

violations." *Id.* Given the court's conclusion, the Commission cannot adopt the reading urged by AT&T and MCI. The Commission thus denies the petitions filed by AT&T and MCI with respect to this issue.

The Commission also, however, denies SWBT's petition with respect to the issue of the Commission's interpretation of "deemed lawful." In its petition, SWBT asserts that "deemed lawful" creates a safe harbor in which LECs can operate without fear of an attack on their rates or other provisions once the tariffs become effective. The court's holding was limited to the question of refund liability for rates that were "deemed lawful"; it in fact acknowledged that the Commission might order prospective relief "[i]f a later reexamination shows them to be unreasonable." See *ACS of Anchorage, Inc. v. FCC*, 290 F. 3d at 411. Therefore, a rate that is deemed lawful within the meaning of section 204(a)(3) may be the subject of a complaint alleging that the rate has become unjust and unreasonable, and the Commission by order may prescribe a new rate to be effective prospectively, even if the Commission can not require a carrier to make refunds. The Commission also denies reconsideration and clarification of a number of other issues related to streamlined tariff filings.

Accordingly, it is ordered, pursuant to sections 1, 2, 4(i), 4(j), 201–205, and 405 of the Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201–205, and 405, that the petitions for reconsideration filed by AT&T Corp., MCI Communications Corp., and Southwestern Bell Telephone Company are hereby denied.

#### List of Subjects

##### 47 CFR Part 1

Administrative Practices and Procedures, Communications common carriers, Telecommunications.

##### 47 CFR Part 61

Access Charges, Communications common carriers, Telephone.

##### 47 CFR Part 69

Communications common carriers, Telephone.

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary.

[FR Doc. 02–26238 Filed 10–15–02; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 20

[CC Docket No. 94–102; DA 02–2423]

#### Enhanced 911 Emergency Calling; Use of Non-Initialized Wireless Phones

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; stay of effective date.

**SUMMARY:** This document responds to a petition for reconsideration of a previous decision in this proceeding, by granting a request for stay of two of the Commission's rules imposing requirements for programming donated non-service-initialized phones and newly manufactured "911-only" wireless handsets with a code number as the telephone number/mobile identification number. Such phones currently lack such an identifying number and therefore do not have "call-back" capability. This inability to reach a caller, when such phones are used in emergency situations, can lead to critical delays in response time. The action is taken because the importance of the call-back issue to public safety and the merits of the arguments raised in the petition for reconsideration warrant further investigation before any rules are implemented.

**DATES:** Sections 20.18(l)(1)(i) and (l)(2)(i), added at 67 FR 36112, May 23, 2002, are stayed indefinitely effective October 1, 2002. The Commission will publish a document in the **Federal Register** when a final decision regarding these rule sections is reached.

**FOR FURTHER INFORMATION CONTACT:** David Siehl, Attorney, 202–418–1310.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Order in CC Docket No. 94–102; DA 02–2423, adopted and released on September 30, 2002. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). Alternative formats (computer diskette, large print, audio cassettes, and Braille) are available to persons with disabilities by contacting Brian Millin at 202–418–7426, TTY 202–418–7365, or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

## Synopsis of the Order

1. The Order grants a Request for Stay of 47 CFR 20.28(l)(1)(i) and (l)(2)(i) as adopted in the Report and Order published at 67 FR 36112, May 23, 2002. These rules impose requirements for programming both donated non-service-initialized phones and newly manufactured "911-only" wireless handsets with the code 123–456–7890 as the telephone number/mobile identification number. The purpose of the rules is to address the lack of call-back capability when 911 calls are dialed from these wireless devices.

2. A Request for Stay of the rules was filed by the Emergency Services Interconnection Forum (ESIF), which is a sponsored committee of the Alliance for Telecommunications Industry Solutions and is comprised of Commercial Mobile Radio Service carriers, wireless handset vendors, and public safety representatives. A Public Notice soliciting comment on this Request for Stay was published at 67 FR 46909, July 17, 2002.

3. In examining ESIF's Request for Stay, the Order finds that a stay is warranted in this case based on the likelihood of success on the merits of a Petition for Reconsideration of the Report and Order (Reconsideration Petition), also filed by ESIF, and the lack of injury to third parties if the Stay Request is granted. Issuance of a stay will allow further consideration of a solution, raised by ESIF in its Reconsideration Petition, for 911 calls from donated non-initialized wireless phones and 911-only wireless handsets that the Commission has not previously reviewed in this proceeding and that possesses certain potential advantages over the approach adopted in the Report and Order.

### Ordering Clause

4. *It is therefore ordered*, pursuant to Sections 4(i), 11, 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), and 303(r) that 1 the Request for Stay filed by Emergency Services Interconnection Forum on June 12, 2002, is granted and will remain in effect until the Commission resolves the Petition for Reconsideration. The Commission will then publish a document in the **Federal Register** regarding these rules.

### List of Subjects in 47 CFR Part 20

Communications common carrier, Communications equipment, Radio.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02-26237 Filed 10-10-02; 11:25 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-2517, MB Docket No. 02-178, RM-10456]

#### Digital Television Broadcast Service; Lewisburg, WV

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of High Mountain Broadcasting Corporation, substitutes DTV channel 8 for DTV channel 48 at Lewisburg, West Virginia. See 67 FR 46148, July 12, 2002. DTV channel 8 can be allotted to Lewisburg in compliance with the principle community coverage requirements of section 73.625(a) at coordinates 37-46-22 N. and 80-42-25 W. with a power of 3.8, HAAT of 568 meters and with a DTV service population of 401 thousand. With this action, this proceeding is terminated.

**DATES:** Effective November 25, 2002.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 02-178, adopted October 3, 2002, and released October 10, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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 and 336.

#### § 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under West Virginia, is amended by removing DTV channel 48 and adding DTV channel 8 at Lewisburg.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 02-26269 Filed 10-15-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-2505, MM Docket No. 01-244, RM-10234, and MM Docket No. 01-245, RM-10235]

#### Digital Television Broadcast Service; Tyler and Lufkin, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Civic License Holding Company, Inc., substitutes DTV channel 10 for DTV channel 38 at Tyler, Texas; and substitutes DTV channel 11 for DTV channel 43 at Lufkin, Texas. See 66 FR 48852, September 24, 2001; and 66 FR 48851, September 24, 2001. DTV channels 10 and 11 can be allotted to Tyler and Lufkin, Texas, respectively, in compliance with the principle community coverage requirements of Section 73.625(a). DTV channel 10 is allotted at coordinates 32-32-23 N. and 95-13-12 W. with a power of 7, HAAT of 302 meters and with a DTV service population of 213 thousand. DTV channel 11 is allotted at coordinates 31-25-09 N. and 94-48-03 W. with a power of 9.25, HAAT of 204 meters and with a DTV service population of 622 thousand. With this action, this proceeding is terminated.

**DATES:** Effective November 25, 2002.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01-244 and MM Docket No. 01-245, adopted October 2, 2002, and released October 9, 2002. The full text of this document is available for public inspection and

copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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 and 336.

#### § 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas, is amended by removing DTV channel 43 and adding DTV channel 11 at Lufkin.

3. Section 73.622(b), the Table of Digital Television Allotments under Texas, is amended by removing DTV channel 38 and adding DTV channel 10 at Tyler.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 02-26235 Filed 10-15-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-2388; MB Docket No. 02-188; RM-10462]

#### Radio Broadcasting Services; Encinal, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 273A to Encinal, Texas, in response to a petition filed by Linda Crawford. See 67 FR 50851, August 6, 2002. The coordinates for Channel 273A at Encinal are 28-06-40 and 99-27-15. There is a site restriction 12.5 kilometers (7.8 miles) northwest of the community. With this action, this proceeding is terminated. A filing window for Channel 273A at Encinal will not be opened at this time. Mexican