award of educational assistance when the veteran has established eligibility under § 21.7045(c) is as follows:

(1) If the veteran is not entitled to receive educational assistance under 38 U.S.C. ch. 32 on the date he or she made a valid election to receive educational assistance under 38 U.S.C. ch. 30, the effective date of the award of educational assistance will be the latest of the following.

(i) The commencing date as determined by paragraphs (a) through (c) and (f) through (j) of this section; or

(ii) October 23, 1992, provided that VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and any other evidence necessary to establish that the election is valid before the later of:

(A) October 23, 1993; or

(B) One year from the date VA requested the $1,200 or the evidence necessary to establish a valid election; or

(iii) The date VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and all other evidence needed to establish that the election is valid, if the provisions of paragraph (n)(1)(ii) of this section are not met.

(2) If the veteran is entitled to receive educational assistance under 38 U.S.C. ch. 32 on the date he or she made a valid election to receive educational assistance under 38 U.S.C. ch. 30, the effective date of the award of educational assistance will be the latest of the following:

(i) The commencing date as determined by paragraphs (a) through (c) and (f) through (j) of this section; or

(ii) The date on which the veteran made a valid election to receive educational assistance under 38 U.S.C. chapter 30 provided that VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and any other evidence necessary to establish that the election is valid before the later of:

(A) One year from the date VA received the valid election; or

(B) One year from the date VA requested the $1,200 or the evidence necessary to establish a valid election; or

(iii) The date VA received the $1,200 required to be collected pursuant to § 21.7045(c)(2) and all other evidence needed to establish that the election is valid, if the provisions of paragraph (n)(2)(ii) of this section are not met.

(Authority 38 U.S.C. 3018B)

[FR Doc. 97–32989 Filed 12–17–97; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 96–238; DA 97–2178]

Accelerated Docket Procedures for Formal Complaints Filed Against Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On November 25, 1997, the Commission adopted its Report and Order in this docket promulgating new, streamlined rules for handling formal complaints filed with the Commission (the ''Complaint R&O''). In the Complaint R&O, the Commission encouraged its staff to explore and use alternative approaches to complaint adjudication designed to ensure the prompt discovery of relevant information and the full and fair resolution of disputes in the most expeditious manner possible. By this Public Notice, additional comment is sought on issues relating to the possible alternative forms of complaint adjudication that, complementing the rules recently announced in the Complaint R&O, ultimately should redound to the benefit of telecommunications consumers by enhancing competition in the relevant markets. Specifically, comment is invited regarding the feasibility of creating an ''Accelerated Docket'' that would provide for a 60-day complaint adjudication process.

DATES: Written comments are due on or before January 12, 1998.

ADDRESSES: Comments should be sent to the Office of Secretary, Federal Communications Commission, 1919 M Street, N.W., suite 222, Washington, D.C. 20554. In addition, parties are asked to submit two copies each of their comments directly to: (1) The Enforcement Task Force, Office of General Counsel, Federal Communications Commission, Room 650–L, 1919 M Street, N.W., Washington, D.C. 20554 and (2) Enforcement Division, Common Carrier Bureau, Federal Communications Commission, Room 6120, 2025 M Street, N.W., Washington, D.C. 20554. Parties should also file one copy of any documents filed in response to this notice with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Dygert, Common Carrier Bureau, Enforcement Division, (202) 418–0960, or Glenn T. Reynolds, Common Carrier Bureau, (202) 418–1500.

SUPPLEMENTARY INFORMATION: This is a summary of the Common Carrier Bureau's Public Notice in CC Docket No. 96–238, adopted on December 12, 1997 and released December 12, 1997. The full text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The complete text of the Public Notice may also be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036 (202) 857–3800.

Summary of the Public Notice

1. On November 25, 1997, the Commission adopted its Report and Order in this docket promulgating new, streamlined rules for handling formal complaints filed with the Commission (the ''Complaint R&O'').[1] By this Public Notice, the Competition Enforcement Task Force (the ''Task Force'') and the Common Carrier Bureau (the ''Bureau'') seek additional comment on issues relating to the possible alternative, accelerated forms of complaint adjudication that would supplement or provide an alternative to the procedures set out in the Complaint R&O.

2. Specifically, the Task Force and the Bureau currently are evaluating whether the needs of some industry participants better could be met by an ''Accelerated Docket'' for complaint adjudication that would (1) provide for the presentation of live evidence and argument in a hearing-type proceeding and (2) operate on a 60-day time frame, or on some other schedule that is more compressed than that applicable more generally to complaint proceedings under the new procedures set out in the Complaint R&O.

3. The Accelerated Docket would serve as a hearing-style alternative to the normal process for resolution of formal complaints, administered by the Bureau's Enforcement Division, which relies primarily on the parties' presentation of arguments on paper. To the extent possible, Accelerated Docket proceedings would be governed by the requirements announced in the Complaint R&O. In accordance with the Commission's authority under sections 1, 4, 201–205, 208, 215, 218 and 220 of

[1] *See* Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers, *Report & Order*, CC Docket No. 96–238, FCC 97–396 (rel. Nov. 25, 1997) (the ''Complaint R&O'').

the Communications Act, interested parties are invited to submit comments and recommendations as to how such a hearing-based process could be designed to ensure speedy, consistent and fair adjudication of complaints. Specifically, commenters should address the extent to which the rules set forth in the Complaint R&O could be applied to the Accelerated Docket. Additionally, where appropriate, comments should identify specialized procedures or requirements that may be necessary in the context of the alternative, hearing-style process under consideration. Commenters should restrict themselves to addressing the feasibility of using the below-discussed rules and requirements promulgated in the Complaint R&O and the extent to which different requirements may be necessary for the alternative docket. Comments should not attempt to revisit issues previously decided in this proceeding.

4. With reference to the Accelerated Docket discussed above, comment is invited on the following issues:

(i) Need for Accelerated Docket. Commenters are invited generally to discuss factors that may support the creation of a hearing-type, accelerated complaint process like that discussed herein. Thus, commenters should provide information about specific events, general industry trends or particular categories of disputes that might benefit from treatment under the Accelerated Docket. Additionally, comment is sought on whether the Accelerated Docket initially should be limited to issues of competition in the provision of telecommunications services. In particular, comments should offer suggestions and recommendations as to how the Commission can work cooperatively with state utility commissions on such enforcement matters to ensure that the respective interests of the Commission and the states are protected.

(ii) Minitrials. The Bureau and the Task Force are considering whether the requirements of speed and fairness would be served by conducting minitrials of complaints accepted onto the Accelerated Docket. Such a hearing-type proceeding would permit the parties to present evidence and argument to the fact-finder and would likely permit closer inquiry into factual issues and more effective credibility determinations than are possible on a paper record. As currently envisioned, these minitrials would cover a broader range of issues than those hearings likely to arise from the Bureau's newly expanded authority to designate issues for hearing before an ALJ. As with other complaints brought under Sections 206 through 209 of the Communications Act, these minitrials would not be subject to the on-the-record hearing requirements of the Administrative Procedure Act. *See Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers.* Report and Order, CC Dkt No. 92–26, 58 FR 25569 (April 27, 1993). Under the 60-day process currently under consideration, such a hearing would need to be conducted no later than 45 days after the filing of the complaint. During the hearing, each side would be permitted to present evidence in support of their respective positions. Given the need for dispatch, one approach under consideration is to allot each side an equal amount of time within which to present its case and to cross-examine its opponent's witnesses. Comment is sought as to the feasibility and desirability of adjudicating complaints using this or a similar process.

(iii) Discovery. One of the key elements to streamlining the enforcement process is to maximize staff control over the discovery process. For the Accelerated Docket to be successful, discovery must be as targeted and focused as possible. As the Accelerated Docket is currently envisioned, its proceedings would be governed by the recently announced discovery rules unless otherwise noted. In this regard, comment is invited on how best to conduct discovery in connection with the 60-day complaint process currently under contemplation. Given the compressed time frame for Accelerated Docket proceedings, commenters should address whether parties should submit all discovery requests and disputes to the Task Force in advance of the initial status conference so that the Task Force may issue its decision on these issues at that conference. Should the parties exchange all documents relevant to the issues raised in the complaint and answer either when they file their initial pleadings, or at some other point before the initial status conference discussed below? If not all relevant documents, should the parties be required to exchange all documents that bear some closer relationship to the claims and defenses in the proceeding? Finally, given the short time frame available for discovery, what sanctions would be appropriate when a party fails to provide discovery as ordered by the Task Force, including the production of witnesses for depositions?

(iv) Pre-filing Procedures. Under the recently announced rules, a complaint must certify that it has discussed, or attempted to discuss, the possibility of a good faith settlement with the defendant carrier's representative(s) before filing the complaint. Comment is sought on whether a complainant seeking acceptance onto the Accelerated Docket should, as a precondition of such acceptance, have attempted to undertake informal settlement discussions under the auspices of the Task Force. Should adequate advance notice to the prospective defendant of the issues to be covered in these informal settlement discussions be one of the criteria considered in determining acceptance onto the Accelerated Docket? What other criteria should be applied by the Task Force and the Bureau in determining what complaints should be accepted onto the Accelerated Docket? To what extent, if any, would the Commission's *ex parte* rules be implicated by the Task Force's involvement in such pre-filing discussions between prospective parties to a potential complainant proceeding? If a complaint does not request expedited treatment, might an action be included on the Accelerated Docket at the defendant's request? Comment is also sought on whether, or in what circumstances, previously filed complaints should be designated for inclusion on the Accelerated Docket. What steps would be necessary to provide adequate protection to the confidential or propriety information of the parties engaged in such informal, pre-filing discussions?

(v) Pleading Requirements. The Commission's recently announced pleading requirements require greater diligence by complainants and defendants in presenting and defending against claims of misconduct. Pleadings submitted in Accelerated Docket proceedings would be required to meet these same standards. In light of these recently heightened requirements for pleading content, comment is invited on the reasonableness of requiring the answer to be filed within seven calendar days of a complaint, as likely would be necessary in the 60-day complaint process currently under contemplation.

(iv) Status Conferences. Under a hearing-type, 60-day process, an initial status conference would seem necessary no later than 15 calendar days after the filing of the complaint. Comment is sought as to the feasibility of holding a status conference at that time. The Bureau and the Task Force contemplate that the initial status conference for Accelerated Docket proceedings would proceed under the newly announced rules in the Complaint R&O. Thus, before the status conference, the parties would meet and confer about the following issues: (1) Settlement

prospects, (2) discovery, (3) issues in dispute, (4) a schedule for the remainder of the proceeding. The parties would be required to reduce to a joint, written statement their agreements and remaining disputes regarding these matters, and submit it to the Commission two days in advance of the status conference. The parties also would be required to agree to a joint statement of stipulated facts, disputed facts and key legal issues, which also would be submitted to the Commission two days before the status conference. Comment is invited on imposing these requirements for the initial status conference in a 60-day process. Additionally, comment is invited on the nature of the briefing schedule, if any, that the Task Force should set at the initial status conference.

(vii) Damages. Given the fact that adjudications of damages would be extremely difficult to complete within a 60-day time frame, commenters should address whether the Accelerated Docket should be restricted to bifurcated, liability claims, with damages claims to be handled separately under the procedures set out in the Complaint R&O.

(viii) Other Issues. Commenters are invited to address whether any other rules should be specifically tailored to accommodate a 60-day, hearing-type adjudication process.

(ix) Review by the Commission. To satisfy statutory requirements for the disposition of certain categories of complaints, it likely would be necessary in Accelerated Docket proceedings, for all briefing on any petition seeking review of an initial decision by the Task Force to be completed between 20 and 30 days of the decision's release. Also under consideration is the possibility of *en banc* oral argument before the Commission for Accelerated Docket proceedings in which the Commission does not summarily adopt the initial Task Force decision. Comment is sought on issues relating to this type of review process for initial decisions in the Accelerated Docket.

5. Comments should be filed on or before January 12, 1998. There will be no reply comments. Commenters should organize their comments under the numbered paragraph headings set out above. Interested parties must file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street, N.W., Washington, D.C. 20554. Additionally, commenters are asked to submit two copies each directly to: (1) The Enforcement Task Force, Office of General Counsel, Federal Communications Commission, Room 650–L, 1919 M Street, N.W., Washington, D.C. 20554 and (2) The Enforcement Division, Common Carrier Bureau, Federal Communications Commission, Room 6120, 2025 M Street, N.W., Washington, D.C. 20554.

6. Comments should be clearly labeled with CC Docket No. 96–238. Parties also should send comments to the Commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036. Comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

7. Parties are also asked to submit comments on diskette. Such diskette submissions will be in addition to, and not a substitute for, the formal filing requirements set out above. Parties submitting diskettes, should submit them to Jeffrey H. Dygert, Common Carrier Bureau, Enforcement Division, Room 6120, 2025 M Street, N.W., Washington D.C. 20554. Comments on diskette should be submitted in ''read only'' mode in WordPerfect 5.1 for Windows. The diskette should be clearly labelled with the party's name, proceeding and date of submission. The diskette should be accompanied by a cover letter.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Investigations, Penalties.

Federal Communications Commission.

A. Richard Metzger, Jr.,

Chief, Common Carrier Bureau.

[FR Doc. 97–33183 Filed 12–17–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–239, RM–9195]

Radio Broadcasting Services; Otter Creek, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Tony Downes proposing the allotment of Channel 240A to Otter Creek, Florida, as that community's first local broadcast service. There is a site restriction 9.8 kilometeres (6.1 miles) south west of the community. The coordinates for Channel 240A are 29–16–52 and 82–51–42.

DATES: Comments must be filed on or before February 2, 1998, and reply comments on or before February 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Tony Downes, 3092 SW Harbor Hills Road, Dunnellon, Florida 34431.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–239, adopted November 26, 1997, and released December 12, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–33050 Filed 12–17–97; 8:45 am]

BILLING CODE 6712–01–P