

SUMMARY: This document makes clarifications and corrections to the service rules for the 746–764 and 776–794 MHz bands, as published at 65 FR 3139, January 20, 2000, and at 65 FR 17594, April 4, 2000.

DATES: Effective October 10, 2000.

FOR FURTHER INFORMATION CONTACT: Jane Phillips, 202–418–1310.

SUPPLEMENTARY INFORMATION: The Commission, in the final rules of the First Report and Order (65 FR 3139, January 20, 2000), and the Second Report and Order, (65 FR 17594, April 4, 2000) inadvertently failed to make specific reference to the definitional criterion for the Gulf of Mexico Economic Area presently set forth in § 27.6(a)(2).

In rule FR Doc. No. 00–8144 published on April 4, 2000 (65 FR 17594) make the following correction.

§ 27.6 [Corrected]

1. On page 17602, in the third column, in § 27.6(b)(1) correct “paragraph (a)(1)” to read “paragraphs (a)(1) and (a)(2)”.

In rule FR Doc. No. 00–1332 published on January 20, 2000 (65 FR 3139) make the following correction.

2. On page 3145, in the third column, in § 27.6(b)(2), line 7, after the words “See also” add the phrase “paragraphs (a)(1) and (a)(2) of this section and”.

Federal Communications Commission.

William F. Caton,
Deputy Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 97–142, FCC 00–339]

Rules and Policies on Foreign Participation in the U.S. Telecommunications Market

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document addresses specific issues raised in petitions requesting clarification and reconsideration of the Commission’s decisions in the initial Report and Order in this proceeding. This document also clarifies and revises certain aspects of the Commission’s rules regarding prior notifications of foreign affiliations. This document also amends the rules to define “interlocking directorates” and to cross-reference the Commission’s prior

notification requirements. The final rules contain information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public and other Federal agencies are invited to comment on the information collections contained in the final rule.

EFFECTIVE DATE: Effective November 9, 2000 except for section 63.11 which contains modified information collections that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section. Written comments by the public on the information collection requirements are due October 24, 2000. OMB must submit written comments on the information collection requirements on or before December 11, 2000.

ADDRESSES: All comments regarding the requests for approval of the information collection, both regular and emergency, should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov; phone 202–418–0214. In addition, comments on the emergency request for approval of the information collections should be submitted to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Lisa Choi, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1384. For additional information concerning the information collections contained in this document contact Judy Boley at (202) 418–0214, or email at jboley@fcc.gov, and Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Order on Reconsideration, FCC 00–339, adopted on September 12, 2000 and released on September 19, 2000. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. The document is also available for download over the Internet at <http://www.fcc.gov/>

Bureaus/International/Notices/2000/fcc00339.doc. The complete text of this document also 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.

This document contains modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Implementation of any modified requirements will be subject to approval by the Office of Management and Budget (OMB) for review under the PRA’s emergency processing provisions. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Summary of Order on Reconsideration

1. On November 25, 1997, the Commission adopted a Report and Order and Order on Reconsideration (*Foreign Participation Order* (62 FR 64741, Dec. 9, 1997)). The *Foreign Participation Order* established the Commission’s procompetitive rules and policies regarding foreign participation in the U.S. telecommunications market. In light of the World Trade Organization (WTO) basic Telecom Agreement and WTO Members’ commitments to open markets, the Commission adopted rules to open further the U.S. market to competition from foreign companies. On September 12, 2000, the Commission adopted an Order on Reconsideration (Order) that addressed the petitions seeking clarification and reconsideration of the *Foreign Participation Order*. In this Order, the Commission found that its competitive safeguards and ability to attach additional conditions to grants of authority, in conjunction with the procompetitive commitments of WTO Members would reduce the danger of anticompetitive conduct resulting from entry of carriers from WTO Members into the U.S. Market.

2. Specifically, the Commission affirmed its prior conclusion that it is under no obligation to impose the same entry standard with regard to WTO Members’ participation in the U.S. telecommunications market to Bell Operating Company (BOC) entry into in-region interLATA services markets pursuant to section 271. The Commission concluded that no new information or arguments were presented for it to revisit the initial conclusion that the public interest presumption established in the *Foreign*

Participation Order does not apply with regard to BOC entry into in-region interLATA markets. The Commission also noted that it has separately addressed the nature of its public interest analysis in its evaluations of BOC applications filed pursuant to section 271.

3. The Commission affirmed, clarified, and revised the requirement for prior notification of controlling investments by U.S. carriers in foreign carriers and of controlling investments of greater than twenty-five percent capital stock investments by foreign carriers in U.S. carriers. Although the Commission rejected a request to eliminate the prior notification requirement for U.S. carrier controlling investments in foreign carriers, the Commission did clarify and revise § 63.11 to address more precisely the underlying purpose for the provision and to reduce unnecessary regulatory burdens.

4. Specifically, the Commission will continue to require prior notification of a U.S. carriers' controlling investment in a foreign carrier or a foreign carrier's controlling or greater than twenty-five percent investment in a U.S. carrier with the exception that prior notification is not required if one of the following is true for the foreign carrier: (1) the foreign carrier is one that the Commission has previously determined in an adjudication lacks market power in destination markets authorized to be served by the U.S. carrier; (2) the foreign carrier is a resale carrier in such markets; or (3) the destination markets in which the foreign carrier is authorized to operate are WTO Members and the authorized carrier either demonstrates that it should retain non-dominant classification on the newly-affiliated routes pursuant to § 63.10 or the authorized carrier agrees to comply with the Commission's dominant carrier safeguards on those routes.

5. Authorized carriers that intend to rely on one of the exceptions to the prior notification rule are required to submit a certification with the Commission as part of its notification indicating upon which exception it is rely and certifying as to the factual basis for the qualification. In addition, the Commission modified the prior notification requirement so that such prior notifications must be filed forty-five days rather than sixty days prior to the consummation of the acquisition in order to respond to carriers' concerns that that sixty days is overly burdensome.

6. In addition, the Commission revised the rules to provide U.S. carriers with the opportunity to file

confidentially the information requested by the Commission as part of their prior notifications of affiliation. Carriers are permitted to request in an accompanying cover letter that the Commission maintain confidential treatment of the prior notification information for twenty days, after which date the carrier agrees to public treatment of such information. The Commission will then place the notification on public notice twenty-fives days prior to the planned consummation of the investment. The revised rule will provide ample opportunity for public comment while alleviating carriers' concerns about the time burden and difficulty of maintaining the confidentiality of sensitive transactions.

7. The Commission also amended § 63.11 to permit the Commission to classify an authorized carrier as dominant by a public notice, rather than by written order, in circumstances in which the authorized carrier agrees to abide by dominant carrier regulation on an affiliated route. This amendment will reduce further regulatory burdens on carriers and administrative burdens on the Commission.

8. The Commission also modified the content of notifications of affiliation to include a statement by an authorized carrier as to whether the notification is subject to prior notification (including the date of projected closing) or post notification (including the actual date of closing). In order to facilitate processing of notifications and transfer of control or assignment applications, authorized carriers are required to cross-reference their applications and foreign carrier affiliation notifications. Similarly, with respect to the content of post-notifications of affiliation, carriers may not notify the Commission of a proposed affiliation with a foreign carrier in the context of a transfer of control or initial § 63.18 application in order to discharge their notification obligations under § 63.11. The Commission revised the rules to clarify that carriers are responsible for the continuing accuracy of the contents of their prior notifications during the forty-five day notice period and are responsible on an on-going basis for complying with the requirement for notifying the Commission of their affiliations with foreign carriers.

9. In light of recent rule changes in other proceedings, the Commission narrowed the definition of "interlocking directorates" as those persons having any of the duties ordinarily performed by a director, president, vice president, secretary, treasurer, or other officer of the carrier. In addition, authorized

carriers are required to identify only their interlocking directorates with the foreign carriers that are the subject of the notifications.

10. The Commission clarified and revised the provision in § 63.11(e)(2) prohibiting the consummation of an investment pending Commission approval. Authorized carriers that acquire affiliations subject to the revised § 63.11 with carriers in non-WTO Members are required to demonstrate that the foreign carrier lacks market power or is a resale carrier, or to make an ECO showing in order to continue to operate on the applicable route. Otherwise, an authorized carrier risks having its authorization revoked.

11. The Commission found moot a request to reconsider its decision regarding the "No Special Concessions" rule and discontinue its practice of placing a special condition on BOC affiliate section 214 authorizations with respect to "grooming arrangements" (arrangements to terminate traffic in particular geographic regions). The Commission stated that the rule changes adopted in the *ISP Reform Order* (64 FR 34734, June 29, 1999) addressed this issue.

12. The Commission also denied the request to reconsider the language in the *Foreign Participation Order* referring to the Commission's ability to designate cable operators as common carriers. The Commission found that this proceeding was not the appropriate forum to address this concern. Rather, the Commission noted that the regulatory distinction between common carrier and non-common carrier submarine cables is at issue in the *Submarine Cable Streamlining* proceeding (65 FR 411613, June 6, 2000).

13. The Commission also rejected a request to modify its rebuttable presumption regarding the market power of a foreign carrier from a WTO Member. The Commission concluded that it had fully considered and rejected a similar proposal in the *Foreign Participation Order*.

14. In addition, the Commission addressed issues regarding dominant carrier safeguards for foreign-affiliated U.S. carriers. First, the Commission declined to remove the dominant carrier safeguards that apply to each U.S. carrier having an affiliation with a carrier that possesses market power on the route. In the *Foreign Participation Order*, the Commission adopted a narrowly-tailored dominant carrier framework designed to address specific concerns of anticompetitive behavior while limiting the regulatory burden imposed generally on foreign-affiliated U.S. carriers. These policies and

safeguards also were consistent with the United States' GATS obligations. The Commission found that no new arguments were presented for it to reconsider this issue. Second, the Commission reaffirmed its decision to continue to allow dominant foreign-affiliated carriers to file tariffs on one-day's notice and add or discontinue circuits on foreign-affiliated routes without prior approval. The Commission held that it had fully considered and dismissed these arguments in the *Foreign Participation Order*.

15. The Commission also denied a request to extend its deregulatory approach regarding section 310(b)(4) requests to the treatment of broadcast licenses. The Commission found that this matter was not at issue in the *Foreign Participation Order*, and therefore, this proceeding was not the proper forum to revisit this issue.

16. The Commission also rejected a request to broaden the application of the *Benchmarks Order* (62 FR 45758, August 29, 1997). Specifically, the Commission was asked to impose a condition on switched resale authorizations to serve foreign-affiliated markets on the foreign carrier offering U.S. authorized carriers a settlement rate for the affiliated route that is at or below the relevant benchmark rate. The Commission found that it had fully considered and reject this issue in the *Foreign Carrier Participation Order*. The Commission also noted that the *Benchmarks Reconsideration Order* (64 FR 47699, September 1, 1999) further narrowed the section 214 condition on facilities-based carriers so that it currently applies only to the provision of facilities-based switched and private line service to foreign-affiliated markets where the foreign affiliate possesses market power.

17. Finally, the Commission rejected the request that it reconsider that aeronautical enroute service is a basic telecommunications service. The Commission stated that although it has treated aeronautical enroute and fixed services as private services, they still fall within the class of services covered by U.S. commitments in the WTO. Thus, the Commission reaffirmed its conclusion that some aeronautical enroute and fixed services are basic telecommunications services under the WTO Basic Telecom Agreement.

Procedural Matters

18. *Final Regulatory Flexibility Certification*. The purposes of this proceeding are to adopt a liberalized standard for participation by foreign and foreign-affiliated entities in the U.S.

telecommunications market, to eliminate some regulatory requirements, and to simplify and clarify other existing rules. The modifications do not impose any additional compliance burden on persons dealing with the Commission, including small entities. Any prospective carrier will continue to submit foreign carrier affiliation notifications. In most cases, the notifications will be filed after the consummation of the investment resulting in a foreign carrier affiliation. We anticipate that the revisions we adopt here will expand the ability of U.S. carriers to reap economic benefits by taking advantage of new opportunities in the international telecommunications marketplace.

19. The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that an agency prepare a regulatory flexibility analysis 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 rule changes adopted in this order only affect the timing of the submission of foreign carrier affiliation notifications. These changes do not impose additional compliance burdens on small entities nor do they alter the small entities possibly affected by the rules published in the *Foreign Participation Order*. The rules adopted in this order would not have a detrimental impact on small entities. In fact, we anticipate that the rule changes we adopt here will reduce regulatory and procedural burdens on small entities. Therefore, we certify, pursuant to section 605(b) of the RFA, that the rules adopted herein will not have a significant economic impact on a substantial number of small entities.

20. The Commission will send a copy of the Order on Reconsideration, including a copy of this final certification, in a report to congress pursuant to SBREFA (5 U.S.C. 801(a)(1)(A)). In addition, the Order on Reconsideration and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

21. *Paperwork Reduction Act Analysis*. The Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it

displays a currently valid control number. No person shall be submit to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments on emergency request for approval of information collections are due on or before October 24, 2000. Public and agency comments on the regular request for approval of the information collections are due proposed and/or modified information collections are due on or before December 11, 2000.

Comments should address the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (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.

OMB Control Number: 3060-0686.

Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements.

Form Number: N/A.

Type of Review: Revisions to existing collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 60.

Number of Responses: 1.

Estimated Time Per Response: 8 hours.

Frequency of Response: On Occasion.

Total Annual Burden: 480 hours (50% of burden estimated to be contracted to outside assistance).

Total Annual Costs: \$36,000.

Needs and Uses: The information will be used by the Commission to assess the potential impact of a U.S. carrier's acquisition or affiliation with a foreign carrier. The information will enable the Commission to determine what safeguards may need to apply or what other Commission action may be necessary with regard to the authorized carrier's section 214 authorization to serve the affiliated route. The information collections are necessary for the Commission to protect the public interest from the harm and competitive distortion that could arise in the U.S. market from the presence of a new controlling foreign affiliation. In addition, the Commission must maintain records that accurately reflect a party or parties that control a carrier's operations, particularly for purposes of

enforcing the Commission's rules and policies.

Ordering Clauses

22. Pursuant to Sections 1, 2, 4(i), 201, 203, 205, 214, 303(r), 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201, 203, 205, 214, 303(r), 309, 310 and Parts 43 and 63 of the Commission's rules, 47 CFR 43, 63, that the Order on Reconsideration in IB Docket No. 97-142 is *adopted*.

23. 47 CFR Part 63 is amended as set forth in the rule changes, effective November 9, 2000 except for section 63.11 which contains modified information collections that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section. Written comments by the public on the information collection requirements are due October 24, 2000. OMB must submit written comments on the information collection requirements on or before December 11, 2000.

24. The Petitions for Reconsideration filed by ARNIC, BellSouth, KDD, MCI, PanAmSat, SBC, and Sidak *are denied*, as described herein.

25. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this Order on Reconsideration, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

26. The policies, rules, and requirements, established in this decision shall take effect thirty days after publication in the **Federal Register** except for the rules in section 63.11 which contains modified information collections that have not been approved by the Office of Management and Budget (OMB).

List of Subjects in 47 CFR Part 63.

Communications common carriers, reporting and recordkeeping requirements,

Federal Communications Commission.

William F. Caton,
Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 63 as follows:

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE B COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

1. The authority citation for part 63 continues to read as follows:

Authority: Section 1, 4(l), 4(j), 10, 11, 201-205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, and 571, unless otherwise noted.

2. Section 63.09 is amended by adding paragraph (g) to read as follows:

§ 63.09 Definitions applicable to international Section 214 authorizations.

* * * * *

(g) As used in this part, the term:

(1) *Interlocking directorates* shall mean persons or entities who perform the duties of "officer or director" in an authorized U.S. international carrier or an applicant for international Section 214 authorization who also performs such duties for any foreign carrier.

(2) *Officer or director* shall include the duties, or any of the duties, ordinarily performed by a director, president, vice president, secretary, treasurer, or other officer of a carrier.

* * * * *

3. Section 63.11 is revised to read as follows:

§ 63.11 Notification by and prior approval for U.S. international carriers that are or propose to become affiliated with a foreign carrier.

If a carrier is authorized by the Commission ("authorized carrier") to provide service between the United States and a particular foreign destination market and it becomes, or seeks to become, affiliated with a foreign carrier that is authorized to operate in that market, then its authorization to provide that international service is conditioned upon notifying the Commission of that affiliation.

(a) Affiliations requiring prior notification: Except as provided in paragraph (b) of this section, the authorized carrier must notify the Commission, pursuant to this section, forty-five days before consummation of either of the following types of transactions:

(1) Acquisition by the authorized carrier, or by any entity that controls the authorized carrier, or by any entity that directly or indirectly owns more than twenty-five percent of the capital stock of the authorized carrier, of a controlling

interest in a foreign carrier that is authorized to operate in a market that the carrier is authorized to serve; or

(2) Acquisition of a direct or indirect interest greater than twenty-five percent, or of a controlling interest, in the capital stock of the authorized carrier by a foreign carrier that is authorized to operate in a market that the authorized carrier is authorized to serve, or by an entity that controls such a foreign carrier.

(b) Exceptions.

(1) Notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if either of the following is true with respect to the named foreign carrier regardless of whether that foreign carrier is authorized to operate in a World Trade Organization (WTO) or non-WTO Member:

(i) The Commission has previously determined in an adjudication that the foreign carrier lacks market power in that destination market (for example, in an international section 214 application or a declaratory ruling proceeding); or

(ii) The foreign carrier owns no facilities in that destination market. For this purpose, a carrier is said to own facilities if it holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in international or domestic telecommunications facilities (excluding switches).

(2) In the event paragraph (b)(1) of this section cannot be satisfied, notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if the authorized carrier certifies that the named foreign carrier is authorized to operate in a WTO Member and provides certification to satisfy either of the following:

(i) The authorized carrier demonstrates that it is entitled to retain non-dominant classification on its newly affiliated route pursuant to § 63.10; or

(ii) The authorized carrier agrees to comply with the dominant carrier safeguards contained in § 63.10 effective upon the acquisition of the affiliation. See § 63.10.

(c) Notification after consummation. Any authorized carrier that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to this section shall notify the Commission within thirty days after consummation of the acquisition.

Example 1 to paragraph (c). Acquisition by an authorized carrier (or by any entity that

directly or indirectly controls, is controlled by, or is under direct or indirect common control with the authorized carrier) of a direct or indirect interest in a foreign carrier that is greater than twenty-five percent but not controlling is subject to paragraph (c) but not to paragraph (a).

Example 2 to paragraph (c). Notification of an acquisition by an authorized carrier of a hundred percent interest in a foreign carrier may be made after consummation, pursuant to paragraph (c), if the foreign carrier operates only as a resale carrier.

Example 3 to paragraph (c). Notification of an acquisition by a foreign carrier from a WTO Member of a greater than twenty-five percent interest in the capital stock of an authorized carrier may be made after consummation, pursuant to paragraph (c) of this section, if the authorized carrier demonstrates in the post-notification that it qualifies for non-dominant classification on the affiliated route or agrees to comply with dominant carrier safeguards on the affiliated route effective upon the acquisition of the affiliation.

(d) **Cross-Reference.** In the event a transaction requiring a foreign carrier notification pursuant to this section also requires a transfer of control or assignment application pursuant to § 63.18(e)(3), the foreign carrier notification shall reference in the notification the transfer of control or assignment application and the date of its filing. See § 63.18(e)(3).

(e) **Contents of notification.** The notification shall certify the following information: (1) The name of the newly affiliated foreign carrier and the country or countries in which it is authorized to provide telecommunications services to the public;

(2) Which, if any, of those countries is a Member of the World Trade Organization;

(3) What services the authorized carrier is authorized to provide to each named country, and the FCC file numbers under which each such authorization was granted;

(4) Which, if any, of those countries the authorized carrier serves solely through the resale of the international switched services of unaffiliated U.S. facilities-based carriers;

(5) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten (10) percent of the equity of the authorized carrier, and the percentage of equity owned by each of those entities (to the nearest one percent);

(6) A certification that the authorized carrier has not agreed to and will not in the future agree to accept special concessions directly or indirectly from

any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route; and

(7) Interlocking directorates. The name of any interlocking directorates, as defined in § 63.09(g), with each foreign carrier named in the notification. See § 63.09(g).

(8) With respect to each foreign carrier named in the notification, a statement as to whether the notification is subject to paragraph (a) or (c) of this section. In the case of a notification subject to paragraph (a) of this section, the authorized carrier shall include the projected date of closing. In the case of a notification subject to paragraph (c) of this section, the authorized carrier shall include the actual date of closing.

(9) If an authorized carrier relies on an exception in paragraph (b) of this section, then a certification as to which exception the foreign carrier satisfies and a citation to any adjudication upon which the carrier is relying. Authorized carriers relying upon the exceptions in paragraph (b)(2) of this section must make the required certified demonstration in paragraph (b)(2)(i) of this section or the certified commitment to comply with dominant carrier safeguards in paragraph (b)(2)(ii) of this section in the notification required by paragraph (c) of this section.

(f) In order to retain non-dominant status on each newly affiliated route, the authorized carrier should demonstrate that it qualifies for non-dominant classification pursuant to § 63.10. See § 63.10.

(g) **Procedure.** After the Commission issues a public notice of the submissions made under this section, interested parties may file comments within fourteen days of the public notice.

(1) If the Commission deems it necessary at any time before or after the deadline for submission of public comments, the Commission may impose dominant carrier regulation on the authorized carrier for the affiliated routes based on the provisions of § 63.10. See § 63.10.

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section in which the foreign carrier is authorized to operate in a non-WTO Member, the authorized carrier must demonstrate that it continues to serve the public interest for it to operate on the route for which it proposes to acquire an affiliation with the non-WTO foreign carrier by making the required

showing in §§ 63.18(k)(2) or (3) to the Commission. If the authorized carrier is unable to make the required showing in §§ 63.18(k)(2) or (3) or is notified that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing. See §§ 63.18(k)(2) and (3).

(h) All authorized carriers are responsible for the continuing accuracy of information provided pursuant to this section for a period of forty-five days after filing. During this period if the information furnished is no longer accurate, the authorized carrier shall as promptly as possible, and in any event within ten days, unless good cause is shown, file with the Secretary in duplicate a corrected notification referencing the FCC file numbers under which the original certification was provided, except that the carrier shall immediately inform the Commission if at any time, not limited to the forty-five days, the representations in the "special concessions" certification provided under paragraph (e)(6) of this section or § 63.18(n) are no longer true. See § 63.18(n).

(i) A carrier that files a prior notification pursuant to paragraph (a) of this section may request confidential treatment of its filing, pursuant to § 0.459 of this chapter, for the first twenty days after filing. Such a request must be made prominently in a cover letter accompanying the filing.

* * * * *

4. Section 63.18 is amended by adding two new sentences immediately preceding the last sentence of paragraph (e)(3) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(e) * * *

(3) * * * In the event the transaction requiring a transfer of control or assignment application also requires the filing of a foreign carrier affiliation notification pursuant to § 63.11, the applicant shall reference in the application the foreign carrier affiliation notification and the date of its filing. See § 63.11. * * *

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[FR Doc. 00-25980 Filed 10-06-00; 8:45 am]

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