

contract; addition or deletion of a shipper entitled to access the service contract; and modification of the duration or minimum quantity commitment of the contract. This is not an exhaustive list, but instead serves as a specific example for general guidance. These and other similar types of changes should continue to be made as "amendments" under 46 CFR 530.10(b) or, if retroactivity is deemed necessary, by filing a request for permission to correct a clerical or administrative error in the terms of a filed service contract under 46 CFR 530.10(c).

Corrections to an initial filing are allowed within 48 hours from the time and date of receipt recorded in SERVCON (excluding Saturdays, Sundays and legal public holidays). For example, an initial filing received at 5 p.m. on a Friday must be corrected before 5 p.m. the following Tuesday. The SERVCON system currently has and will continue to have the ability to identify such corrected service contract filings. The Bureau of Trade Analysis will monitor the use of the correction process; any abuse of the limited permission in the rule would be considered a violation of the Commission's regulations.

Under this new rule, the SERVCON system will be modified to accept only corrected service contracts that the filer identifies as such and for which the filer provides a description of the changes being made by the correction process. A new field will be added to the online filing system as a checkbox for the filer to identify the submission as a corrected service contract. If the filer fails to use this new checkbox, the contract will be rejected because the SERVCON system will not accept service contracts that have duplicate file names or service contract or amendment numbers. The system also will flag resubmitted contracts and will give a unique internal file name to the corrected transmission for FMC monitoring purposes. A new separate SERVCON field for filers to enter a description of the corrections being made will be provided.

The Commission has determined that it will not add a "withdrawal" function to the final rule as recommended by PCTB. The Commission's previous Automated Tariff Filing and Information ("ATFI") system did have a "withdrawal" function that permitted a filer to withdraw a service contract filing containing erroneous matter on the same date that it was filed and allowed the re-filing of the appropriate copy. That "withdrawal" function was eliminated when the ATFI system was discontinued September 30, 1999. Presumably, filers have been

accomplishing any needed "withdrawals" of service contracts by filing an amendment to cancel an unintentionally filed document, which is permitted under 46 CFR 530.10(b). Therefore, even though the final rule does not permit reuse of the service contract number and file name, or the complete withdrawal of an unintended contract filing as suggested by PCTB, the Commission does not believe it is necessary to add a separate "withdrawal" feature to the SERVCON system. The 48-hour window to correct a transmission error contained in the final rule, 46 CFR 530.10(d), adequately provides an opportunity for filers to address erroneous service contract filings. For example, under the final rule the SERVCON system will accept a correction via the Corrected Transmission ("CT") function to allow an erroneous service contract number, organization number, or document file name on an initial contract filing to be corrected.

List of Subjects in 46 CFR Part 530

Freight, Maritime carriers, Reporting and record keeping requirements.

■ For the reasons discussed in the preamble, the Commission is adding a new paragraph (d) in 46 CFR part 530, subpart B, section 530.10, as follows:

PART 530—SERVICE CONTRACTS

■ 1. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1704, 1705, 1707, 1716.

■ 2. Section 530.10 is amended by revising the section heading; by redesignating paragraphs (d) and (e) as paragraphs (e) and (f) and by adding a new paragraph (d) to read as follows:

§ 530.10 Amendment, correction, cancellation, and electronic transmission errors.

* * * * *

(d) *Electronic transmission errors.* An authorized person who experiences a purely technical electronic transmission error or a data conversion error in transmitting a service contract filing or an amendment thereto is permitted to file a Corrected Transmission ("CT") of that filing within 48 hours of the date and time of receipt recorded in SERVCON (excluding Saturdays, Sundays and legal public holidays). This time-limited permission to correct an initial defective service contract filing is not to be used to make changes in the original service contract rates, terms or conditions that are otherwise provided for in paragraphs 530.10(b) and (c) of this section. The CT tab box

in SERVCON must be checked at the time of resubmitting a previously filed service contract, and a description of the corrections made must be stated at the beginning of the corrected service contract in a comment box. Failure to check the CT box and enter a description of the correction will result in the rejection of a file with the same name, since documents with duplicate file names or service contract and amendment numbers are not accepted by SERVCON.

By the Commission.

Bryant L. VanBrakle,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket Nos. 96-262, 94-1, 99-249, 96-45 FCC 03-139]

Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Assessment of Presubscribed Interexchange Carrier Charges of Public Payphones

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission modified its rules so that payphone lines are no longer subject to the PICC (Presubscribed Interexchange Carrier Charge). This action is necessary because the Commission determined that eliminating the PICC for payphone lines is more consistent with section 276 of the Act. To ensure compliance with the anti-subsidization and anti-discrimination provisions of section 276 of the Act, the Commission determined that payphone line rates should be set according to the cost-based new services test. Because the multi-line business PICC is a subsidy from multi-line business lines to residential and single-line business lines whose subscriber line charge (SLC) rates are capped by the Commission's rules, the PICC is not cost-based and so it does not comply with the new services test. The intended effect of this action is to exempt payphones lines from the PICC.

DATES: Effective October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Aaron Goldschmidt, Wireline Competition Bureau, 202-418-1520.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, FCC 03-139 in CC

Docket No. 96–262, adopted on June 19, 2003 and released on June 25, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402 Washington, DC 20554. The full text also may be downloaded at <http://www.fcc.gov>. *Introduction*. On July 21, 2000, One Call Communications, Inc. d/b/a Opticom (“One Call”) filed a petition for reconsideration and clarification of the Commission’s *CALLS Order*. See *Access Charge Reform*, CC Docket No. 96–262, Sixth Report and Order in CC Docket Nos. 96–262 and 94–1, Report and Order in CC Docket No. 99–249, Eleventh Report and Order in CC Docket No. 96–45, 65 FR 38684, June 21, 2000. In its petition, One Call sought to apply to payphone lines the common line cost recovery mechanism for single-line business and residential subscriber lines established in the *CALLS Order*, rather than the cost recovery mechanism applicable to multi-line business lines. In this document, the Commission grants One Call’s request to reconsider the treatment of payphone lines under the Commission’s access charge rules. Specifically, the Commission adopts a rule exempting payphone lines from the PICC, and the Commission denies One Call’s request that payphone lines be treated as single-line business lines for purposes of assessment of the SLC.

The PICC for Payphone Lines. The Commission finds that payphone lines should be exempt from the PICC. In furtherance of section 276(a), the Commission has determined that payphone line rates should be set according to the cost-based new services test. See 47 U.S.C. 276(a) (1) and the *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket 96–128, Report and Order, 61 FR 52307, October 7, 1996. The multi-line business PICC, however, does not recover the costs of the lines on which it is assessed. Rather, it recovers revenues that would be recovered through charges on residential and single-line business lines, if those charges were not capped. Thus, because the PICC is not cost-based, it does not comply with the new services test.

The Commission notes that, in adopting section 276(b), Congress desired to “promote the widespread deployment of payphone services to the general public.” See 47 U.S.C. 276(b)(1). The Commission believes that this is

consistent with a universal service function that payphones provide to those who cannot otherwise afford telephone service. The Commission concludes that it is bad policy to impose a non-cost-based charge, such as the PICC, on payphone lines because doing so may limit the deployment of payphone services that serve these important functions. Given Congress’s stated intent to preserve the availability of payphones, the universal service functions payphones provide, and that the PICC does not reflect costs incurred for the provision of payphone service, the Commission finds it desirable to exempt payphone lines from the PICC. Although the Commission’s Order establishes that payphone lines are exempted from the PICC on a going-forward basis, the Commission makes no finding with respect to the application of PICCs to payphone lines prior to the effective date of the Order.

Therefore, price cap LECs that still assess the PICC on multi-line business lines must adjust their rates in their next annual access tariff filings to reflect that the PICC no longer applies to payphone lines. Price cap LECs may recover the revenue previously recovered through assessing the PICC on payphone lines by adjusting their multi-line business PICCs. To the extent the PICC cap prevents such recovery, price cap LECs may recover the revenue shortfall through Carrier Common Line Charges (CCLCs).

The Appropriate SLC for Payphone Lines. The Commission rejects One Call’s proposal that payphone lines be treated as single-line business lines for the purpose of assessing the SLC. Although the multi-line business PICC represents a subsidy flowing from multi-line business lines to residential and single-line business lines, the multi-line business SLC is a cost-based charge. The SLCs are the primary method by which incumbent LECs recover their interstate common line costs, and the SLC caps ensure that the SLCs never recover more than the carrier’s per-line permitted revenues. See 47 CFR 69.152(d), (e) and (k). Moreover, the Commission’s rules prevent a LEC from subsidizing one class of customers through the SLCs assessed on another class of customers. See *id.* Thus, the assessment of multi-line business line SLCs on payphone lines does not result in any subsidy to other lines. In addition, to prevent a BOC from overrecovering its costs for a payphone line, the BOC must reduce the monthly per-line charge for payphone lines determined in a state proceeding under the new services test by the amount of the SLC. If the Commission were to treat payphone lines as single-

line business lines, however, the amount by which a LEC’s per-line revenue requirement exceeds the single-line business line SLC cap, which is lower than the multi-line business SLC cap, would then need to be recovered through increased PICCs on multi-line businesses. This would result in multi-line business lines subsidizing LEC-owned payphone lines in contravention of the mandate of section 276(a) against such subsidization. See 47 U.S.C. 276(a)(1).

Final Regulatory Certification. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” 5 U.S.C. 605(b). The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” 5 U.S.C. 601(6). In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. 5 U.S.C. 601(3). A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). See 15 U.S.C. 632.

The *CALLS Order* revised the Commission’s system of common line access charges by increasing the residential and single-line business line SLC, while simultaneously eliminating the PICC for these lines. The *CALLS Order* also required annual reductions in traffic sensitive switching and trunking access rates until they reached a specified level. In addition, the *CALLS Order* also established an interstate access universal support mechanism that provides explicit support to replace support that was implicit in interstate access charges.

This document responds to a petition for reconsideration that sought, for payphone lines, the application of the common line cost recovery mechanism for residential and single-line business lines established in the *CALLS Order*, rather than the cost recovery mechanism applicable to multi-line business lines. This document grants the petition insofar as it sought the elimination of the PICC for payphone lines, and denies the request that payphone lines be subject to the SLC applicable to single-line business and residential lines. The rule revision will result in a positive net

impact on small entities, in that operator service providers will no longer be assessed the PICC on payphone lines. In addition, because small and rural incumbent price cap LECs will be able to increase their PICCs or common line carrier charges to offset the reduction in the number of lines being assessed the PICC revenue, their overall common line revenues will not be affected. Thus, the Commission expects that the rule revision will have a *de minimis* impact on these affected small entities. Therefore, the Commission certifies that the requirements of the document will not have a significant economic impact on a substantial number of small entities.

The Commission will send a copy of the document, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A). In addition, the document (or summary thereof) and this final certification will be published in the **Federal Register**, and will be sent to the Chief Counsel for Advocacy of the U.S. Small Business Administration. See 5 U.S.C. 605(b).

Paperwork Reduction Analysis. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995, and it contains no new or modified information collections subject to Office of Management and Budget review.

Ordering Clauses. Accordingly, pursuant to sections 1, 4(i) and (j), 201–209, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 201–209, and 276, this Order and Order on Reconsideration *is adopted*. One Call's Petition for Reconsideration and Clarification *is granted* to the extent indicated herein and otherwise *is denied*. The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration. The provisions of this Order *shall be effective* on October 1, 2003.

List of Subjects in 47 CFR Part 69

Communications common carriers, Telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rules Changes

■ For the reasons set forth in the preamble, amend part 69 of title 47 of the Code of Federal Regulations as follows:

■ 1. The authority citation continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

■ 2. Amend § 69.153 by adding paragraph (f) to read as follows:

§ 69.153 Presubscribed interexchange carrier charge (PICC).

* * * * *

(f) The PICC shall not be applicable to any payphone lines.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 02–113; FCC 03–77]

Broadcast Services; Television Stations Digital Television (DTV) Construction Deadline

AGENCY: Federal Communications Commission.

ACTION: Policy statement.

SUMMARY: In this document, the Commission adopts a policy to be followed when the staff denies a request to extend a television station's digital television (DTV) construction deadline. The intended effect is to alert stations as to the sanctions that will be applied if they fail to meet their DTV deadline.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Media Bureau, Office of Broadcast Licensing, Video Division, (202) 418–2324.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Report and Order* (“*R&O*”) in MM Docket No. 02–113, FCC 02–150, adopted April 4, 2003, and released April 16, 2003. The complete text of this *R&O* 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., CY–B402, Washington, DC 20554. The *R&O* is also available on the Internet at the Commission's Web site: <http://www.fcc.gov>.

Synopsis

1. The Commission has adopted this *R&O* announcing its policy to be followed when requests to extend digital television (DTV) construction deadlines are denied. The Commission announced a set of graduated sanctions that it will impose. Under the first step

of its approach, the Commission will deny the request for an unqualified extension and admonish the station for its failure to comply with its DTV construction obligation. The station will be required to submit a report within thirty (30) days outlining the steps it intends to take to complete construction and the approximate date that it expects to reach each of these construction milestones. Absent extraordinary and compelling circumstances, the construction completion date will be no later than six months from the date of admonishment. Sixty (60) days later, the station will be required to submit a report detailing its progress on meeting its proposed construction milestones and justifying any delays it has encountered. If at any time during this six month period, the station fails to demonstrate that it is taking all reasonable steps to complete construction or fails to justify the further delays it has encountered, or the Commission otherwise find that the licensee has acted in bad faith, the Commission will consider the imposition of additional sanctions including proceeding immediately to the second step.

2. Under the second step in the approach, if the station has not come into compliance with the DTV construction rule within the six month period, then, absent extraordinary and compelling circumstances, the Commission will impose further sanctions against the licensee. The Commission will issue a Notice of Apparent Liability for forfeiture to the licensee. It will require that the station report every thirty (30) days on its proposed construction milestones and its efforts to meet those milestones. Once again, failure to adequately demonstrate that the station was taking all reasonable steps towards construction and to justify any additional delays that were encountered, will result in the imposition of additional sanctions.

3. Under the third and final step in the approach, if the station still had failed to come into compliance with the DTV construction rule within an additional six-month period of time (*i.e.*, one year from the date of the formal admonition), then, absent extraordinary and compelling circumstances, the Commission will consider its construction permit for its DTV facilities to have expired and will rescind the station's DTV authorization. The Commission concluded that no hearing was necessary prior to rescinding the station's DTV authorization. The Commission also concluded that it would not make the station's vacant