

§ 63.23 Resale-based international common carriers.

The following conditions apply to carriers authorized to resell the international services of other authorized carriers:

(a) A carrier authorized under § 63.18(e)(2) may provide resold international services to international points for which the applicant qualifies for non-dominant regulation as set forth in § 63.10, except that the carrier may not provide either of the following services unless it has received specific authority to do so under § 63.18(e)(4):

(i) Switched resold services to a non-WTO Member country where the applicant is or is affiliated with a foreign carrier; and

(ii) Switched or private line services over resold private lines to a destination market where the applicant is or is affiliated with a foreign carrier and the Commission has not determined that the foreign carrier lacks sufficient market power in the destination market to affect competition adversely in the U.S. market (see § 63.10(a)).

(b) The carrier may not resell the international services of an affiliated carrier regulated as dominant on the route to be served unless it has received specific authority to do so under § 63.18(e)(4).

(c) Except as provided in paragraph (b) of this section, the carrier may resell the international services of any authorized common carrier, pursuant to that carrier's tariff or contract duly filed with the Commission, for the provision of international basic switched, private line, data, television and business services to all international points.

(d) The carrier may provide switched basic services over its authorized resold private lines if and only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines. See § 63.16. If at any time the Commission finds that the country no longer provides equivalent resale opportunities or that market distortion has occurred in the routing of traffic between the United States and that country, the carrier shall comply with enforcement actions taken by the Commission.

(e) Any party certified to provide international resold private lines to a particular geographic market shall report its circuit additions on an annual basis. Circuit additions should indicate the specific services provided (e.g., IMTS or private line) and the country served. This report shall be filed on a consolidated basis not later than March 31 for the preceding calendar year.

(f) The authority granted under this part is subject to all Commission rules and regulations and any conditions or limitations stated in the Commission's public notice or order that serves as the carrier's Section 214 certificate. See §§ 63.12, 63.21.

§ 63.24 Pro forma assignments and transfers of control.

(a) *Definition.* An assignment of an authorization granted under this part or a transfer of control of a carrier authorized under this part to provide an international telecommunications service is a *pro forma* assignment or transfer of control if it falls into one of the following categories and, together with all previous *pro forma* transactions, does not result in a change in the carrier's ultimate control:

(1) Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;

(4) Corporate reorganization that involves no substantial change in the beneficial ownership of the corporation;

(5) Assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or

(6) Assignment of less than a controlling interest in a partnership.

(b) A *pro forma* assignment or transfer of control of an authorization to provide international telecommunications service is not subject to the requirements of § 63.18. A *pro forma* assignee or a carrier that is the subject of a *pro forma* transfer of control is not required to seek prior Commission approval for the transaction. A *pro forma* assignee must notify the Commission no later than 30 days after the assignment is consummated. The notification may be in the form of a letter, and it must contain a certification that the assignment was *pro forma* as defined in paragraph (a) of this section and, together with all previous *pro forma* transactions, does not result in a change of the carrier's ultimate control. A single letter may be filed for an assignment of more than one

authorization if each authorization is identified by the file number under which it was granted.

§ 63.25 Special procedures for non-dominant international common carriers.

(a) Any party that would be a non-dominant international communications common carrier is authorized to provide facilities-based international services, subject to § 63.22, between the United States and all international points, except that this paragraph shall not authorize the party to provide service between the United States and any country where an affiliated foreign carrier operates.

(b) Any party that would be a non-dominant international communications common carrier is authorized to provide resold international services, subject to § 63.23, between the United States and all international points, except that this paragraph shall not authorize the party to provide service between the United States and any country where an affiliated foreign carrier operates.

(c) Within 30 days of commencing service pursuant to paragraph (a) or (b), the party shall notify the Commission by letter addressed to the Chief, International Bureau, that it has commenced providing service pursuant to § 63.25 of the Commission's rules. Such letter shall include the applicable information and certifications described in § 63.18.

(d) Notwithstanding paragraphs (a) and (b), the Commission reserves the right to condition or revoke the authorization of any entity for a violation of the Commission's rules or policies, and such condition or revocation shall be effective against all successors, transferees, or assigns, as ordered by the Commission.

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 3**

[IB Docket No. 98-96, FCC 98-123]

1998 Biennial Regulatory Review of Accounts Settlements in the Maritime and Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as an Accounting Authority

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communication Commission adopted a Notice of

Proposed Rulemaking (NPRM) to streamline further the rules governing the regulation and authorization of private accounting authorities for maritime mobile, maritime satellite, aircraft, and hand-held terminal radio services. The Commission proposes to withdraw from its accounting authority function and instead to rely upon private accounting authorities, require private authorities to deal with the public in a non-discriminatory manner, and designate a new accounting authority of last resort. The Commission believes that its function as an accounting clearinghouse is no longer necessary and that its withdrawal from performing this function will serve the public interest. The proposals will benefit the public because they will promote competition in the settlement of maritime radio accounts.

DATES: Comments are due on or before August 24, 1998; and reply comments are due on or before September 9, 1998. Written comments by the public on the proposed information collections are due August 24, 1998.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Copes, Attorney-Advisor, Multilateral and Development Branch, Telecommunications Division, International Bureau, (202) 418-1478. For additional information concerning the information collections contained in this NPRM contact John Copes at (202) 418-1478, or via the Internet at jcopes@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NPRM, FCC 98-123, adopted on June 18, 1998, and released on July 17, 1998. The full text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. The complete text of this NPRM may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800.

Summary of NPRM

1. The Commission adopted an NPRM (FCC 98-123) proposing to withdraw from performing the functions of an accounting authority and to streamline the rules governing the regulation of private accounting authorities for maritime mobile, maritime satellite, aircraft, and hand-held terminal radio services. The Commission initiated this proceeding in response to section 11 of the Communications Act of 1934, which requires the Commission to review all regulations that apply to operations or activities of providers of telecommunications services and to repeal or modify any regulation that it determines to be no longer necessary in the public interest. Accordingly, the Commission has begun a comprehensive 1998 biennial review of telecommunications and other regulations that are overly burdensome or no longer serve the public interest. The Commission seeks comment on the proposals contained in this NPRM.

2. In this proceeding, the Commission proposes to withdraw from performing the functions of an accounting authority including all services for which the FCC now provides clearinghouse service. The Commission will continue to operate as the administrator of all U.S.-certified accounting authorities and the basic rules and procedures for applications, services, and procedures will continue to govern. Because other federal agencies have relied upon the FCC for settlements on their accounts, the Commission specifically requests the governmental agencies to comment on this proposal as to whether they have any special needs that would require it to continue to serve as a clearinghouse for governmental agencies.

3. The Commission seeks comment on the proposal to amend section 3.10(e) to require private accounting authorities to provide service to anyone making a reasonable request for service, without undue or unjust discrimination, and impose charges that are reasonable and non-discriminatory. The rules already require that applicants for accounting authority certification serve the public on a reasonable and non-discriminatory basis. To make these obligations more explicit, the Commission proposes to amend the first sentence of § 3.10(e) to read as follows:

Section 3.10(e). Applicants must offer their services to any member of the public making a reasonable request therefor, without undue discrimination against any customer or class of customer, and charge reasonable and non-discriminatory fees for services.

This change does not alter the substance of the obligation already created by

Section 3.10(e) but is intended only as a clarification that private entities have a duty to deal with the public in a non-discriminatory manner.

4. Historically, the FCC has acted as the accounting authority of last resort; that is foreign telecommunications operators have sent to the Commission all accounts where the customer has not designated a specific accounting authority. If the Commission withdraws from acting as an accounting authority, it will be necessary to provide an alternative mechanism. The Commission seeks comment on designating a new accounting authority of last resort. Some of the options include: designating a private accounting authority, requiring customers to pre-subscribe to an accounting authority or to designate an authority on every message, or developing a formula for distributing messages without a designated authority among several private accounting authorities. While a formula would make it easier for the customer, and would yield a fair distribution of messages among authorities, it would require an administrator and could increase the cost of the accounts-settlement function. The Commission seeks comment on this issue as well.

5. The Commission also seeks comment on its proposal to allow "grandfathered" entities, those which already held interim certification as accounting authorities, to continue their prior pattern of activities and exempt them from the requirement to deal with the public at large. In its *1996 Report and Order*, 61 FR 20155 (published May 6, 1996), adopting rules for certifying accounting authorities, the Commission created an exemption for one entity that had served as accounting authorities only because it owns and operates the vessels for which it settles charges. The Commission tentatively concludes that maintaining the status of this grandfathered entity and continuing to exempt it from the requirement to deal with the public at large will avoid working an unnecessary hardship on it since it does not seek or derive profit from performing the functions of an accounting authority. However, should all 25 Accounting Authority Identification Codes (AAIC), be assigned and new codes become necessary, the Commission reserves the right to require this grandfathered entity to serve the public generally or to surrender its code for reassignment to an entity who will serve the public indiscriminately. The Commission proposes to retain this reservation in the regulation of private

accounting authorities established in this proceeding.

6. The Commission proposes to allow applicants with applications for accounting authority certification pending before it to amend their applications to conform to the new rules. The Commission tentatively concludes that the public interest would be served by giving applicants an opportunity to amend their applications by showing how they propose to fulfill the non-discrimination obligation and allowing the public to address these entities' ability to perform that function.

7. The Commission proposes to amend the "Application For Certification As An Accounting Authority," FCC Form 44 in the Maritime and Maritime Satellite Radio Service Regulations, so as to include a certification term of intent to conduct settlements on a non-discriminatory basis. The FCC also proposes that all applicants with accounting-authority applications pending before the Commission amend their Form 44 submissions within 60 days after the release of a *Report and Order* in this proceeding specifically to affirm that they will serve all customers requesting their services on a non-discriminatory basis.

Ex Parte

8. This is a non-restricted (*i.e.*, permit-but-disclose) notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, 1.1206. Persons making oral *ex parte* presentations are reminded that memorandums summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in 1.1206(b) as well.

Regulatory Flexibility Act

9. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals contained in the NPRM. The IRFA is set forth in the attached Rule Changes. Written public comments are requested on the IRFA. These comments must be filed in accordance

with the same filing deadlines as comments on the rest of the NPRM, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administrations in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Initial Paperwork Reduction Act of 1995 Analysis

10. This NPRM contains a proposed information collection. As part of the Commission's continuing effort to reduce paperwork burdens, it invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due August 24, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Notice and Comment Provision

11. Pursuant to Section 1.415 of the Commission's Rules, 47 CFR 1.415 (1997), interested persons may become parties to this proceeding by filing comments on these proposals on or before August 24, 1998, and reply comments on or before September 9, 1998. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the Commission's reliance on such information is noted in the Report and Order.

12. Parties in this proceeding may file comments and replies on paper or electronically. Under Section 1.419 of the Commission's Rules, 47 CFR 1.419 those filing comments on paper must

file an original and four copies of all comments, reply comments, and supporting documents. If parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Persons who wish to participate informally may submit two copies of their comments, stating thereon the docket number of this proceeding. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M St., N.W., Room 222, Washington, D.C. 20554. Additionally, parties must file a copy of their comments, replies and supporting documents with the Commission's copy contractor, International Transcription Service, Inc., 1231 20th St., N.W., Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) at that address. For additional information about this proceeding, please contact John Copes at (202) 418-1478.

13. Pursuant to Section 1.49(f) of the Commission's Rules, 47 CFR 1.49(f), Parties may file their comments, replies and supporting documents in electronic form via the Internet. Such parties should use the Commission's Electronic Comment Filing System, which they can access using the following Internet address: <<http://www.fcc.gov/e-file/ecfs.html>>. Further information on the process of submitting comments electronically is available at <<http://www.fcc.gov/e-file/>>. Pursuant to § 1.419(d) of the Commission's Rules, 47 CFR 1.419(d), Parties need file only one copy of an electronic submission. In completing the transmittal screen, a party filing a comment, reply or supporting document should include his or her full name, U.S. Postal Service mailing address and the lead Docket number for this proceeding, which is IB Docket No. 98-96. The Commission will consider electronically filed comments that conform to the guidelines of this section part of the record in this proceeding and accord them the same treatment as comments filed on paper.

14. Parties filing comments, replies and supporting documents on paper must also file their submissions on diskette. Such a submission should be on a 3.5 inch diskette formatted in an IBM-compatible format, using MS DOS and Word Perfect 5.1 for Windows or compatible software. The diskette should be submitted in "read only" mode. The diskette should be clearly marked with the party's name, the proceeding to which it is addressed (in this case, IB Docket No. 98-96), the type

of pleading (comment or reply) and the date of submission. The diskette should be accompanied by a cover letter setting forth the same information. Each diskette should contain only one party's pleading, preferably in a single electronic file. The party should submit one copy of the diskette to John Copes, International Bureau, Telecommunications Division, 2000 M St., N.W., Room 844, Washington, D.C. 20054. The party should file an exact copy of the diskette, identically marked, with the Commission's copy contractor, International Transcription Service, Inc.

15. Persons wishing to comment on the proposed and/or modified information collections should file written comments on or before August 24, 1998. The Office of Management and Budget (OMB) must submit its written comments on the proposed information collections, if any, on or before [insert date 60 days after the date of publication of the summary of this Notice of Proposed Rulemaking in the **Federal Register**]. In addition to filing comments with the Secretary, they should also submit a copy of any comments on the information collections contained herein Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov.

Conclusion

16. The Commission is proposing these rules to clarify the public service requirements for all those pending applicants and all future entities who may wish to serve as accounting authorities for the settlement of international radio maritime accounts involving U.S. registered vessels operating in foreign or international waters. By these rules, the Commission seeks to ensure that the public interest is adequately served as the Commission withdraws from its function as an accounting authority for non-governmental users of maritime mobile and maritime mobile-satellite radio services. It seeks comment on the proposed changes to the application procedure and any alternatives interested persons may wish to suggest.

Ordering Clauses

17. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 11, 201-205 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 161, 201-205 and 303(r), that this NPRM is hereby adopted.

18. It is further ordered that the Office of Public Affairs, Reference Operations

Division, shall send a copy of this *Notice of Proposed Rulemaking*, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

Part 3 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations) is amended as follows:

PART 3—AUTHORIZATION AND ADMINISTRATION OF ACCOUNTING AUTHORITIES IN MARITIME AND MARITIME MOBILE-SATELLITE RADIO SERVICES

1. The authority citation for part 3 continues to read as follows:

Authority: 47 U.S.C. 154(i), 154(j) and 303(r).

2. Section 3.10 is proposed to be amended by revising the first sentence of paragraph (e) to read as follows:

§ 3.10 Basic qualifications.

(e) Applicants must offer their services to any member of the public making a reasonable request therefor, without undue discrimination against any customer or class of customer, and charge reasonable and non-discriminatory fees for service. * * *

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-130; RM-9297]

Radio Broadcasting Services; Saratoga, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain Tower Broadcasting proposing the allotment of Channel 259C at Saratoga, Wyoming, as the community's first local aural transmission service. Channel 259C can be allotted to Saratoga in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.3 kilometers (10.1

miles) northwest to avoid a short-spacing to the construction permit site of Station KRRR(FM), Channel 260C2, Cheyenne, Wyoming. The coordinates for Channel 259C at Saratoga are North Latitude 41-31-38 and West Longitude 106-58-37.

DATES: Comments must be filed on or before September 8, 1998, and reply comments on or before September 23, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Mountain Tower Broadcasting, 7901 Stoneridge Drive, Cheyenne, Wyoming 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-130, adopted July 8, 1998, and released July 17, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, N.W., Washington, DC 20036.

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* contacts.

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.

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