

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 64**

[CC Docket No. 96-128; DA 98-1198]

Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996**AGENCY:** Federal Communications Commission.**ACTION:** Request for comments pursuant to court decision.

SUMMARY: This document seeks further comment on certain issues raised by the May 15, 1998 decision of the United States Court of Appeals for the District of Columbia Circuit in *MCI Telecommunications Corporation, et al. v. FCC*. The Court of Appeals decision related to the Commission's Second Report and Order on pay telephone reclassification and compensation provisions.

DATES: Comments are due on or before July 13, 1998, and reply comments are due on or before July 27, 1998.

ADDRESSES: Federal Communications Commission, Room 222, 1919 M St., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Greg Lipscomb, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau. (202)418-0960.

SUPPLEMENTARY INFORMATION: In *MCI Telecommunications Corporation, et al. v. FCC* ("MCI v. FCC"),¹ the court held that the Commission failed to explain, in its *Second Order*,² published on October 30, 1997, at 62 FR 58659, why a market-based rate for coinless calls could be derived by subtracting avoided costs from a market rate charged for coin calls.³ In light of the court's decision in *MCI v. FCC*, we seek comment on competition in the payphone market since the deregulation of payphones and the impact of deregulation on the local coin rate. To that end, we seek comment and evidence on whether the local coin rate reflects competitive market conditions and the extent to which costs and rates converge in the coin call market. We also seek comment on the similarities and differences between the market segments for coin and coinless calls and the factors attributable to these

similarities and differences, including the use of payphones to initiate both types of calls. We further seek comment on whether, and how, the distinctions between these market segments should affect the determination of a reasonable default compensation amount for coinless calls. Parties should address any market imperfections that might affect the use of the local coin rate as a market-based surrogate for coinless calls, including locational monopolies, and limitations on the use of pennies in payphones.

The *Second Order* concluded that coin and coinless calls share certain joint and common costs, because each type of call generally uses the same piece of equipment. Therefore, we seek comment on the reasonableness of adjusting the local coin rate for cost differences between providing coin and coinless calls as a market-based mechanism for deriving fair compensation for coinless calls. We ask that parties respond specifically to the concerns raised by the court in establishing the appropriate per-call compensation amount using this approach. We also seek comment on other market-based methodologies that could be used to establish a per-call compensation rate for coinless calls. In suggesting alternative market approaches, parties should address, for example, how a payphone service provider would use the market-based approach to set a price for coinless calls in a deregulated market when providing a number of related types of services using substantially the same payphone equipment.

We will incorporate in this proceeding the comments and reply comments filed in the *Second Order* proceeding and in response to petitions for reconsideration of the *Second Order*. Parties may also file additional information regarding specific payphone costs for providing coinless calls and the differences in costs for providing coin calls.

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments with the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M St. NW, Washington, DC 20554 on or before July 13, 1998, and reply comments on or before July 27, 1998. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. In addition, parties should file two copies of any such pleadings with the Chief, Enforcement Division, Common Carrier

Bureau, Stop 1600A, Room 6008, 2025 M Street, NW, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. Federal Communications Commission.

Kathryn C. Brown,*Chief, Common Carrier Bureau.*

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 98-40; RM-9240]

Radio Broadcasting Services; Gurdon, AR**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: In response to a petition for rule making filed on behalf of PGR Communications, Inc., licensee of Station KYXK(FM), Channel 224A, Gurdon, Arkansas, this document substitutes Channel 295A for Channel 224A at Gurdon and modifies the license for Station KYXK(FM), as requested. The modification will enable Station KYXK(FM) to improve its Class A facilities to six kilowatts and expand its coverage area. See 63 FR 17799, April 10, 1998. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98-40, adopted June 17, 1998, and released June 26, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC'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 contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

¹ *MCI v. FCC*, No. 97-1675, slip op. (D.C. Cir. May 15, 1998).

² Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Second Report and Order, CC Docket No. 96-128, 62 FR 58659 (October 30, 1997), 13 FCC Rcd 1778 (1997) ("Second Order").

³ *MCI v. FCC*, slip op. at 5.