern:

Mount Diablo Meridian

T. 37 N., R. 11 E.,

Sec. 5, lots 1, 2, and 4, S $\frac{1}{2}$ NE $\frac{1}{4}$,

SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Sec. 9, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$.

T. 38 N., R. 11 E.,

Sec. 32, SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 1,321.51 acres in Lassen County.

2. Subject to valid existing rights, the following described federally reserved mineral interests are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from the Materials Act of 1947, or leasing under the mineral leasing laws, for the Bureau of Land Management to protect the Ash Valley Research Natural Area and Area of Critical Environmental Concern:

Mount Diablo Meridian

T. 37 N., R. 11 E.,

Sec. 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 5, E $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 8, E $\frac{1}{2}$ NE $\frac{1}{4}$;

Sec. 9, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate 360 acres in Lassen County.

3. In the event the non-Federal surface estate, of the 360 acres described in paragraph 2 returns to public ownership, these lands would be subject to the terms and conditions of this withdrawal as described in paragraph 1.

4. The following described non-Federal lands are located within the boundary of the Ash Valley Research Natural Area and Area of Critical Environmental Concern. In the event these lands return to public ownership, they would be subject to the term and conditions of this withdrawal as described in paragraph 1:

Mount Diablo Meridian

T. 37 N., R. 11 E.,

Sec. 4, W $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 5, lot 3 and SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 8, S $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 9, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 38 N., R. 11 E.,

Sec. 32, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 360.53 acres in Lassen County.

5. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

6. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: May 12, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-13364 Filed 5-31-95; 8:45 am]

BILLING CODE 4310-40-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 65**

[CC Docket No. 92-133; FCC 95-134]

Interstate Rate of Return Represcription and Enforcement Processes**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: The Federal Communications Commission ("Commission") has adopted a Report and Order ("Order") that reforms its rules that govern the procedures and methodologies for prescribing and enforcing the rate of return certain Local Exchange Carriers ("LECs") may earn on interstate access services. First, the Order replaces the existing rule, which calls for the initiation of rate of return represcription proceedings biennially, with a semiautomatic trigger activated by changes in capital costs. Second, the Order modifies the paper hearing rules set out in part 65 to streamline represcription proceedings. Third, the Order simplifies and streamlines the methodologies used to estimate the cost of capital for those LECs still subject to rate of return regulation. Finally, the Order removes the Commission's rule authorizing an automatic refund, with interest, of earnings in excess of "the maximum allowable rate of return." The Commission adopted this Order to streamline the procedures and methodologies of the rate of return represcription and enforcement processes and reduce the burdens these regulations impose on the remaining rate of return LECs, while allowing each the opportunity to maintain its credit and to attract capital. These reforms reflect the Commission's experience in the 1990 Represcription Proceeding,¹ with incentive ("price cap") regulation for the largest LECs, and with incentive regulation proposals for those LECs not subject to price cap regulation.

EFFECTIVE DATE: July 3, 1995, except that §§ 65.100, 65.101, 65.102, 65.103, 65.104, and 65.105 shall be effective August 30, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, telephone number 202-418-0872, John C.K. Hays, telephone number 202-418-0875, or John V. Giusti, telephone number 202-418-0878.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Report and Order

in Amendment of parts 65 and 69 of the Commission's rules to Reform the Interstate Rate of Return Represcription and Enforcement Processes, FCC 95-134, CC Docket No. 92-133, adopted March 30, 1995 and released April 6, 1995. The Commission has made the full text of the Order available for inspection and copying during normal business hours in the Commission's Reference Center, room 239, 1919 M Street, NW, Washington, DC 20554, and will publish it in the FCC Record. The full text of the Order may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW, suite 140, Washington, DC 20037, telephone number 202-857-3800.

Regulatory Flexibility Analysis

In the Notice of Proposed Rulemaking in this proceeding,² the Commission certified that the Regulatory Flexibility Act of 1980 exempts the rules proposed in this proceeding because they will not have a significant economic impact on a substantial number of small entities, as defined by section 601(3) of that act.³ LECs do not fall within the Regulatory Flexibility Act's definition of a "small entity," which excludes any business that is dominant in its field of operation. In the *Competitive Carrier Rulemaking*, the Commission found that LECs, even small ones, enjoy a dominant monopoly position in their local service area.⁴ In accordance with section 603(a) of the Regulatory Flexibility Act, the Secretary sent a copy of the Notice, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction

The Commission estimates the public reporting burden for the collections of information to average 100,000 hours per represcription, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspects of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management

² Amendment of parts 65 and 69 of the Commission's rules to Reform the Interstate Rate of Return Represcription and Enforcement Processes, *Notice of Proposed Rulemaking and Order*, 7 FCC Rcd 4688 (1992) (*Notice*), 57 FR 31944, July 20, 1992.

³ 5 U.S.C. 601(3).

⁴ 85 FCC 2d 1, 23-24 (1980), 45 FR 76148, November 18, 1980.

Branch, Room 234, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Synopsis of the Report and Order

Part 65 of the Commission's rules sets forth procedures and methodologies for prescribing and enforcing the rate of return certain local exchange carriers ("LECs") may earn on interstate access service.⁵ The Commission adopted those rules in 1985. In the *Notice* in this proceeding,⁶ the Commission proposed a fundamental reform of those rules in order to reflect the dramatic changes in the telecommunications industry and the regulation of it that had occurred since that time. This Order accomplishes that reform by streamlining the rate of return represcription and enforcement processes in ways that, the Commission believes, will substantially reduce the burden of its regulations on the public and on those LECs still subject to rate of return regulation. The changes achieve a proper balance of regulatory goals by allowing a carrier the opportunity to "maintain its credit and to attract capital"⁷ and by ensuring that ratepayers are charged reasonable rates for interstate services.

When part 65 was adopted, the Commission used rate of return principles to regulate the rates for the interstate communications services of the American Telephone and Telegraph Company ("AT&T") and all LECs. Since that time, price cap initiatives have removed all interexchange and most interstate access revenues from such regulation. The Commission has also created optional programs that allow the remaining rate of return LECs to increase their opportunities for increased profit and risks of loss above the levels they would face under traditional, rate of return regulation.

To reflect the altered environment as well as the Commission's experiences in implementing the part 65 rules, the Order changes virtually every aspect of our rate of return represcription and enforcement processes for telephone companies. First, the Order amends the current rule that contemplates a new represcription proceeding every two years regardless of conditions in the capital markets. The Order replaces that rule with one that relies on the yields

⁵ 47 CFR part 65.

⁶ *Notice*, 7 FCC Rcd 4688 (1992), 57 FR 31994, July 20, 1992.

⁷ *FPC v. Hope Natural Gas*, 320 U.S. 591, 603 (1944).

¹ 5 FCC Rcd 7507 (1990), 55 FR 51423, December 14, 1990.

on ten-year United States Treasury securities to determine when rescription might be warranted. Under this system, the Commission's Common Carrier Bureau will issue a notice asking whether the Commission should institute a rescription proceeding only if, for six consecutive months, the six-month average of those yields deviates by 150 basis points (1.5 percent) or more from the yield on these securities measured as of our most recent rescription. After evaluating the responses to such a notice, the Commission will decide whether a rescription proceeding is necessary and will then issue an order that either sets forth a procedural schedule for the proceeding or announces that a rescription proceeding is not necessary. Thus, the Order adopts a semi-automatic trigger that initiates an inquiry into whether a rescription is needed, rather than a trigger that automatically initiates a costly rescription.

The current rules also establish a "paper hearing" process for rescription proceedings that is modelled after the system used in evidentiary hearings. Because this process contains procedural steps beyond those necessary for a full and complete record, the Order adopts streamlined procedures that will reduce the inordinate delays and costs experienced in previous rescription proceedings, yet provide parties full opportunity to present and evaluate relevant evidence. The Order, therefore, streamlines the paper hearing system by removing unnecessary provisions such as those relating to cross-examination and oral argument options, notices of appearance, proposed findings of fact and conclusions, and use of a separated trail staff. Elimination of these provisions will significantly reduce procedural burden and delays. The Order also adopts the automatic discovery requirement proposed in the *Notice* in order to achieve further procedural efficiencies by eliminating the need for routine additional discovery.

Part 65 now uses a weighted average cost of capital to calculate a unitary, overall rate of return for rate of return LECs. This calculation requires the Commission to determine a cost of equity, cost of debt, and capital structure for LEC interstate access service. To help the Commission determine these components, part 65 requires the Regional Bell Holding Companies ("RHCs") to undertake complex studies and submit the resulting data for inclusion in the record in rescription proceedings. Because

the Commission has found in past proceedings the cost of equity studies unnecessary and the cost of debt and capital structure studies unduly complex the Order eliminates the rules that require them. To facilitate the rescription process, however, the Order specifies methods to calculate cost of debt and capital structure that rely on readily available data regarding the largest LECs for presumptive use in future rescription proceedings. Under this approach, the Commission will use the specified methodologies in future rescription proceedings unless the record in those proceedings shows that the methodologies would produce unreasonable results.

Part 65 had authorized an automatic refund, with interest, of earnings exceeding what the rules refer to as "the maximum allowable rate of return."⁸ In the *Automatic Refund Decision*,⁹ the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") remanded this rule to the Commission. Because we find that our tariff review and complaint processes are sufficient to enforce the prescribed interstate rate of return, we eliminate that rule.

Part 65 also provides that "the maximum allowable rate of return" equals the prescribed rate of return plus a buffer zone. The buffer zones are defined by adding 25 basis points to overall interstate earnings and 40 basis points each to earnings within the common line, traffic sensitive, and special access categories. The Order retains these buffer zones at their present levels. The zones serve an important role in our complaint process by recognizing the effects fluctuations in demand and operating costs may have on rate of return LECs' earnings, while protecting customers from unreasonably high rates. In monitoring compliance, the Order retains a two-year enforcement period in order to provide sufficient time to reduce the risk of targeting error and the risk that carriers will need to make frequent rate changes to remain within the authorized rate of return.

Accordingly, it is ordered, pursuant to sections 1, 4(i), 4(j), 201-205, 218-220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201-205, 218-220, 403, that part 65 of the Commission's rules, 47 CFR part 65, is amended, as specified below.

List of Subjects in 47 CFR Part 65

Telephone.

⁸ 47 CFR 65.700

⁹ *AT&T v. FCC*, 836 F.2d 1386 (D.C. Cir. 1988) (per curiam) (*Automatic Refund Decision*).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Amendments

Part 65 of title 47 of the CFR is amended as follows:

Parts 65 of the Commission's rules and regulations, 47 CFR part 65, is amended as follows:

PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES

1. The authority citation for part 65 is revised to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat., 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 151, 154, 201, 202, 203, 204, 205, 218, 219, 220, 403.

2. Section 65.1 is revised to read as follows:

§ 65.1 Application of part 65.

(a) This part establishes procedures and methodologies for Commission prescription of an authorized unitary interstate exchange access rate of return and individual rates of return for the interstate exchange access rates of certain carriers pursuant to § 65.102. This part shall apply to those interstate services of local exchange carriers as the Commission shall designate by rule or order, except that all local exchange carriers shall provide to the Commission that information which the Commission requests for purposes of conducting prescription proceedings pursuant to this part.

(b) Local exchange carriers subject to §§ 61.41 through 61.49 of this chapter are exempt from the requirements of this part with the following exceptions:

(1) Except as otherwise required by Commission order, carriers subject to §§ 61.41 through 61.49 of this chapter shall employ the rate of return value calculated for interstate access services in complying with any applicable rules under parts 36 and 69 that require a return component;

(2) Carriers subject to §§ 61.41 through 61.49 of this chapter shall be subject to § 65.600(d);

(3) Carriers subject to §§ 61.41 through 61.49 of this chapter shall continue to comply with the prescribed rate of return when offering any services specified in § 61.42(f) of this chapter unless the Commission otherwise directs; and

(4) Carriers subject to §§ 61.41 through 61.49 of this chapter shall comply with Commission information requests made pursuant to § 65.1(a).

3. Sections 65.100 is revised to read as follows:

§ 65.100 Participation and acceptance of service designation.

(a) All interstate exchange access carriers, their customers, and any member of the public may participate in rate of return proceedings to determine the authorized unitary interstate exchange access or individual interstate exchange access rates of return authorized pursuant to § 65.102.

(b) Participants shall state in their initial pleading in a prescription proceeding whether they wish to receive service of documents and other material filed in the proceeding. Participants that wish to receive service by hand on the filing dates when so required by this Part 65 shall specify in their initial pleading in a prescription proceeding, as specified in §§ 65.103 (b) and (c), an agent for acceptance of service by hand in the District of Columbia. The participant may elect in its pleading to receive service by mail or upon an agent at another location. When such an election is made, other participants need not complete service on the filing date, and requests for extension of time due to delays in completion of service will not be entertained.

4. Section 65.101 is revised to read as follows:

§ 65.101 Initiation of unitary rate of return prescription proceedings.

(a) Whenever the Commission determines that the monthly average yields on ten (10) year United States Treasury securities remain, for a consecutive six (6) month period, at least 150 basis points above or below the average of the monthly average yields in effect for the consecutive six (6) month period immediately prior to the effective date of the current prescription, the Commission shall issue a notice inquiring whether a rate of return prescription according to this part should commence. This notice shall state:

(1) The deadlines for filing initial and reply comments regarding the notice;

(2) The cost of debt, cost of preferred stock, and capital structure computed in accordance with §§ 65.302, 65.303, and 65.304; and

(3) such other information as the Commission may deem proper.

(b) Based on the information submitted in response to the notice described in § 65.101(a), and on any other information specifically identified, the Commission may issue a notice initiating a prescription proceeding pursuant to this part.

(c) The Chief, Common Carrier Bureau, may issue the notice described in § 65.101(a).

5. Section 65.102 is revised to read as follows:

§ 65.102 Petitions for exclusion from unitary treatment and for individual treatment in determining authorized return for interstate exchange access service.

(a) Exclusion from unitary treatment will be granted for a period of two years if the cost of capital for interstate exchange service is so low as to be confiscatory because it is outside the zone of reasonableness for the individual carrier's required rate of return for interstate exchange access services.

(b) A petition for exclusion from unitary treatment and for individual treatment must plead with particularity the exceptional facts and circumstances that justify individual treatment. The showing shall include a demonstration that the exceptional facts and circumstances are not of transitory effect, such that exclusion for a period of a least two years is justified.

(c) A petition for exclusion from unitary treatment and for individual treatment may be filed at any time. When a petition is filed at a time other than that specified in § 65.103(b)(2), the petitioner must provide compelling evidence that its need for individual treatment is not simply the result of short-term fluctuations in the cost of capital or similar events.

6. Section 65.103 is revised to read as follows:

§ 65.103 Procedures for filing rate of return submissions.

(a) Rate of return submissions listed in § 65.103(b)(1) and (c) may include any relevant information, subject to the page limitations of § 65.104. The Chief, Common Carrier Bureau, may require from carriers providing interstate services, and from other participants submitting rate of return submissions, data, studies or other information that are reasonably calculated to lead to a full and fair record.

(b) In proceedings to prescribe an authorized unitary rate of return on interstate access services, interested parties may file direct case submissions, responses, and rebuttals. Direct case submissions shall be filed within sixty (60) calendar days following the effective date of a Commission notice initiating a rate of return proceeding pursuant to § 65.101(b). Rate of return submissions responsive to the direct case submissions shall be filed within sixty (60) calendar days after the deadline for filing direct case submissions. Rebuttal submissions shall be filed within twenty-one (21) calendar days after the deadline for filing responsive submissions.

(c) Petitions for exclusion from unitary treatment and for individual treatment may be filed on the same date as the deadline for filing responsive rate of return submissions. Oppositions shall be filed within 35 calendar days thereafter. Rebuttal submissions shall be filed within 21 calendar days after the deadline for filing responsive submissions.

(d) An original and 4 copies of all rate of return submissions shall be filed with the Secretary.

(e) The filing party shall serve a copy of each rate of return submission, other than an initial submission, on all participants who have filed a designation of service notice pursuant to § 65.100(b).

7. Section 65.104 is revised to read as follows:

§ 65.104 Page limitations for rate of return submissions.

Rate of return submissions, including all argument, attachments, appendices, supplements, and supporting materials, such as testimony, data and documents, but excluding tables of contents and summaries of argument, shall be subject to the following double spaced typewritten page limits:

(a) The direct case submission of any participant shall not exceed 70 pages in length.

(b) The responsive submission of any participant shall not exceed 70 pages in length.

(c) The rebuttal submission of any participant shall not exceed 50 pages in length.

(d) Petitions for exclusion from unitary treatment shall not exceed 70 pages in length. Oppositions to petitions for exclusion shall not exceed 50 pages in length. Rebuttals shall not exceed 35 pages in length.

8. Section 65.105 is revised to read as follows:

§ 65.105 Discovery.

(a) Participants shall file with each rate of return submission copies of all information, including studies, financial analysts' reports, and any other documents relied upon by participants or their experts in the preparation of their submission. Information filed pursuant to this paragraph for which protection from disclosure is sought shall be filed subject to protective orders which shall be duly granted by the Chief, Common Carrier Bureau, for good cause shown.

(b) Participants may file written interrogatories and requests for documents directed to any rate of return submission and not otherwise filed pursuant to § 65.105(a). The permissible

scope of examination is that participants may be examined upon any matter, not privileged, that will demonstrably lead to the production of material, relevant, decisionally significant evidence.

(c) Discovery requests pursuant to § 65.105(b), including written interrogatories, shall be filed within 14 calendar days after the filing of the rate of return submission to which the request is directed. Discovery requests that are not opposed shall be complied with within 14 calendar days of the request date.

(d) Oppositions to discovery requests made pursuant to § 65.105(b), including written interrogatories, shall be filed within 7 calendar days after requests are filed. The Chief, Common Carrier Bureau, shall rule upon any such opposition. Except as stayed by the Commission or a Court, any required response to a discovery request that is opposed shall be provided within 14 calendar days after release of the ruling of the Chief, Common Carrier Bureau.

(e) An original and 4 copies of all information described in § 65.105(a) and all requests, oppositions, and responses made pursuant to §§ 65.105 (a), (b) and (d) shall be filed with the Secretary.

(f) Service of requests, oppositions, and responses made pursuant to §§ 65.105 (b), and (d) shall be made upon all participants who have filed a designation of service notice pursuant to

§ 65.100(b). Service of requests upon participants who have filed designation of service notices pursuant to § 65.100(b) shall be made by hand on the filing dates thereof.

§ 65.106 [Removed]

9. Section 65.106 is removed.

§§ 65.200, 65.201, 65.400 and 65.510 [Removed]

10. Sections 65.200, 65.201, 65.400 and 65.510 are removed.

11. Section 65.300 is revised to read as follows:

§ 65.300 Calculations of the components and weights of the cost of capital.

(a) Sections 65.301 through 65.303 specify the calculations that are to be performed in computing cost of debt, cost of preferred stock, and financial structure weights for prescription proceedings. The calculations shall determine, where applicable, a composite cost of debt, a composite cost of preferred stock, and a composite financial structure for all local exchange carriers with annual revenues in excess of \$100 million. The calculations shall be based on data reported to the Commission in FCC Report 43-02. (See 47 CFR 43.21). The results of the calculations shall be used in the represcription proceeding to which they relate unless the record in that

proceeding shows that their use would be unreasonable.

(b) Excluded from cost of capital calculations made pursuant to § 65.300 shall be those sources of financing that are not investor supplied, or that are otherwise subtracted from a carrier's rate base pursuant to Commission orders governing the calculation of net rate base amounts in tariff filings that are made pursuant to section 203 of the Communications Act of 1934, 47 U.S.C. 203, or that were treated as "zero cost" sources of financing in section 450 and subpart G of this Part 65. Specifically excluded are: accounts payable, accrued taxes, accrued interest, dividends payable, deferred credits and operating reserves, deferred taxes and deferred tax credits.

12. Section 65.301 is revised to read as follows:

§ 65.301 Cost of equity.

The cost of equity shall be determined in represcription proceedings after giving full consideration to the evidence in the record, including such evidence as the Commission may officially notice.

13. Section 65.302 is revised to read as follows:

§ 65.302 Cost of debt.

The formula for determining the cost of debt is equal to:

$$\text{Embedded Cost of Debt} = \frac{\text{Total Annual Interest Expense}}{\text{Average Outstanding Debt}}$$

Where:

"Total Annual Interest Expense" is the total interest expense for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

"Average Outstanding Debt" is the average of the total debt for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

14. Section 65.303 is revised to read as follows:

§ 65.303 Cost of preferred stock.

The formula for determining the cost of preferred stock is:

$$\text{Cost of Preferred Stock} = \frac{\text{Total Annual Preferred Dividends}}{\text{Proceeds from the Issuance of Preferred Stock}}$$

Where:

"Total Annual Preferred Dividends" is the total dividends on preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more. "Proceeds from the Issuance of Preferred Stock" is the average of the

total net proceeds from the issuance of preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

15. Section 65.304 is revised to read as follows:

§ 65.304 Capital structure.

The proportion of each cost of capital component in the capital structure is equal to:

Proportion in the capital structure =

$$\frac{\text{Book Value of particular component}}{\text{Book Value of Debt} + \text{Book Value of Preferred Stock} + \text{Book Value of Equity}}$$

Where:

“Book Value of particular component” is the total of the book values of that component for all local exchange carriers with annual revenues of \$100 million or more.

“Book Value of Debt+Book Value of Preferred Stock+Book Value of Equity” is the total of the book values of all the components for all local exchange carriers with annual revenues of \$100 million or more.

The total of all proportions shall equal 1.00.

15. A new § 65.305 is added to read as follows:

§ 65.305 Calculation of the weighted average cost of capital.

(a) The composite weighted average cost of capital is the sum of the cost of debt, the cost of preferred stock, and the cost of equity, each weighted by its proportion in the capital structure of the telephone companies.

(b) Unless the Commission determines to the contrary in a prescription proceeding, the composite weighted average cost of debt and cost of preferred stock is the composite weight computed in accordance with § 65.304 multiplied by the composite cost of the component computed in accordance with § 65.301 or § 65.302, as applicable. The composite weighted average cost of equity will be determined in each prescription proceeding.

16. A new § 65.306 is added to read as follows:

§ 65.306 Calculation accuracy.

In a prescription proceeding, the final determinations of the cost of equity, cost of debt, cost of preferred stock and their capital structure weights shall be accurate to two decimal places.

17. Section 65.500 is revised to read as follows:

§ 65.500 Net income.

The net income methodology specified in § 65.450 shall be utilized by all interexchange carriers that are so designated by Commission order.

18. Section 65.600(b) is revised to read as follows:

§ 65.600 Rate of return reports.

* * * * *

(b) Each local exchange carrier or group of affiliated carriers which is not subject to §§ 61.41 through 61.49 of this

chapter and which has filed individual access tariffs during the preceding enforcement period shall file with the Commission, within three (3) months after the end of each calendar quarter, a quarterly rate of return monitoring report. Each report shall contain two parts. The first part shall contain rate of return information on a cumulative basis from the start of the enforcement period through the end of the quarter being reported. The second part shall contain similar information for the most recent quarter. The final quarterly monitoring report for the entire enforcement period shall be considered the enforcement period report. Reports shall be filed on the appropriate report form prescribed by the Commission (see § 1.795 of this chapter) and shall provide full and specific answers to all questions propounded and information requested in the currently effective report form. The number of copies to be filed shall be specified in the applicable report form. At least one copy of the report shall be signed on the signature page by the responsible officer. A copy of each report shall be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection. Final adjustments to the enforcement period shall be made by September 30 of the year following the enforcement period to ensure that any refunds can be properly reflected in an annual access filing.

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§ 65.700 [Amended]

19. In § 65.700, paragraph (c) is removed and paragraph (d) is redesignated as paragraph (c).

20. Section 65.701 is revised to read as follows:

§ 65.701 Period of review.

For both exchange and interexchange carriers subject to this part, interstate earnings shall be measured over a two year period to determine compliance with the maximum allowable rate of return. The review periods shall commence on January 1 in odd-numbered years and shall end on December 31 in even-numbered years.

§ 65.702 [Amended]

21. In § 65.702, paragraph (a) is removed and paragraphs (b) and (c) are redesignated as (a) and (b) respectively.

§ 65.703 [Removed]

Section 65.703 is removed.

[FR Doc. 95-13380 Filed 5-31-95; 8:45 am] BILLING CODE 6712-01-M

47 CFR Part 74

[MM Docket No. 93-24]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services; ITFS Filing Window; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the Federal Register summary of the *Report and Order* in MM Docket No. 93-24, which was published April 25, 1995 (60 FR 20241). The Federal Register summary contained regulation related to the Instructional Television Fixed Service.

EFFECTIVE DATE: May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Clay Pendarvis (202) 418-1600.

Need for Correction

As published, the FR Notice gave an erroneous effective date for the above Order which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the April 25, 1995, FR Notice 95-10024 is corrected as follows:

Paragraph 1. On page 20241, in the second column, after the phrase “EFFECTIVE DATE” is revised to read: “The change to the rules adopted in the Commission’s Report and Order in MM Docket No. 93-24 will become effective May 25, 1995.

Paragraph 2. On page 20246, in third column, line seven of paragraph 47, after the word “effective” is corrected to read “May 25, 1995”.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

[FR Doc. 95-13292 Filed 5-31-95; 8:45 am] BILLING CODE 6712-01-M