

§ 64.2502 Effect of state law or regulation.

This subpart shall not preempt any state law or state regulation that requires a governmental entity to enter into a contract or understanding with a common carrier which would restrict such governmental entity's right to obtain telecommunications service from another common carrier.

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. The authority citation for part 68 continues to read:

Authority: Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).

2. Section 68.3 is amended by revising the definition of "demarcation point" to read as follows:

§ 68.3 Definitions.

* * * * *

Demarcation point: The point of demarcation and/or interconnection between telephone company communications facilities and terminal equipment, protective apparatus or wiring at a subscriber's premises. Carrier-installed facilities at, or constituting, the demarcation point shall consist of wire or a jack conforming to subpart F of part 68 of the Commission's rules. "Premises" as used herein generally means a dwelling unit, other building or a legal unit of real property such as a lot on which a dwelling unit is located, as determined by the telephone company's reasonable and nondiscriminatory standard operating practices. The "minimum point of entry" as used herein shall be either the closest practicable point to where the wiring crosses a property line or the closest practicable point to where the wiring enters a multiunit building or buildings. The telephone company's reasonable and nondiscriminatory standard operating practices shall determine which shall apply. The telephone company is not precluded from establishing reasonable classifications of multiunit premises for purposes of determining which shall apply. Multiunit premises include, but are not limited to, residential, commercial, shopping center and campus situations.

(a) *Single unit installations.* For single unit installations existing as of August 13, 1990, and installations installed after that date the demarcation point shall be a point within 30 cm (12 in) of the protector or, where there is no protector, within 30 cm (12 in) of where the telephone wire enters the customer's

premises, or as close thereto as practicable.

(b) *Multiunit installations.* (1) In multiunit premises existing as of August 13, 1990, the demarcation point shall be determined in accordance with the local carrier's reasonable and non-discriminatory standard operating practices. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the customer's premises than a point twelve inches from where the wiring enters the customer's premises, or as close thereto as practicable.

(2) In multiunit premises in which wiring is installed, including major additions or rearrangements of wiring existing prior to that date, the telephone company may place the demarcation point at the minimum point of entry (MPOE). If the telephone company does not elect to establish a practice of placing the demarcation point at the minimum point of entry, the multiunit premises owner shall determine the location of the demarcation point or points. The multiunit premises owner shall determine whether there shall be a single demarcation point location for all customers or separate such locations for each customer. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the customer's premises than a point 30 cm (12 in) from where the wiring enters the customer's premises, or as close thereto as practicable. At the time of installation, the telephone company shall fully inform the premises owner of its options and rights regarding the placement of the demarcation point or points and shall not attempt to unduly influence that decision for the purpose of obstructing competitive entry.

(3) In any multiunit premises where the demarcation point is not already at the MPOE, the telephone company must comply with a request from the premises owner to relocate the demarcation point to the MPOE. The telephone company must negotiate terms in good faith and complete the negotiations within forty-five days from said request. Premises owners may file complaints with the Commission for resolution of allegations of bad faith bargaining by telephone companies. See 47 U.S.C. 208; 47 CFR 1.720 through 1.736 (1999) of this chapter.

(4) The telephone company shall make available information on the location of the demarcation point within ten business days of a request from the premises owner. If the telephone

company does not provide the information within that time, the premises owner may presume the demarcation point to be at the MPOE. Notwithstanding the provisions of 47 CFR 68.110(c), telephone companies must make this information freely available to the requesting premises owner.

(5) In multiunit premises with more than one customer, the premises owner may adopt a policy restricting a customer's access to wiring on the premises to only that wiring located in the customer's individual unit that serves only that particular customer.

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 51**

[CC Docket Nos. 98-147, 98-11, 98-26, 98-32, 98-15, 98-78, 98-91; FCC 00-293]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission (FCC).

ACTION: Final Rule; denial of reconsideration.

SUMMARY: This document affirms on reconsideration the Commission's determination that section 706(a) of the Telecommunications Act of 1996 (1996 Act) does not constitute an independent grant of forbearance authority. This documents also affirms on reconsideration the requirement that incumbent local exchange carriers (LECs) must provide unbundled loops conditioned to carry advanced services, even if the incumbent is not itself providing such services.

FOR FURTHER INFORMATION CONTACT: William Kehoe, Special Counsel, Common Carrier Bureau, Policy and Program Planning Division, 202-418-1580. Further information also may be obtained by calling the Common Carrier Bureau's TTY number: 202-418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CC Docket No. 98-147, FCC 00-293, adopted on August 3, 2000, and released August 4, 2000. The complete text of this Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 Twelfth Street, SW, Washington,

DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS), CY-B400, 445 Twelfth Street, SW., Washington, DC.

1. In the Advanced Services Order, 63 FR 45140, August 24, 1998, the Commission addressed, among other matters, petitions in which several BOCs, including Bell Atlantic and SBC, had requested that the Commission forbear from applying the provisions of sections 251(c) and 271 to their advanced services. In rejecting those requests, the Commission explained in detail why, in light of the statutory language, the framework of the 1996 Act, its legislative history, and Congress' policy objectives, the most logical statutory interpretation is that section 706(a) does not constitute an independent grant of authority. The Commission therefore determined that section 706(a) does not constitute an independent grant of forbearance authority. In petitions for reconsideration of the Advanced Services Order, Bell Atlantic and SBC challenged that determination. In the Order on Reconsideration, the Commission affirmed that section 706(a) does not constitute an independent grant of forbearance authority.

2. In the Advanced Services Order, the Commission concluded that the rules adopted in the Local Competition First Report and Order required that, to the extent technically feasible, an incumbent LEC must provide to competing carriers unbundled loops conditioned to carry advanced services, even if the incumbent is not itself providing such services. Bell Atlantic and SBC requested reconsideration of this conclusion. In the Order on Reconsideration, the Commission denied that request based on the treatment of loop conditioning in its UNE Remand Order.

Paperwork Reduction Act of 1995 Analysis

3. The actions contained in this Order on Reconsideration affirmed prior Commission actions and thus do not impose new or modified reporting requirements on the public.

Regulatory Flexibility Analysis (RFA)

4. The Order on Reconsideration affirmed prior Commission actions and thus does not change the Commission's regulatory flexibility analysis.

Procedural Matters

5. Pursuant to sections 1-4, 10, 201, 202, 251-254, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 160, 201,

202, 251-254, 271, and 303(r), that the Petitions for Reconsideration filed September 8, 1998, by Bell Atlantic and SBC *Are Denied*.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-02, MM Docket No. 00-178, RM-9914]

Digital Television Broadcast Service; Charlotte, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Charlotte-Mecklenburg Public Broadcasting Authority, licensee of noncommercial educational station WTVI-TV, NTSC channel * 42, substitutes DTV channel * 11 for station WTVI-TV's assigned DTV channel * 24 at Charlotte, North Carolina. *See* 65 FR 59388, October 5, 2000. DTV channel * 11 can be allotted to Charlotte in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (35-17-14 N. and 80-41-45 W.) with a power of 2.0, HAAT of 387 meters and with a DTV service population of 1747 thousand. With is action, this proceeding is terminated.

DATES: Effective February 20, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-178, adopted January 2, 2001, and released January 5, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television 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: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under North Carolina, is amended by removing DTV channel * 24 and adding DTV channel * 11 at Charlotte.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-677 Filed 1-10-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 001011283-0371-02; I.D. 082200C]

RIN 0648-AO30

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations; Change to the List of Exempted Waters

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS amends the Harbor Porpoise Take Reduction Plan (HPTRP) to redefine Delaware Bay in the list of exempted waters to include waters landward of the 72 COLREGS line (International Regulations for Preventing Collisions at Sea, 1972). Members of the Mid-Atlantic Harbor Porpoise Take Reduction Team (MARTT) recommended by consensus that NMFS redefine the list of exempted waters because harbor porpoise stranding and observer data did not justify subjecting fishers in Delaware Bay to the HPTRP gear restrictions. The intent of this final rule is to exempt fishers operating in Delaware Bay from the HPTRP regulations as it is redefined under this rule.

DATES: Effective January 11, 2001.

FOR FURTHER INFORMATION CONTACT: Gregg Lamontagne, NMFS, Northeast