

FOR FURTHER INFORMATION CONTACT: Peter W. Herrick, Office of Managing Director at (202) 418-0443, or Terry D. Johnson, Office of Managing Director at (202) 418-0445.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections, revise the Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required the Commission to collect for fiscal year 1995. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on June 29, 1995 of the final regulations (MD Docket No. 95-3; FCC 95-227), which were the subject of FR Doc. 95-15827, is corrected as follows:

On page 34023 in Appendix E, Table #2, line 6, column 4, the new fee dollar amount for FM Radio (Classes C, C1, C2, B) was listed as "1,125." This should be changed to read "1,120."

§ 1.1154 [Corrected]

On page 34031, in the first column, in § 1.1154, under the subheading Carriers, items 1 through 4, the phrase in parentheses "per dollar contributed to TRS Fund" should be revised to read "per adjusted gross interstate revenue dollar."

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-17571 Filed 7-17-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 21

[Gen. Docket No. 90-54, Gen. Docket No. 80-113; FCC 95-231]

Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, Private Operational-Fixed Microwave Service, and Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; order on reconsideration.

SUMMARY: This Second Order on Reconsideration decides issues raised by a petitioner concerning the previous Order on Reconsideration, 56 FR 57596 (Nov. 13, 1991), which reevaluated a number of issues decided in the Report and Order, 55 FR 46006 (Oct. 31, 1990); Erratum, 55 FR 46513 (Nov. 5, 1990). The Order on Reconsideration and Report and Order were adopted to further enhance wireless cable service as a viable competitor in the multichannel video entertainment marketplace, by revising the rules governing the various microwave radio channels that can be used collectively to provide wireless cable service. The Second Order on Reconsideration modifies and clarifies some decisions made in the Order on Reconsideration. Rule changes include revision to the definition of the protected service area for Multipoint Distribution Service (MDS) stations, the deadline for service by MDS applicants and authorized cochannel and adjacent-channel Instructional Television Fixed Service (ITFS) stations and the deadline for ITFS stations to file petitions to deny for MDS applications. Clarifications were also made concerning transmitter frequency offset when proposed in an MDS application as an interference abatement technique and adoption of the same calendar day cut-off rule.

EFFECTIVE DATE: October 1, 1995, except the revision of Section 21.902(d) will become effective September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Lynne Milne, Mass Media Bureau, 202-416-0883.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Order on Reconsideration in Gen. Dockets 90-54 and 80-113, adopted June 15, 1995, and released June 21, 1995. The complete text of this Second Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street NW., Washington, DC. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), at Suite 140, 2100 M Street NW., Washington, DC 20037 (202-857-3800).

Paperwork Reduction Statement

The Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501, et seq.).

Title: Amendment of Parts 21, 43, 74, 78, and 94 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service.

OMB Number: 3060-XXXX.

Action: New and modified collections.

Respondents: Businesses (including small businesses); individuals or households.

Frequency of Response: On occasion. 1. Section 21.902(d).

(a) Additional Engineering Studies due to Expansion of MDS Stations' Protected Service Areas.

Estimated Annual Burden: 700 responses; 3150 hours on total industry, 4.5 hours each.

(b) Maps for Waiver Requests of MDS Protected Service Area. Estimated Annual Burden: 10 responses; 10 hours on total industry, 1 hour each.

(c) Additional Cable Waivers due to Protected Service Area Expansion Affecting Cable-MDS Prohibitions. Estimated Annual Burden: 10 responses; 10 hours on total industry, 1 hour each. (2) Section 21.902(i).

(a) ITFS Station Interference Protection Through Service of Complete MDS Application. Estimated Annual Burden: 350 responses; 175 hours on total industry, 0.5 hour each.

(b) ITFS Station Interference Protection Through Petitions to Deny. Estimated Annual Burden: 5 responses; 10 hours on total industry, 2 hours each.

Estimated public reporting burdens for the collections of information are indicated above.

These estimates include 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 aspect of the collections of information, including suggestions for reducing the burden to the Federal Communications Commission, Records Management Branch, Room 234, Paperwork Reduction Project, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Synopsis of Second Order on Reconsideration

1. This Second Order on Reconsideration modifies and clarifies some decisions made in the previous

Order on Reconsideration, 56 FR 57596 (Nov. 13, 1991), which reevaluated a number of issues decided in the Report and Order, 55 FR 46006 (Oct. 31, 1990); Erratum, 55 FR 46513 (Nov. 5, 1990), which had revised rules governing MDS and ITFS stations. The rule revisions were made to simplify MDS rules, promote competition for cable television systems by wireless cable systems,¹ and facilitate the imminent transition from analog to digital compression technology of these microwave stations.

2. After examining the issues raised in a petition for reconsideration, it was decided to modify the shape and size of each MDS station's protected service area, as defined at 47 CFR 21.902(d). Formerly, this was a 710 square mile area. (For an MDS station with an omnidirectional antenna, the 710 square miles is a circle with a radius of 15 miles.) Now, each MDS station's protected service area will be a circle with a radius of 35 miles.

3. However, a very narrow exception was adopted to this 35-mile circle protected service area definition. The exception applies only to: (1) modification applications filed *after* the effective date of the expansion to a 35-mile circle protected service area; (2) to MDS stations which were authorized or for which there was an application pending *on or before* the effective date of this expanded protected service area rule; and (3) to the interference analysis of the protected service area of an MDS station which was authorized or for which there was an application pending *on or before* the effective date of the revision to Section 21.902(d). The exception to the 35-mile circle protected service area allows such a modification application's interference analysis to exclude, from the desired station's 35-mile circular protected service area, the area defined by the intersection of the predicted 45 dB desired-to-undesired

signal ratio contour line associated with the modification applicant's previously authorized station and the 35-mile circle boundary of the desired station. However, the modification application:

(1) cannot increase the size of the geographic area suffering harmful interference, and (2) cannot cause harmful interference to any new portion of the desired station's protected service area. The exception also does not apply to any point within the desired station's current 710 square mile protected service area. No proposal will be allowed which would cause existing stations to adapt to additional interference. Moreover, waiver request made in MDS modification applications filed for ITFS market settlements will be considered.

4. Unless these two exceptions apply, any modification applications or applications for new MDS stations filed *after* the effective date for the revision to Section 21.902(d), or amendments thereto, must use the expanded 35-mile circle definition of a protected service area, including the winners of competitive bidding procedures. Also, each modification application for an authorized MDS station filed *after* the effective date of the expanded protected service area rule, which requests a waiver of the expanded protected service area definition of Section 21.902(d), must contain: (1) a waiver request and waiver justification pursuant to 47 C.F.R. § 21.19, and (2) a map, 8½ by 11 inches, depicting the boundary of the 45 dB desired-to-undesired signal ratio contour, which clearly states the mileage at each radial, measured at one degree intervals, for 360 degrees, of the protected service area boundary from the desired station's transmitter site coordinates.

5. The expansion of the MDS station's protected service area may affect the prohibitions of Section 21.912 against ownership or leasing interests, direct or indirect, by cable television companies, or affiliates, in MDS stations when there is an overlap between the MDS station's protected service area and the cable company's service area. With the expansion of the MDS station protected service area, it is possible that some cable television companies, or affiliates, now might be barred, that formerly compiled with Section 21.912. Although the further restriction on cable television companies serves one of the primary purposes of the rule and the statutory restrictions of 47 USC 553(a)(2), to enhance cable competition by a wireless cable company as an alternative choice for consumers, a blanket waiver was granted until June 1,

1996 to cable companies with newly-prohibited interests in an MDS station.

6. In addition, the *Second Reconsideration Order* revises Section 21.902(i) by setting two deadlines earlier. Together, the earlier deadlines reduce from 120 days to 30 days a delay in processing MDS applications which propose locations within 50 miles of cochannel or adjacent-channel authorized ITFS stations. As the result of petitioner's request, the deadline for service by MDS applicants on specified ITFS stations was changed to the date of filing of the MDS application. In order to provide better identification and improved notice to the affected ITFS licensee or construction permittee, the MDS applicant must now serve a complete copy of its application, instead of the few pages from the middle of the application which contain the ITFS interference study. And, because the Commission adopted on June 15, 1995 in the *Report and Order* in MM Docket No. 94-131 rules for MDS competitive bidding, deadlines for ITFS service were set for winners of competitive bidding.

7. Pursuant to petitioner's request, authorized ITFS stations are required to file petitions to deny for MDS applications by the 30th day after public notice, instead of the 120th day after public notice. The earlier deadline was adopted so that MDS applications can become ripe for grant more quickly and MDS stations can begin operations as soon as possible in order to provide competition for cable television systems.

8. Two issues which had been clarified in the previous Order on Reconsideration were again the subject of clarifications in this Second Order on Reconsideration. The Commission always intended to evaluate involuntary MDS frequency offset proposals on a case by cases basis, and no changes in frequency offset rules or policies were made in the Second Order on Reconsideration. And, the order further clarifies that the adoption of the same calendar day cut-off rule, Section 21.912, in the Report and Order complies with the requirements of the Administrative Procedure Act. No changes were made in Section 21.912 in the Second Order on Reconsideration.

Regulatory Flexibility Act Analysis

1. Pursuant to the Regulatory Flexibility Act of 1980, 5 USC 605, it is certified that the adopted rules will not have a significant impact on a substantial number of small entities.

2. The Secretary shall send a copy of this Second Order on Reconsideration, including the Final Regulatory Flexibility Analysis, to the Chief

¹ A wireless cable system uses a combination of MDS 1, 2, E, F or H channels, or ITFS excess capacity to distribute video entertainment programming to subscribers. (MDS Channel 2A with only 4 MHz lacks sufficient bandwidth to transmit a standard television signal which requires 6 MHz.) It is possible for commercial companies to apply for a limited number of ITFS channels under prescribed circumstances. Second Report and Order in Docket No. 90-54, 6 FCC Rcd 6792, 6801-06 (1991). We do not restate the background of the term "wireless cable" here; interested parties may consult the Wireless Cable Order, 5 FCC Rcd 6410 (1990). Use of the term "wireless cable" does not imply that MDS, ITFS or wireless cable constitute "cable" service for any statutory or regulatory purpose. See Definition of a Cable Television System, 5 FCC Rcd 7638, 7639-41 (1990) (the definition of a cable television system does not include transmissions such as MDS), vacated on other grounds sub nom. *Beach Communications, Inc. v. FCC*, 965 F.2d 1103 (D.C. Cir. 1992), rev'd, 113 S.Ct. 2096 (1993).

Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981)).

Ordering Clauses

1. For the reasons set forth above, Part 21 of the Commission's Rules are hereby amended as discussed herein and as shown below. It is further ordered that the rule changes set forth below will become effective on October 1, 1995, except the revision of Section 21.902(d) which will become effective September 18, 1995.

2. Accordingly, it is ordered that pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 USC 154(i) and 303(r), and Section 1.429(i) of the Commission's Rules, 47 CFR Section 1.429(i), the Partial Petition for Reconsideration filed in this proceeding is granted to the extent indicated herein, and in all other respects is denied.

List of Subjects in 47 CFR Part 21

Communications common carriers, Domestic public fixed radio services, Multipoint distribution service.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Amendatory Text

47 CFR Part 21 is amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 410, 602; 48 Stat. 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102, as amended; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

2. 47 CFR 21.902 is amended by revising paragraphs (d)(1) and (i) to read as follows:

§ 21.902 Frequency interference.

* * * * *

(d) (1) Subject to the limitations contained in paragraph (e) of this section, each MDS station licensee shall be protected from harmful electrical interference, as determined by the theoretical calculations, within a protected service area of which the boundary will be 56.3255 kilometers (35 miles) from the transmitter site.

* * * * *

(i) (1) For each initial application for a new station, or amendment thereto, or modification application, or amendment thereto, proposing Multipoint Distribution Service (MDS) facilities on E, F or H channels, filed on October 1, 1995 or thereafter, on the day the application or amendment is filed, the applicant must prepare but is not required to submit with its application or amendment, an analysis demonstrating that operation of the MDS applicant's transmitter will not cause harmful interference to each registered receive site of any existing, cochannel or adjacent-channel, D, E, F, or G channel Instructional Television Fixed Service (ITFS) station, licensed or with a construction permit authorized on the day such MDS application is filed, with an ITFS transmitter site within 50 miles of the coordinates of the MDS station's proposed transmitter site.

(i) In the alternative, an applicant for an MDS station may submit a statement from the ITFS licensee or construction permittee stating that the ITFS licensee or construction permittee does not object to operation of the MDS station.

(ii) In the alternative, an applicant for an MDS station may submit an analysis demonstrating that there are no ITFS licensees or construction permittees as described in paragraph (i)(1) of this section within 50 miles of the coordinates of the proposed transmitter site of the MDS station.

(2) For each application described in paragraph (i)(1) of this section, the applicant must serve, by certified mail, return receipt requested, on or before the day the application or amendment described in paragraph (i)(1) of this section is initially filed with the Commission, a copy of the complete MDS application or amendment, including each exhibit and interference study, described in paragraph (i)(1) of this section, on each ITFS licensee or construction permittee described in paragraph (i)(1) of this section.

(3) For each application described in paragraph (i)(1) of this section, the applicant must certify and file, with the application or amendment, its certification of its compliance with the requirements of paragraph (i)(2) of this section.

(4) For each application described in paragraph (i)(1) of this section, the applicant must file, on or before the 30th day after the application or amendment described in paragraph (i)(1) of this section is initially filed with the Commission, a written notice which contains the following:

- (i) caption—ITFS Service Notice;
- (ii) applicant's name, address, proposed service area and channel

group, and application file number, if known;

(iii) a list of each ITFS licensee and construction permittee described in paragraph (i)(1) of this section;

(iv) the address of each ITFS licensee and construction permittee described in paragraph (i)(1) of this section used for service; and

(v) a list of the date each ITFS licensee and construction permittee described in paragraph (i)(1) of this section received a copy of the complete application or amendment described in paragraph (i)(1) of this section, or a notation of lack of receipt by the ITFS licensee or construction permittee of a copy of the complete application or amendment, on or before such 30th day, together with a description of its efforts for receipt by each such licensee or construction permittee lacking receipt of the application.

(5) The public notices described in paragraph (i)(6) of this section are as follows:

(i) For initial applications for new MDS stations which participate in a lottery, this public notice is the notice announcing the selection of the applicant's application by lottery for qualification review.

(ii) For initial applications for new MDS stations which participate in a competitive bidding process, this public notice is the notice announcing the application of the winning bidder in the competitive bidding process has been accepted for filing.

(iii) For initial applications for new MDS stations which do not participate in a lottery or a competitive bidding process, this public notice is the notice announcing that the applicant's application is not mutually-exclusive with other MDS applications.

(iv) For MDS modification applications, this public notice is the notice announcing that the modification application has been accepted for filing.

(6) (i) Notwithstanding the provisions of Sections 1.824(c) and 21.30(a)(4), for each application described in paragraph (i)(1) of this section, each ITFS licensee and each ITFS construction permittee described in paragraph (i)(1) of this section may file with the Commission on or before the 30th day after the public notice described in paragraph (i)(5) of this section, a petition to deny the MDS application.

(ii) Except for the requirements as to the filing time deadline, this petition to deny must otherwise comply with the provisions of Section 21.30.

(iii) In addition, this ITFS petition to deny must:

(A) identify the subject MDS application, including the applicant's

name, station location, channel group, and application file number;

(B) include a certificate of service demonstrating service on the subject MDS applicant by certified mail, return receipt requested, on or before the 30th day after the MDS public notice described in paragraph (i)(5) of this section;

(C) include a demonstration that it made efforts to reach agreement with the MDS applicant but was unable to do so;

(D) include an engineering analysis that operation of the proposed MDS station will cause harmful interference to its ITFS station;

(E) include a demonstration, in those cases in which the MDS applicant's analysis is dependent upon modification(s) to the ITFS facility, that the harmful interference cannot be avoided by the proposed substitution of new or modified equipment to be

supplied and installed by the MDS applicant, at no expense to the ITFS licensee or construction permittee; and

(F) be limited to raising objections concerning the potential for harmful interference to its ITFS station or concerning a failure by the MDS applicant to serve the ITFS licensee or construction permittee with a copy of the complete application or amendment described in paragraph (i)(1) of this section.

(iv) The Commission will presume an ITFS licensee or construction permittee described in paragraph (i)(1) of this section has no objection to operation of the MDS station, if the ITFS licensee or construction permittee fails to file a petition to deny by the deadline prescribed in paragraph (i)(6)(1) of this section.

* * * * *

[FR Doc. 95-17373 Filed 7-17-95; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Chapter 3

Acquisition Regulation

CFR Correction

In title 48 of the Code of Federal Regulations, chapters 3 to 6, revised as of October 1, 1994, in attachment I to chapter 3 beginning on page 142 a portion of the attachment was inadvertently omitted. Following the text for the State of California which ends at the bottom of page 142, the following text should be inserted.

ATTACHMENT I TO CHAPTER 3—SINGLE LETTER OF CREDIT RECIPIENTS AND CENTRAL POINT ADDRESSES

| State | Organization and payee No. | Recipient CRS-EIN ¹ | Letter of credit |
|----------------------------|---|--|--|
| | * * * | * * | |
| Connecticut ... | Yale University, 1-060646973-A1 Treasurer, Yale University, Grants and Contracts, 155 Whitney Avenue, New Haven, Conn. 05611. | 1-060646973-A1, 1-060646973-A2, 1-060646973-A4 1-060646973-A5, 1-060646973-A6, 1-060646973-A7, 1-060646973-A8. | 75089755 |
| District of Co- lumbia. | Georgetown University, 1-530196603-A1 Treasurer, Georgetown University, 37th and O Streets NW., Washington, D.C. 20007. George Washington University, 1-530196584-A1 Treasurer, George Washington University, Rice Hall, Washington, D.C. 20006. Gorgas Memorial Institute, 1-530196518-A1 Treasurer, Gorgas Memorial Institute, 2007 I Street NW., Washington, D.C. 20007. National Academy of Sciences, 1-530196932-A1 Treasurer, National Academy of Sciences, 2101 Con- stitution, Avenue NW., Washington, D.C. 20037. | 1-530196603-A1, 1-530196603-A2, 1-530196603-A3 1-530196603-A4, 1-530196603-A5, 1-530196603-A6, 1-530196603-A7. 1-530196584-A1, 1-530196584-A3 1-530196518-A1 1-530196932-A1, 1-530196932-A2 | 75083450 75083441 75083522 75085992 |
| Florida | University of Florida, 1-596001874-C7, Fiscal Contract Officer, University of Florida, Room 106, R. Johnson Hall, Gainesville, Florida 32611. University of Miami, 1-590624458-A1 Chief Accountant, University of Miami, P.O. Box 9057, Coral Gables, Florida 33124. | 1-596001874-C7, 1-596001874-F2 1-590624458-A1, 1-590624458-A2, 1-590624458-A3 1-590624458-A6 | 75083326 75085253 |
| Georgia | State of Georgia, 1-581130678-A1 Director, Department of Adm. Services, Fiscal Division, Pryor-Mitchell Building, Atlanta, Georgia 30334. | 1-580973190-A2, 1-581130678-A1, 1-581130678-A5, 1-581130678-A6, 1-586000246-A2, 1-586002042-A1, 1-586002042-A2, 1-586002042-A3, 1-586002042- A4, 1-586002042-A6, 1-900000257-A1, 1- 900000648-A1. | 75083462 |
| Guam | Territory of Guam, 1-980018947-E6 * * * | 1-000040215-A1, 1-000040218-A1, 1-000040228-A1 * * | 7508B368 |