agreement to pay a different amount of compensation, the amount of default compensation to be paid to payphone service providers for payphone access code calls and payphone subscriber 800 calls is $33.892 per payphone per month, for the period starting on November 7, 1996 and ending on October 6, 1997, except that a payphone service provider that is affiliated with a local exchange carrier is not eligible to receive payphone compensation prior to April 16, 1997 or, in the alternative, the first day following both the termination of subsidies and payphone reclassification and transfer, whichever date is latest.

(b) *Interim 0+ calls.* In the absence of a negotiated agreement to pay a different amount of compensation, if a payphone service provider was not compensated for 0+ calls originating during the period starting on November 7, 1996 and ending on October 6, 1997, an interexchange carrier to which the payphone was presubscribed during this same time period must compensate the payphone service provider in the default amount of $4.2747 per payphone per month, except that a payphone service provider that is affiliated with a local exchange carrier is not eligible to receive payphone compensation prior to April 16, 1997 or, in the alternative, the first day following both the termination of subsidies and payphone reclassification and transfer, whichever date is latest.

(c) *Interim inmate calls.* In the absence of a negotiated agreement to pay a different amount of compensation, if a payphone service provider providing inmate service was not compensated for calls originating at an inmate telephone during the period starting on November 7, 1996 and ending on October 6, 1997, an interexchange carrier to which the inmate telephone was presubscribed during this same time period must compensate the payphone service provider providing inmate service at the default rate of $0.229 per inmate call originating during the same time period, except that a payphone service provider that is affiliated with a local exchange carrier is not eligible to receive payphone compensation prior to April 16, 1997 or, in the alternative, the first day following both the termination of subsidies and payphone reclassification and transfer, whichever date is latest.

(d) *Intermediate access code and subscriber 800 calls.* In the absence of a negotiated agreement to pay a different amount of compensation, the amount of default compensation to be paid to payphone service providers for payphone access code calls and payphone subscriber 800 calls is $33.892 per payphone per month, for any payphone for any month in which compensation was not paid on a per-call basis, for the period starting on October 7, 1997 and ending on April 20, 1999.

(e) *Post-intermediate access code and subscriber 800 calls.* In the absence of a negotiated agreement to pay a different amount of compensation, the amount of default compensation to be paid to payphone service providers for payphone access code calls and payphone subscriber 800 calls is $33.892 per payphone per month, for any payphone for any month in which compensation was not paid on a per-call basis, on or after April 21, 1999.

[FR Doc. 02–4979 Filed 3–1–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[FCC 02–40]

Implementation of LPTV Digital Data Services Pilot Project

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements the provisions of LPTV Pilot Project Digital Data Services Act, which requires the Commission to implement regulations establishing a pilot project. This document also clarifies and revises issues raised in a Petition for Response to Reconsideration of the Implementation Order filed by U.S. Interactive, L.L.C., d/b/a AccelerNet.

DATES: Effective February 14, 2002.

FOR FURTHER INFORMATION CONTACT: Gordon Godfrey, Policy and Rules Division, Mass Media Bureau, (202) 418–2120; or Keith Larson, Mass Media Bureau, (202) 418–2600.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration (''*Order*'') in FCC 02–40, adopted February 12, 2002 and released February 14, 2002. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B–402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via email *qualexint@aol.com.*

Synopsis of Order

I. Introduction

1. In April, 2001 we released an *Order* implementing the provisions of the LPTV Pilot Project Digital Data Services Act (DDSA), (*Order,* In the Matter of Implementation of LPTV Digital Data Services Pilot Project, FCC 01–137, 66 FR 29040 (May 29, 2001)). The DDSA requires the Commission to issue regulations establishing a pilot project pursuant to which specified Low Power Television (LPTV) licensees or permittees can provide digital data services to demonstrate the feasibility of using LPTV stations to provide high-speed wireless digital data service, including Internet access, to unserved areas (Public Law 106–554, 114 Stat. 4577, December 21, 2000, Consolidated Appropriations—FY 2001, section 143, amending section 336 of the Communications Act of 1934, as amended, 47 U.S.C. 336, to add new subsection (h). 47 U.S.C. 336(h)(7)). As defined by the DDSA, digital data service includes: (1) Digitally-based interactive broadcast service; and (2) wireless Internet access (47 U.S.C. 336(h)(7)). The DDSA identifies twelve specific LPTV stations that are eligible to participate in the pilot project, and directs the Commission to select a station and repeaters to provide service to specified areas in Alaska. In this *Order,* we address issues raised in a petition for reconsideration of the *Order* filed by U.S. Interactive, L.L.C., d/b/a AccelerNet, and revise provisions of that *Order* in some respects. AccelerNet is an LPTV licensee providing one-way digital data service in Houston, Texas, from station KHLM–LP, and operating stations that are eligible to participate in DDSA pilot projects. Its investors own or have rights to acquire six of the other eight stations eligible for the pilot projects.

II. Discussion

A. Term of Pilot Project

2. In the *Order,* we noted that the DDSA does not specify how long the pilot project should last. Since the DDSA specified that our last report to Congress evaluating the utility of the pilot project is due on June 30, 2002, we clarified that we will issue experimental letter authorizations for the pilot project that will expire on June 30, 2002, unless the term is extended prior to that date. We delegated authority to the Mass Media Bureau to extend the term of the authorizations for individual participants or for participants as a group, and to do so by Public Notice, in the event that it is determined that the

term of the pilot project should be extended.

3. In its petition, AccelerNet asserts that the Commission should grant conditional pilot project licenses for the term of the underlying LPTV station license, including any renewals, subject only to early termination of the pilot project license if irremediable interference occurs, rather than experimental licenses. AccelerNet asserts that the statute implicitly requires the Commission to allow operation of the pilot projects on an indefinite basis, subject to termination only if interference occurs which cannot otherwise be remedied. According to AccelerNet, inclusion of a sunset provision in the *Order* would cause the demise of the project. It contends that investors are reluctant to finance pilot projects; that equipment manufacturers will not be willing to develop necessary equipment needed by the project; that several years will be needed to implement and demonstrate the utility of the project; and, finally, that the pilot project is intended to ultimately provide a needed service that should not be sunsetted if it works. To support its assertion, it first argues that Congress would not have provided for annual fees if the pilot projects were intended to be of limited duration. It observes that a provision in the statute at section 336(h)(6) for annual fees to be paid by stations participating in the pilot projects is similar to the provision for annual fees to be paid by digital television stations offering ancillary or supplementary services at section 336(e). Second, AccelerNet argues, although Congress expressly provided for termination under certain conditions, those conditions did not include a time limit (citing sections 336(h)(3)(C) (Commission to adopt regulations providing for termination or limitation of any pilot project station or remote transmitter if interference occurs to other users of the core television spectrum) and 336(h)(5)(A) (Commission may limit provision of digital data service from pilot project stations if interference is caused)). It contends that a sunset provision was considered and specifically rejected during drafting negotiations. (Asserting a sunset provision was specifically rejected when section 336(h) and the DDSA were legislated). Finally, AccelerNet argues, the statutory dates specified for the Commission to issue reports concerning the efficacy of the pilot projects are unrelated to any supposed term of the pilot projects. (The Commission was required to report back to Congress on June 30, 2001 and June 30, 2002. *See* section 336(h).) Rather, it claims, the reporting requirements exist to enable Congress to determine whether to expand the provision of digital data services to all or some additional portion of LPTV stations.

4. On reconsideration, we have decided to revise our provisions regarding the terms of the pilot project. Rather than issue experimental letter authorizations, the procedure we described in the *Order,* we will allow the LPTV stations that are eligible for the pilot project to participate in the pilot project for the term of their LPTV licenses, including renewals of those licenses, subject to early termination if irremediable interference occurs, pursuant to the statute.

5. Pursuant to § 74.731(g) of our rules, LPTV stations may operate as TV translator stations, or to originate programming and commercial matter, either through the retransmission of a TV broadcast signal or via original programming (47 CFR 74.731(g); *see* also 47 CFR 74.701(f)). To allow the pilot project stations to participate in the project, we will grant them a waiver of this rule (47 CFR 1.3, ''Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown''). The waiver will be renewable with the renewal of the underlying LPTV license. All other LPTV rules will be applicable to these stations, except as waived herein or upon request by pilot project participants, or as specified in the *Order.* (We will waive the following rules as inapplicable to the services provided under this pilot project: 47 CFR 74.731(g) (permissible service), 74.732(g) (booster eligibility), 74.736(a) (emissions), 74.750(a) (FCC transmitter certification), 74.751(a) (modification of transmission systems), 74.761 (frequency tolerance), and 74.763(c) (time of operation)).

6. As stated, this is a pilot project. Pilot project stations will operate pursuant to their LPTV licenses instead of experimental letter authorizations. To obtain a waiver of § 74.731(g), pilot project-eligible stations should follow the application procedures specified in paragraph 8 of the *Order.* Rather than filing an application for experimental authority, a DDSA-eligible applicant should file an informal letter application requesting the addition of digital data service pilot project facilities to its existing LPTV authorization and including the information requested in that paragraph. We will also require them to undertake the testing described in paragraph 10, and to include the information requested in that paragraph in their applications so that we may assess the interference potential of this service. No application filing fee is required to add or modify pilot project digital facilities. We will issue a waiver by letter adding pilot project facilities to the LPTV authorization for the term of the LPTV license, renewable with that license, after following the public notice procedures specified in paragraph 18 of the *Order.* Paragraph 19 of the *Implementation Order,* regarding facilities changes, will continue to apply. Applications to change channel or transmitter site location(s) must be filed in the normal manner on FCC Form 346, seeking a modified construction permit for the underlying analog facilities of the licensed LPTV station or a modification of such facilities in an existing analog LPTV station construction permit. The application for modification of analog facilities is feeable. Following grant of the change in such authorized LPTV facilities, an associated informal application to modify the pilot project portion of the authorization will be considered in accordance with the above procedures. This two step process is necessary because, where interference protection to digital data services is required, the protected area is that defined by the analog LPTV service contour (47 CFR 74.707(a)), based on the authorized analog LPTV facilities, an associated informal application to modify the pilot project portion of the authorization will be considered). All other requirements of the *Order* apply unless changed herein.

7. Additionally, and as AccelerNet observes, the DDSA specifies that a station may provide digital data service unless provision of the service causes interference in violation of the Commission's existing rules to full-service analog or digital television stations, Class A television stations, or television translator stations. In keeping with these provisions in the DDSA, we will not renew any waiver to operate pursuant to the pilot project if the station requesting renewal causes irremedial interference to other stations.

8. We find that it is in the public interest to grant these waivers generally based on the intent of Congress in the DDSA that it is in the public interest to establish this pilot project. In the *Order,* we stated that we would extend the term of the pilot projects, by Public Notice and on delegated authority, upon a determination that the term of the pilot project should be extended. We intended to use this process so that the original term of the pilot projects could be extended with minimal difficulty, and did not intend that the term would

automatically expire after June 30, 2002. Nonetheless, we recognize that the limited term specified in the *Order* could pose problems with establishing the project, as AccelerNet described, because investors may be unwilling to invest without greater certainty, particularly in the current challenging economic climate, and that it may take longer to develop the equipment than originally contemplated. It is also conceivable, as AccelerNet contends, that equipment manufacturers might be less willing to develop the equipment needed by the project without the certainty of a longer initial term. Moreover, as AccelerNet argues, it is possible that implementing and proving the practicality of the project could require a period of years. Accordingly, to assure that our procedures do not undermine the establishment of the pilot project, we will instead base the license terms of the pilot project stations on the terms of the underlying LPTV licenses and grant the necessary rule waivers, subject to the interference prohibitions in the statute and as delineated in the *Order.* (We wish to make clear that this is a pilot project, and the decisions made herein are not intended to prejudge any future decisions on digital operation on LPTV stations generally).

9. We recognize that Congress wanted to give the pilot project a fair opportunity to succeed. The DDSA does not contain a sunset date; it is, therefore, legally permissible to make the term of the pilot project coincident with the term of the LPTV license, subject to early termination in the event of irremediable interference. (Although Congress specified particular subjects for which it wanted the Commission to issue rules in section 336(h)(3), that section does not direct the Commission to issue a sunset rule for the pilot projects. Likewise, no time limitation is specified in sections 336(h)(1), which allows pilot project stations to ask the Commission to provide digital data service or in section 336(h)(5)(b), which allows a licensee to move a station to another location for the purpose of the pilot projects). Our goal is to implement the statute while assuring that no objectionable interference occurs. Granting renewable waivers is not overly burdensome to participants in the pilot project, and it serves the purpose of ensuring that others are protected from interference.

10. To assure that the project does not cause interference, we will not only assess issues of interference that may arise in connection with the filing of the renewal application, but in addition the interference resolution provisions of paragraph 11 of the *Order* will apply. Paragraph 11 requires stations participating in the pilot project to comply with § 74.703 of the Commission's rules regarding interference. It also specifies additional procedures that participating stations must follow in order to resolve interference problems in accordance with requirements set forth in the DDSA). We clarify that we have authority to take any measures, including terminating digital data service waivers and therefore requiring the discontinuance of the participation of any station in the project in the event of irremediable interference. LPTV stations are secondary and must provide interference protection as described in paragraph 8 of the *Order.* The waivers will be conditioned accordingly.

B. Application of Experimental Rules

11. In the *Order,* we stated our belief that requirements similar to those contained in §§ 5.93(a) and (b) of the rules should apply to the pilot program. (No other provisions of part 5 of the Commission's rules were applied). Thus, we required that all transmitting and/or receiving equipment used in the pilot program be owned by, leased to, or otherwise under the control of the LPTV licensee (47 CFR 5.93(a)). We said that response station equipment may not be owned by subscribers to the experimental data service to insure that the LPTV licensee has control of the equipment if and when the pilot program terminates. In addition, we required the LPTV licensee to inform anyone participating in the experiment, including but not limited to subscribers or consumers, that the service or device is provided pursuant to a pilot program and is temporary (47 CFR 5.93(b)).

12. AccelerNet argues that the requirement that all transmitting and receiving equipment be owned by the licensee is unwarranted and not required or contemplated by the DDSA. It also objects to the requirement that the LPTV licensee shall inform anyone participating in the project that the service is temporary. These requirements were necessary under our rules governing experimental licensees. Because we are, on reconsideration, treating this endeavor not as an experimental project with an initial term of only 2 years, but as a unique pilot project that is a part of the underlying LPTV license and is for the term of that license, §§ 5.93(a) and (b) are no longer applicable because there is no longer the concern that the project will be terminated after only 2 years. We do not intend to unnecessarily restrict the ability of the pilot projects to gain market acceptance, make it difficult for the licensees to gauge subscriber acceptance of the service, or be unduly burdensome considering the other risks assumed by licensees in a pilot project. We will require pilot project licensees and permittees to advise recipients of digital data service that they are participating in a pilot project, which could be terminated in the event of irremedial interference to protected broadcast and other services. AccelerNet has stated that it has no objection to this requirement.

C. RF Safety Rules

13. In the *Order,* we said that we will require pilot project licensees and permittees employing two-way technology to attach labels to every response station transceiver (fixed or portable) in a conspicuous fashion visible in all directions and readable at distances beyond the minimum separation distances between the radiating equipment and the user. For fixed response stations, we also concluded that their effective radiated power (ERP) should be as low as is consistent with satisfactory communication with a base station, and in no case should the ERP (digital average power) exceed 10 watts. For portable response stations, we similarly concluded that their ERP should be as low as is consistent with satisfactory communication with a base station, and in no case should the ERP (digital average power) exceed 3 watts.

14. *Labeling.* AccelerNet argues that the requirement that RF station transceivers be marked to indicate potential radio frequency hazards should not apply where the transmit power of the transceiver is so low as to present no safety hazard at any distance. It contends that requiring marking in those circumstances is overregulatory, and could unnecessarily raise concerns among potential subscribers, causing the pilot project to fail from lack of consumer acceptance. Arguing that its portable devices are not expected to exceed one watt in power, it contends that the Commission's current rules sufficiently protect the public (citing 47 CFR 2.10093 [''Radiofrequency radiation exposure evaluation; portable devices.'']). It argues that the *Order* should be revised to provide that portable devices shall comply with the provisions of § 2.1093 of the Commission's rules (47 CFR 2.1093), including the radiation exposure limitations set forth in § 2.1093(d)(2).

15. We agree with the petitioner that RF safety rules for digital data service devices should be consistent with existing rules for similar devices.

However, similar devices that are used as subscriber transceivers and marketed to the public have been subject to labeling requirements to alert consumers to the presence of RF energy and to ensure that safe distances from transmitting antennas are maintained (47 CFR 1.1307(b)). Such devices have generally been classified as ''mobile'' devices under our rules, not as ''portable'' devices. For purposes of determining how to evaluate RF devices for compliance with the Commission's RF safety rules, non-fixed devices have been classified as either ''mobile'' or ''portable,'' based on the separation distance between radiating structures and users (this is defined in 47 CFR 2.1091 and 2.1093 and is discussed in the FCC's OET Bulletin 65, (1997)). A classification of ''mobile'' means that compliance with the Commission's RF safety rules can be accomplished by providing users with information on safe distances to maintain from transmitting antennas in order to meet field intensity limits for Maximum Permissible Exposure (MPE).

16. The petitioner proposes to have digital data service devices be subject to the provisions of § 2.1093, the section of our rules which specifies requirements for devices classified as ''portable'' in terms of compliance with the Commission's limits for localized Specific Absorption Rate (SAR). For a device to be classified as ''portable'' it is assumed that it is possible for the separation distance between the radiating structure of the device and a user to be less than 20 cm during transmit operation. Compliance with the SAR limit (the general population limit of 1.6 watts per kilogram in this case) is typically determined by means of laboratory testing (*see* Supplement C (2001) to the FCC's OET Bulletin 65 (1997) for details). We agree that the response stations used in connection with the pilot project can be classified as ''portable'' devices and subject to the provisions of § 2.1093, as long as the appropriate SAR data are obtained and made available to the Commission demonstrating compliance with the SAR limit. A determination of ''worst case'' exposure would be indicated by evaluating SAR with a zero separation distance. If compliance with the SAR limit is demonstrated in this condition, using maximum operating power, then labeling would not be required, since no separation distance would be required for compliance. On the other hand, if a certain separation distance (less than 20 cm) is required for compliance with the SAR limit, then the applicant will have to demonstrate that a user cannot be exposed closer than that distance.

17. Accordingly, we will require portable response stations used in connection with the pilot project to comply with the RF exposure limits and related provisions of § 2.1093 of our rules, relevant to devices subject to routine environmental evaluation for RF exposure prior to equipment authorization or use. Although we have not required that these devices be subject to equipment authorization, applicants must submit to the Commission evidence of compliance with the SAR limits specified in § 2.1093, including information on how any required separation distances, as discussed above, will be maintained. Based on our previous experience in analyzing SAR from portable devices, we will not require SAR testing and will categorically exclude from routine RF evaluation devices that do not radiate a power level in excess of 50 milliwatts.

D. Technical Operation

18. In the *Order,* we anticipate the possibility that several types of transmission facilities may be involved in each pilot project station. First, we expect that most, if not all, of these projects will involve digital transmissions from a main base station at the authorized site of the underlying LPTV station. Unless the evaluation of its digital modulation method requires otherwise, we would assume that operation of such a facility will not represent a significantly increased interference threat compared to the authorized LPTV station if the antenna height is not increased and the digital average power does not exceed 10 percent of the authorized analog LPTV power (10 dB less power). We noted that in DTV service, this level of digital power is adequate to provide coverage of the same area. We said that the Commission's staff will not evaluate at the application stage the interference potential of a main digital base station conforming to this restriction.

19. In the *Order,* we said that the second type of transmission facility might consist of one or more additional base stations (boosters) located at sites away from the authorized LPTV transmitter site. We decided to treat such stations as we treat analog TV booster stations except that each booster may originate its own data messages. As such, we noted our expectation that such facilities would be limited to a site location, power and antenna height combination that would not extend the coverage area of the main base station in any direction. We stated that we would require an exhibit demonstrating that booster coverage is contained within main base station coverage, based on the digital field strength predicted from the main base station at the protected contour of the underlying analog LPTV authorization. Further, we stated that we would assume at the application stage that such an operation will not cause additional interference unless an interference situation is demonstrated in an informal objection to the application. We said that, absent such an objection, the Commission's staff will not evaluate at the application stage the interference potential of an additional digital base station conforming to this restriction.

20. *Digital Power Issue.* AccelerNet asks the Commission to allow UHF LPTV pilot project stations to transmit with up to 15kW average digital power if existing interference protection criteria are met. AccelerNet argues that the provision in the *Order* could be read to limit average digital power to 10 percent of the authorized analog power of the underlying LPTV station. It states that discussion with staff indicates that this was not intended, and asks that the Commission clarify that this is the case. It adds that a 10 percent limit would be an unjustified restriction on provision of its service, because, under the rules, UHF LPTV stations are limited to 15 kW average digital power if existing interference protection criteria are met (47 CFR 74.735(b)(2)). It asks that the *Order* be clarified to allow operation up to 15 kW average digital power if existing interference protection criteria are met.

21. *Boosters.* AccelerNet urges the Commission to allow booster stations to operate at any point within the existing authorized coverage contours of the main base station, provided that no interference to protected stations would be created. It asks that some degree of flexibility be provided for the location of booster stations to allow LPTV stations to cover natural market areas associated with their communities of license, but which may be outside their existing coverage contours. It suggests that booster stations be allowed to operate at any point within the existing authorized coverage contours of the main base station, provided that no interference to protected stations would be created, and provided that the pilot project stations would not be entitled to interference protection outside their existing authorized service contours of the underlying analog LPTV authorization.

22. On reconsideration of both these issues, we reach the same conclusion, of which there are two parts. First we deal with the interference protection that must be afforded to the LPTV stations

participating in this pilot project. Second, we deal with the interference protection that pilot project stations must afford to all other stations that are entitled to protection.

23. Interference protection of a pilot project station will be limited to the analog TV protected contour of the underlying LPTV station. That underlying LPTV station authorization may be modified in accordance with the LPTV rules and procedures. When and if the LPTV rules are amended to allow digital LPTV authorizations, the underlying analog LPTV station may be converted to a digital LPTV authorization in accordance with those rules. Pilot project authorizations for digital power in excess of 10 percent of the underlying analog LPTV station power will not entitle the station to any additional interference protection. Similarly, booster station authorizations that may allow the pilot project station to provide service in areas beyond the underlying LPTV protected contour will not entitle the pilot project station to additional interference protection.

24. As requested, we clarify that a pilot project station is not limited to an effective radiated power that is 10 percent or less than that of the analog power of the associated LPTV station. A pilot project station will be assumed at the application stage to provide the required interference protection to other stations if it conforms to the 10 percent of the LPTV analog power criterion and any booster stations do not extend the analog LPTV authorized protected contour. Requests for greater pilot project power, up to the 15 kilowatt effective radiated power limit for UHF digital LPTV stations, or for boosters located within the analog LPTV protected contour extending the pilot project service beyond the analog protected contour, must include a showing that no interference is predicted to any other service that is entitled to protection. (The digital effective radiated power limit in the LPTV rules for VHF station is 300 watts (47 CFR 74.735(b)(1)). Pilot project booster stations may be located anywhere within the protected contour of the underlying analog LPTV authorization based on a showing of noninterference to protected stations. On this basis we will not prohibit a booster from extending service beyond the protected contour.

III. Administrative Matters

25. *Paperwork Reduction Act Analysis*. This *Order on Reconsideration* may contain either proposed or modified information collections. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collections contained in this *Order*, as required by the Paperwork Reduction Act of 1996. Public and agency comments are due May 3, 2002. Comments should address: (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) ways to enhance the quality, utility, and clarity of the information collected; and (c) 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. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 445 Twelfth Street, SW., Room C–1804, Washington, DC 20554, or via the Internet to *jboley@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *JThornto@omb.eop.gov*.

26. *Final Regulatory Flexibility Analysis*. No regulatory flexibility analysis is required because the rules adopted in the *Order* and this *Order on Reconsideration* were adopted without notice and comment rule making.

27. *Congressional Review Act*. These rules, promulgated without notice and comment rule making, are not subject to the provisions of the Congressional Review Act.

IV. Ordering Clauses

28. Pursuant to the authority contained in sections 1, 2(a), 4(i), 7, and 336 of the Communications Act of 1934 as amended, 47 U.S.C. 1, 2(a), 4(i), 7 and 336, part 74 of the Commission's rules, 47 CFR part 74, *is amended* as set forth.

29. The rule amendments set forth *shall be effective February 14, 2002*.

30. The petition for reconsideration filed by U.S. Interactive, L.L.C., *is granted* to the extent discussed herein, and otherwise is *denied*.

31. This proceeding is *terminated*.

List of Subjects in 47 CFR Part 74

Television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 74 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTION SERVICES

Subpart G—Low Power TV, TV Translator, and TV Booster Stations is amended to read as follows:

1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f), 336(h) and 554.

2. Section 74.785 is revised to read as follows:

§ 74.785 Low power TV digital data service pilot project.

Low power TV stations authorized pursuant to the LPTV Digital Data Services Act (Public Law 106–554, 114 Stat. 4577, December 1, 2000) to participate in a digital data service pilot project shall be subject to the provisions of the Commission *Order* implementing that Act. FCC 01–137, adopted April 19, 2001, as modified by the Commission *Order on Reconsideration*, FCC 02–40, adopted February 12, 2002.

[FR Doc. 02–4978 Filed 3–1–02; 8:45 am]

BILLING CODE 6712–01–P