

The Commission will terminate the download capability of any accounts in arrears.

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4. In § 514.21, paragraph (j) is revised to read as follows:

§ 514.21 User charges.

* * * * *

(j) *Daily Subscriber Data (§ 514.20(d)).*

(1) Persons requesting download of daily updates must pay 46 cents per minute as provided by § 514.21(g)(1).

(2) Persons requesting daily updates on tape must supply the tapes and return postage, and pay \$43 per daily update.

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By the Commission.

Joseph C. Polking,
Secretary.

FR Doc. 95-27489 Filed 11-6-95; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[DA 95-2190]

Independent Data Communications Manufacturers Association (IDCMA) and AT&T Corp. Petitions Regarding Frame Relay Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; declaratory ruling.

SUMMARY: This order grants separate Petitions for declaratory ruling concluding that: AT&T's InterSpan Frame Relay Service incorporates a basic service that must be offered pursuant to tariff; and all facilities-based IXCs offering basic frame relay service must also tariff the service. The intended effect of this order is that all facilities-based IXCs offering basic frame relay service must file tariffs within sixty (60) days of the effective date of this order.

EFFECTIVE DATE: December 7, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stuart Kupinsky at (202) 418-1587 or Rose Crellin at (202) 418-1581, Policy and Program Planning Division, Common Carrier Bureau (202) 418-1580.

SUPPLEMENTARY INFORMATION: On November 28, 1994, the Independent Data Communications Manufacturers Association, Inc. (IDCMA) filed a

petition for declaratory ruling that AT&T's InterSpan Frame Relay Service (InterSpan) is a basic transmission service subject to the tariffing and other requirements of Title II of the Communications Act of 1934, as amended (Act). Thereafter, on December 5, 1994, AT&T filed a separate petition for declaratory ruling that the Commission's decision regarding InterSpan should apply to all other interexchange carrier's (IXSs) frame relay services.

IDCMA's petition requested that the Commission declare AT&T's InterSpan service to be a basic service that AT&T must offer under tariff. Thus, the issue before the Commission was whether AT&T and certain other carriers must offer frame relay service as a regulated telecommunications service in accordance with the requirements of Title II of the Act and the Commission's Computer II, 45 FR 31319, May 13, 1980, and Computer III, 51 FR 24350, July 3, 1986, proceedings.

Frame relay is a high-speed packet-switching technology used to communicate data between, among other things, disperse local area computer networks (LANs). Digital data is divided into individual "packets"—each with its own destination information—that are transmitted separately. When all the packets of data arrive at this destination, they are reassembled into their original form.

Frame relay technology also serves as the intermediary format for data traveling between and among computer systems employing different communications protocols. AT&T's InterSpan Service, for example, provides a variety of protocol conversion functions permitting communication with its frame relay network. That is, a customer may provide data to the network in an original protocol, the network converts the data into frame relay protocol, transmits the data across the network, and then converts the data back to the original protocol or a different protocol before delivering the data out of the network.

The regulatory treatment of data communications services is governed by the basic-enhanced services framework established in the Commission's Computer II proceeding. Computer II Final Order, 77 FCC2d 384 (1980), 45 FR 31319, May 13, 1980. Basic services are regulated under Title II of the Act and Commission Rules. Common carriers must file tariffs for such services. The Commission has previously determined that packet-switching networks may provide a basic service.

In contrast, section 64.702(a) of the Commission's Rules defines enhanced services in pertinent part as "services * * * which employ computer processing applications that act on the * * * protocol or similar aspects of the subscriber's transmitted information; [or] provide the subscriber additional, different, or restructured information." Thus, the Commission has traditionally treated carrier provision of protocol conversion, except in some limited cases, as an enhanced service. Enhanced services are not regulated under the Commission's Rules.

For the reasons set forth in the full Order, the Common Carrier Bureau (Bureau) concludes that frame relay service is a basic service. The Bureau finds that frame relay service offers a transmission capability that is virtually transparent in terms of its interaction with customer-supplied data. The service is already provided pursuant to tariff as a basic service by all but one of the Bell Operating companies (BOCs). Accordingly, the Bureau declines to conclude that frame relay is an enhanced service.

The Bureau rejects AT&T's argument that frame relay is an enhanced service because modifications to the frame header that occur during network transmission—such as changes in discard eligibility or location code—render the customer data that is delivered to the terminating customer through its frame relay service "different" from the data transmitted by the originating customer. The Bureau also rejects the argument of AT&T and others that the customer receives "different" or "restructured" information within the meaning of Section 64.702 if the network discards eligible frames in frame relay networks.

The Bureau also concludes that AT&T's InterSpan service in particular incorporates a basic frame relay service that AT&T must unbundle from its enhanced offering and offer under tariff.

AT&T requested in its petition that if the Commission finds that AT&T frame relay service is a basic service subject to tariff, that the ruling be made applicable to the frame relay services offered by all other IXCs.

Having applied Commission Rules and found that frame relay service is a basic service, the Bureau concludes that, pursuant to the Computer II decision, all facilities-based common carriers providing enhanced services in conjunction with basic frame relay service must file tariffs for the underlying frame relay service. This requirement applies independently of any additional requirements under the Computer III proceedings. Further, all

facilities-based common carriers providing basic frame relay service must file tariffs within sixty (60) days of the effective date of this order.

Federal Communications Commission.

Kathleen M.H. Wallman,

Chief, Common Carrier Bureau.

[FR Doc. 95-27470 Filed 11-6-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-180; RM-7698, RM-7818, RM-7819]

Radio Broadcasting Services; Seabrook, Huntsville, Bryan, Victoria, Kenedy, and George West, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: This document denies an Application for Review filed by Helen Maryse Casey directed against the *Report and Order* in this proceeding. See 58 FR 12903, March 8, 1993. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 7, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 776-1654.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 91-180, adopted July 31, 1995, and released August 29, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Washington, DC 20037.

List of Subjects in Part 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-27469 Filed 11-6-95; 8:45 am]

BILLING CODE 6712-01-F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1815

Acquisition Regulation; Cost or Pricing Data; Correction

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule which was published October 18, 1995 (60 FR 53878) The final rule revised NASA policies on cost or pricing data in order to make the policies consistent with recently revised Federal-wide policies.

EFFECTIVE DATE: October 18, 1995.

FOR FURTHER INFORMATION CONTACT: William T. Childs, (202) 358-0454.

SUPPLEMENTARY INFORMATION:

Background

The Federal Acquisition Streamlining Act of 1994 (FASA) revised policy on cost or pricing data under the Truth in Negotiations Act (TINA), among other things. The TINA changes have been implemented in the Federal Acquisition Regulation (FAR) at 48 CFR chapter 1, and those changes necessitate corresponding revisions of the NASA FAR Supplement (NFS).

Need for Correction

Two section headings were incorrectly published. In section 1815.804-1, paragraph (a)(1) is removed because it is adequately covered by FAR 15.804-1, two citations are corrected, and the term "exemption" is revised to read "exception", which is the term used by the FAR. Paragraph (b) was inadvertently omitted from § 1815.804-2. The paragraph provides guidance that the agreed date under FAR 15.804-2(b)(2) should generally be within two weeks of the date of price agreement.

Correction of Publication

Accordingly, the publication on October 18, 1995 of the final rule which was the subject of FR Doc. 95-25858, is corrected as follows:

1815.804 [Corrected]

Paragraph 2. on page 53879, in the first column, is corrected by revising the heading of § 1815.804 to read as follows:

1815.804 Cost or pricing data and information other than cost or pricing data.

1815.804-1 [Corrected]

Paragraph 3. on page 53879, in the first column, is corrected by revising the

heading and paragraphs (a), (b), and (c) of section 1815.804-1 to read as follows:

1815.804-1 Prohibition on obtaining cost or pricing data.

(a)(1) When the adequate price competition exception will be used in a single-offer situation, the exception shall be approved by the head of the contracting activity. The exception document shall cite the authority of 10 U.S.C. 2306(b)(1)(B), and the procedure in paragraph (d) of this section shall be used.

(2) The adequate price competition exception is applicable to both fixed-price and cost-reimbursement type procurements.

(i) The use of this exception for a cost-reimbursement procurement requires the careful exercise of judgment on the part of the contracting officer based on the application of the guidance in FAR 15.804-1(b)(1)(i)(A) and the regulations of this chapter to the facts of each procurement. The instances when its use under cost-reimbursement procurements would be appropriate should be limited. One reason is that, unlike fixed-price type contracts, where the final cost to the Government is set at the negotiated contract amount, in cost-reimbursement contracts, the contract amount is only an estimate of the Government's final cost. As a consequence, the failure to obtain cost or pricing data could result in a competing contractor intentionally underestimating its costs for the purpose of winning the award, which could then cause the actual contract costs to significantly exceed those proposed.

(ii) If and when negotiations conducted with a successful offeror after receipt of Best and Final Offers result in a substantial change in that offeror's price, the validity of any adequate price competition exception which previously applied could be nullified, regardless of contract type.

(3) When the decision is made to apply the adequate price competition exception, that decision shall be documented in the contract file. In addition, for cost-reimbursement procurements, that document shall be signed by the procurement officer and a copy provided to the Analysis Division, Code HC.

(b) When an exception is granted under FAR 15.804-1(c)(4) for repetitive submissions of catalog items, Government approval of the exception request shall state the effective period, usually not more than one year, and require the contractor to furnish any later information that might raise a