

carrier to demonstrate that its rates, charges, classifications, rules or regulations are just and reasonable. The use of rates, charges, classifications, rules or regulations published or assessed by a controlled carrier that have been suspended or prohibited by the Commission is unlawful.

(d) *Publication*. All final orders of prohibition shall be published in the **Federal Register**.

**§ 565.10 Suspension procedures, period and replacement rates.**

(a) (1) *Suspension prior to effective date*. Pending a determination as to their lawfulness in a prohibition proceeding as described in § 565.9, the Commission may suspend the rates, charges, classifications, rules or regulations at any time before their effective date.

(2) *Suspension after effective date*. In the case of rates, charges, classifications, rules or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend those rates, charges, classifications, rules or regulations on not less than 30 days' notice to the controlled carrier.

(b) *Period of suspension*. In any case, no period of suspension may be greater than 180 days.

(c) *Implementation*. (1) Upon issuance of an order suspending a rate, charge, classification, rule or regulation in whole or in part, the Commission shall direct the controlled carrier to remove the suspended material from its tariff publication; or

(2) If the matter subject to the suspension order is not covered by paragraph (c)(1) of this section, the Commission shall set forth procedures in the order for implementing the suspension.

(3) *Publication*. All orders of suspension shall be published in the **Federal Register**.

(d) *Replacement rates*. Controlled carriers may publish in tariffs or file in service contracts rates, charges, classifications, rules or regulations in lieu of the suspended matter ("replacement rates").

(1) *Effective date*. In the case of replacement rates which are published in tariffs and which are scheduled to become effective during a suspension period, may become effective immediately upon either their publication in tariffs or upon the effective date of the suspension, whichever is later.

(2) *Rejection of replacement rates*. The Commission may reject the replacement rates, charges, classifications, rules or regulations

published in tariffs or filed in service contracts to take effect during the suspension period if they are unjust and unreasonable. In determining whether to reject replacement rates, charges, classifications, rules or regulations, the Commission will consider whether they would result in total charges (i.e., rate plus applicable surcharges) that are lower than the lowest comparable charges effective for a common carrier, other than a controlled carrier, serving the same trade.

(3) At the same time it announces replacement rates, the controlled carrier shall submit to the Secretary of the Commission, a letter identifying the specific competing common carrier's rates, charges, classification or rules resulting in total charges which are equal to or lower than its own.

**§ 565.11 Presidential review.**

The Commission shall transmit all orders of suspension or final orders of prohibition to the President of the United States concurrently with the submission of such orders to the **Federal Register** pursuant to § 565.9(d) or § 565.10(c)(3). The President may, within 10 days of either the receipt or effective date of the order, request in writing that the Commission stay the effect of the order for reasons of national defense or foreign policy.

**§ 565.12 Stay, postponement, discontinuance or suspension of action.**

The Commission may, on its own motion or upon petition, postpone, discontinue, or suspend any and all actions taken by it under the provisions of this part. The Commission shall immediately stay the effect of any order issued under this part as requested by the President pursuant to § 565.11.

By the Commission.

**Joseph C. Polking,**

Secretary.

[FR Doc. 98-32224 Filed 12-3-98; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 98-196, RM-9325]

**Radio Broadcasting Services; Whitewright, TX**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Chinquapin Creek Broadcasting

Company, proposing the allotment of Channel 260A to Whitewright, Texas. The channel can be allotted to Whitewright without a site restriction at coordinates 33-30-48 and 96-23-42.

**DATES:** Comments must be filed on or before January 11, 1999, and reply comments on or before January 26, 1999.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, N.W., Suite 900, Washington, D.C. 20036-4192.

**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. 98-196, adopted November 9, 1998, and released November 20, 1998. 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. 98-32302 Filed 12-3-98; 8:45 am]

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