

be appropriate, to make such summary distribution decisions.

EFFECTIVE DATE: May 2, 2000.

FOR FURTHER INFORMATION CONTACT: Charles E. Breece, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Telephone: 703/235-3810.

SUPPLEMENTARY INFORMATION: This technical amendment is being published pursuant to the revised High Level Implementation Plan (HLIP) filed with the U.S. District Court for the District of Columbia in connection with the *Cobell v. Babbitt* case. Among other representations in the HLIP, the Department of the Interior has committed to making a technical amendment to the summary distribution regulations at 43 CFR 4.271. The Department has further committed to promulgate this technical amendment by April 30, 2000. The technical amendments to sections 4.271 and 4.320 of 43 CFR do not impact the substance of the regulations but increase the flexibility of the Department to direct resources as appropriate to the caseload of pending summary distribution cases. Consequently, the technical amendment acknowledges the authority of the BIA to delegate its authority to make such summary distribution decision to other BIA officials as deemed qualified to perform this function. Pursuant to 5 U.S.C. 553(b), public comment is not required for this technical amendment as this amendment does not make any substantive regulatory change and simply promotes administrative efficiency. Pursuant to 5 U.S.C. 553(d), the rulemaking will take effect immediately for good cause as the caseload of the BIA for summary distribution of Indian decedents' estates and the HLIP require, as may be appropriate, the delegation of certain other qualified officials of the BIA other than its agency superintendents.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Claims, Indians, Public lands.

PART 4—[AMENDED]

1. The authority citation for Part 4 continues to read as follows:

Authority: R.S. 2478, as amended, 43 U.S.C. sec. 1201, unless otherwise noted.

2. Section 4.271 is revised to read as follows:

§ 4.271 Summary distribution.

When an Indian dies intestate leaving only trust personal property or cash of

a value of less than \$5,000, not including any interest that may have accrued after the death of the decedent, the Bureau of Indian Affairs will assemble the apparent heirs and hold an informal hearing to determine the proper distribution of the estate, unless it appears that the decedent left a last will and testament intending to devise his estate, and/or the decedent dies possessed of an interest in trust or restricted real property. A memorandum covering the hearing will be retained in the agency files showing the date of the decedent's death, the date of the hearing, the persons notified and attending the hearing, the amount on hand, and its disposition. In the disposition of such funds, the Bureau of Indian Affairs will credit the balance, if any, to the legal heirs. When requested by the Bureau of Indian Affairs, an administrative law judge may assume jurisdiction to dispose of creditors' claims or to make distribution determinations if the administrative law judge finds that exceptional circumstances exist. A party in interest may appeal a distribution determination in accordance with 43 CFR 4.320.

3. Section 4.320 is amended by revising the introductory text to read as follows:

§ 4.320 Who may appeal.

A party in interest has a right to appeal to the Board of Indian Appeals from an order from an administrative law judge on a petition for rehearing, petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate, and also from a summary distribution order made by the Bureau of Indian Affairs or an administrative law judge pursuant to § 4.271.

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Dated: April 26, 2000.

John Berry,
Assistant Secretary, Policy, Management and Budget.

[FR Doc. 00-10869 Filed 5-1-00; 8:45 am]

BILLING CODE 4310-RK-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[PR Docket No. 92-115; FCC 00-131]

Revision of the Commission's Rules Governing the Public Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal.

SUMMARY: In this document, the Commission dismisses in part, and grants in part thirty-seven petitions for reconsideration filed against an earlier Federal Communications Commission (Commission) order. The Commission also dismisses a petition for declaratory ruling filed by Graceba Total Communications, Inc. (Graceba) regarding Basic Exchange Telephone Radio Systems (BETRS). These actions are taken because most of the issues raised on reconsideration have either been resolved or rendered moot by the transition to geographic area licensing in the paging services. The other issues were rendered moot by the Universal Licensing System (ULS) proceeding which streamlined the application, assignment, and transfer processes according to the Commission's rules to facilitate the development and use of the ULS. The Commission also grants various petitions because any disadvantages to permitting shared use are outweighed by the cost efficiencies to licensees and creates a potential cost savings to the public. With regards to the Graceba petition, this action was taken because the issue was resolved in a previous Commission order.

DATES: Effective May 2, 2000.

FOR FURTHER INFORMATION CONTACT: Don Johnson, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-7444.

SUPPLEMENTARY INFORMATION: This Memorandum Opinion and Order on Reconsideration in CC Docket No. 92-115, adopted April 6, 2000 and released April 17, 2000 is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth Street, S.W., Washington D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington D.C. 20036 (202) 857-3800. The document is also available via the internet at <http://www.fcc.gov/Bureaus/Wireless/Orders/2000/index2.html>.

Synopsis of *Memorandum Opinion and Order on Reconsideration*: In (MO&O on Reconsideration), the Commission disposes of 37 petitions for reconsideration (petitions) regarding various issues addressed in the *Part 22 Rewrite Order*. We grant various petitions to the extent they seek reconsideration of our policy prohibiting the use of shared transmitters by Part 22 licensees. With respect to all other issues addressed, we dismiss or deny the petitions. Additionally, we dismiss a petition for

declaratory ruling filed by Graceba Total Communications, Inc. (Graceba) regarding Basic Exchange Telephone Radio Systems (BETRS).

1. In this *MO&O on Reconsideration*, the Commission disposes of 37 petitions for reconsideration (petitions) regarding various issues addressed in the *Part 22 Rewrite Order*, 60 FR 3555 (1995). We grant various petitions to the extent they seek reconsideration of our policy prohibiting the use of shared transmitters by Part 22 licensees. With respect to all other issues addressed, we dismiss or deny the petitions. Additionally, we dismiss a petition for declaratory ruling filed by Graceba Total Communications, Inc. (Graceba) regarding Basic Exchange Telephone Radio Systems (BETRS).

Discussion

2. Most of the issues raised on reconsideration of the *Part 22 Rewrite Order* have either been resolved in or rendered moot by subsequent proceedings. For example, several parties raised issues relating to site-by-site licensing of paging systems. These issues have been rendered moot by the transition to geographic area licensing in the paging services. Other licensing issues were addressed in or rendered moot by the Universal Licensing System Proceeding in which we streamlined our application and assignment and transfer processes for Part 22 licenses. To the extent the issues have not been effectively addressed elsewhere, except as discussed, in this section, the petitions raise a variety of minor issues involving procedural requirements and operational rules affecting Part 22 licensees. We find these arguments unpersuasive, and in many respects they only repeat arguments that we considered and rejected previously in this proceeding. Nothing in the record as it now stands warrants alteration of any decisions addressed in the petitions, except for the reversal of our policy regarding the use of shared transmitters by Part 22 licensees.

3. We note in particular that several petitioners seek reconsideration of the rule requiring cellular mobile transmitters to have a unique and unalterable Electronic Serial Number (ESN). Petitioners argue generally that this rule unnecessarily restricts legitimate activities and that it is not the most effective method of combating fraud. Since the record in this proceeding was compiled in 1994, anti-fraud practices, technologies and the market for cellular services have changed considerably, and in addition, Congress has passed potentially relevant legislation. We therefore find that the

current record is not useful for evaluating the continued need for or appropriate form of the cellular ESN rule. We further conclude that nothing in the *Part 22 Rewrite Order* improperly adjudicated the rights of parties under the preexisting cellular system compatibility rule in violation of the Administrative Procedure Act, and that nothing in our discussion of cellular ESNs was improperly based on undisclosed *ex parte* contacts. We therefore deny the petitions relating to the cellular ESN rule. We will, however, review the cellular ESN rule as part of our upcoming biennial review of regulations affecting providers of telecommunications services.

4. Several petitioners also seek reconsideration of the uncodified policy stated in paragraph 71 of the *Part 22 Rewrite Order*, which prohibits the use of shared transmitters by Part 22 licensees. On January 10, 1995, before the *Part 22 Rewrite Order* became effective, the Commission stayed the policy prohibiting the use of shared transmitters. In the *Part 22 Rewrite Order*, the Commission prohibited the use of shared transmitters because it was concerned about issues regarding the control and responsibility for these transmitters, and because it was concerned that outages of shared transmitters would cause broad service disruptions. In the *Stay Order*, 60 FR 3555 (January 18, 1995), the Commission recognized that it had previously allowed dual licensing of Part 22 transmitters and was continuing to allow dual licensing in the part 90 private paging services, and that its new policy could result in inconsistent treatment of similar services. In addition, the Commission noted that outages are more likely to be detected and corrected if a transmitter is used by multiple licensees. The *Stay Order* has remained in effect for approximately five years. In light of the apparent lack of problems with the use of shared transmitters in the Part 22 and Part 90 services to date, we conclude that any disadvantages to permitting shared use are outweighed by the cost efficiencies to Part 22 licensees and potential cost savings to the public. Therefore, we grant the various petitions to the extent they seek reconsideration of this policy, lift the stay, and reverse the uncodified policy prohibiting the shared use of transmitters.

5. On December 19, 1994, Graceba filed a request for declaratory ruling (request) regarding Basic Exchange Telephone Radio Systems (BETRS). Graceba requests that the Commission specify the required grade of service in evaluating BETRS applications. We

have dealt extensively with BETRS issues in the *Paging Systems Reconsideration Order*. Therefore, pursuant to our discretion under § 1.2 of the Commission's rules, we decline to issue a declaratory ruling and we dismiss Graceba's request.

Procedural Matters

6. *Paperwork Reduction Act of 1995 Analysis*. The policy changes adopted in this *MO&O on Reconsideration* have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and impose no new or modified information collection requirements on the public.

7. *Supplemental Final Regulatory Flexibility Certification*. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a final regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). We certify that the policy change adopted in this *MO&O on Reconsideration* will not have a significant economic impact on a substantial number of small business entities because the previous policy was never enforced or codified in the Commission's rules.

Ordering Clauses

8. Pursuant to sections 1, 4(i), 4(j) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 405, and section 1.106, of the Commission's rules, 47 CFR 1.106, the petitions for reconsideration of the *Part 22 Rewrite Order* are granted to the extent they seek reconsideration of the Commission's policy prohibiting the use of shared transmitters by Part 22 licensees, the *Stay Order* IS LIFTED, and the policy is reversed.

9. The petitions for reconsideration of the *Part 22 Rewrite Order* are in all other respects dismissed or denied.

10. Pursuant to sections 1, 4(i), and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and section 1.2 of the Commission's

rules, 47 CFR 1.2, the Petition for Declaratory Ruling filed by Graceba Total Communications, Inc. IS DISMISSED.

11. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Memorandum Opinion and Order on Reconsideration*, including the Supplemental Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

12. For additional information concerning this matter, contact Don Johnson (202-418-7240), Wireless Telecommunications Bureau, Commercial Wireless Division, Policy and Rules Branch.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 00-10843 Filed 5-1-00; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 24

[WT Docket No. 96-148 and GN Docket No. 96-113; FCC 00-88]

Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees and the Implementation of the Communications Act—Elimination of Market Entry Barriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal of petitions.

SUMMARY: This document dismisses the petitions filed by the National Telephone Cooperative Association (NTCA) and Omnipoint Corporation (Omnipoint) requesting reconsideration of a previous Commission decision that eliminated the restriction permitting partitioning only to rural telephone companies; prohibited entrepreneur block licensees from swapping spectrum blocks with non-entrepreneur block licensees in the same geographic market; and required the filing of the associated contract for sale and related documents together with any partitioning and/or disaggregation application that is filed within the first three years following issuance of a new PCS license through competitive bidding. This document also dismisses as moot the Rural Telecommunications Group's Motion for Stay to stay the effective date of the new rules adopted in the same Commission decision. This

action by the Commission eliminates market entry barriers, thereby increasing competition in the PCS marketplace while expeditiously speeding service to the public.

ADDRESSES: Comments should be filed with the Office of the Secretary, Federal Communications Commission, TW B204, 445 12th Street, SW Washington, DC 20554. Comments also should be provided to Steve Weingarten, Chief, Commercial Wireless Division, Room 4C-224, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Diane Conley, Wireless Telecommunications Bureau at (202) 418-0786.

SUPPLEMENTARY INFORMATION: The final rule published at 62 FR 653 (January 6, 1997) previously adopted by the Commission, and this document is in keeping with Congress' goal of increasing competition in that it allows more competitors to enter the marketplace and deploy services to the public quickly and efficiently, as well as, provide opportunities for rural telcos and other small businesses to provide broadband PCS to the public without increasing the administrative burden to the Commission. This document was released on April 13, 2000, and is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW Washington, DC 20036/(202) 857-3800. The Memorandum Opinion and Order is also available via the Internet at <http://www.fcc.gov/Bureaus/Wireless/Orders/2000>.

Federal Communications Commission.

William F. Caton,
Deputy Secretary.

[FR Doc. 00-10353 Filed 5-1-00; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-602, MM Docket No. 95-83, RM-8558]

Radio Broadcasting Services; Littlefield, Wolfforth and Tahoka, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document grants the Petition for Partial Reconsideration filed by 21st Century Radio Ventures, Inc. by substituting Channel 278A for Channel 237A at Tahoka. See 62 FR 14092 (March 25, 1997). In the *Report and Order*, the Commission took no action in Littlefield, Wolfforth or on the issue of the deletion or substitution of Channel 237A at Tahoka. Channel 278A can be allotted to Tahoka in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 278A at Tahoka are North Latitude 33-11-34 and West Longitude 101-44-44. With this action this proceeding is terminated.

EFFECTIVE DATE: May 3, 2000.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 95-83, adopted March 8, 2000 and released March 20, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257) at its headquarters, 445 12th Street, SW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, N.W. Washington, D.C. 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas is amended by removing Channel 237A and adding Channel 278A to Tahoka.

Federal Communications Commission.

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

[FR Doc. 00-10755 Filed 5-1-00; 8:45 am]

BILLING CODE 6712-01-P