

exceed the power limit determined in paragraph (b)(7)(i) of this section by more than 8 dB.

(9) Directional gain shall be computed as follows:

(i) Directional gain will be assumed to be equal to the sum of 10 log (# of array elements or staves) and the directional gain of the individual elements or staves (or of the element or staff having the highest gain if all are not the same).

(ii) A value for directional gain less than that given by (b)(9)(i) of this section will be accepted only if sufficient evidence is presented that the directional gain cannot exceed the proposed value (for example due to shading of the array, or coherence loss in the beamforming).

(10) If a device transmits in only single sector (single directional beam), then it does not satisfy the conditions of paragraph (b)(6) of this section and must be evaluated under point-to-multipoint rules.

(11) If a device transmits in multiple sectors (multiple beams pointed in different directions) and satisfies the conditions of paragraph (b)(6)(i) of this section, then the device may operate at point-to-point power levels computed according to paragraphs (b)(7) and (b)(8) of this section. Power in each sector must satisfy the limit in paragraph (b)(7)(i) of this section, and total RF power supplied to all antennas (all sectors) simultaneously must satisfy the limit in (b)(8)(ii) of this section.

\* \* \* \* \*

(e) The peak output power and peak spectral density for digitally modulated system may be determined in accordance with the provisions specified in §§ 15.407(a)(4) and 15.407(a)(5).

\* \* \* \* \*

[FR Doc. 03-30540 Filed 12-9-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

[CC Docket No. 95-116; FCC 03-284]

#### Telephone Number Portability

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document initiates an examination of how to facilitate wireless-to-wireline porting in cases where the rate center associated with the wireless number is different from the rate center in which the wireline

carrier seeks to serve the customer. In addition, this document examines whether to reduce the duration of the porting interval for ports between wireless and wireline carriers.

**DATES:** Comments are due on or before December 30, 2003, and reply comments are due on or before January 9, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Salhus, Attorney, 202-418-1310.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission Further Notice of Proposed Rulemaking, (FNPRM) released November 10, 2003 (FCC 03-284). The full text of the FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th St., SW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). Additionally, the complete item is available on the Commission's web site at <http://www.fcc.gov/wtb>.

#### Synopsis of the FNPRM

1. In the FNPRM, the Commission seeks comment on how to facilitate wireless-to-wireline porting in cases where the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer. Specifically, the Commission seeks comment on technical impediments associated with requiring wireless-to-wireline number portability when the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned. In addition to technical factors, the Commission seeks comment on whether there are regulatory requirements that prevent wireline carriers from porting wireless numbers when the rate center associated with the number and the customer's physical location do not match.

2. Next, the FNPRM seeks comment on whether to reduce the current wireline four business-day porting interval for intermodal porting. Particularly, the Commission seeks comment on whether there are practical or technical impediments to requiring wireline carriers to achieve a reduced porting interval for intermodal ports. The Commission seeks comment on an appropriate transition period in the event a shorter porting interval is adopted, during which time carriers can

modify and test their systems and procedures.

#### Administrative Matters

##### Initial Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the FNPRM. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. This is a summary of the full text of the IRFA. The full text of the IRFA may be found at Appendix B of the full text of the FNPRM. The Commission will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

##### A. Need for, and Objectives of, the Proposed Rules

4. The FNPRM seeks comment on how to facilitate wireless-to-wireline porting where the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer do not match. The FNPRM also seeks comment on whether the Commission should reduce the current four-business day porting interval for intermodal porting.

##### B. Legal Basis for Proposed Rules

5. The proposed action is authorized under § 52.23 of the Commission's rules, 47 CFR 52.23, and in sections 1, 3, 4(i), 201, 202, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154(i), 201-202, and 251.

##### C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

6. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. Under the Small Business Act, a "small business concern" is one that: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any

additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

Nationwide, as of 1992, there were approximately 275,801 small organizations.

7. Incumbent Local Exchange Carriers. We have included small incumbent local exchange carriers LECs in the RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in the RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts. According to the FCC's *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees.

8. Competitive Local Exchange Carriers. Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees.

9. Wireless Service Providers. The SBA has developed a size standard for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 719 companies reported that they were engaged in the provision of wireless telephony. Of these 719 companies, an estimated 294 have 1,500 or fewer

employees and 425 have more than 1,500 employees.

#### D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

10. To address concerns regarding wireline carriers' ability to compete for wireless customers through porting, future rules may change wireline porting guidelines. In addition, future rules may require wireline carriers to reduce the length of the current wireline porting interval for ports to wireless carriers. These potential changes may impose new obligations and costs on carriers. Commenters should discuss whether such changes would pose an unreasonable burden on any group of carriers, including small entity carriers.

#### E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities.

12. The FNPRM reflects the Commission's concern about the implications of its regulatory requirements on small entities. Particularly, the FNPRM seeks comment on the concern that wireline carriers, including small wireline carriers, have expressed that permitting wireless carriers to port numbers wherever their rate center overlaps the rate center in which the number is assigned would give wireless carriers an unfair competitive advantage over wireline carriers. Wireline carriers contend that while permitting porting outside of wireline rate center boundaries may facilitate widespread wireline-to-wireless porting, wireless-to-wireline porting can only occur in cases where the wireless customer is physically located in the wireline rate center associated with the phone number. If the customer's physical location is outside the rate center associated with the number, porting the number to a wireline telephone at the customer's location could result in calls to and from that number being rated as toll

calls. As a result, LECs assert, they are effectively precluded from offering wireless-to-wireline porting to those wireless subscribers who are not located in the wireline rate center associated with their wireless numbers.

13. The FNPRM seeks comment on how to facilitate wireless-to-wireline porting when the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned. The FNPRM seeks comment on whether there are technical or regulatory obstacles that prevent wireline carriers from porting-in wireless numbers when the rate center associated with the number and the customer's physical location do not match. The FNPRM asks commenters that contend that such obstacles exist and result in a competitive disadvantage to submit proposals to mitigate these obstacles.

14. In addition, the FNPRM seeks comment on alternative methods to facilitate wireless-to-wireline porting. To the extent that wireless-to-wireline porting may raise issues regarding the rating of calls to and from the ported number when the rate center of the ported number and the physical location of the customer do not match, the FNPRM seeks comment on the extent to which wireline carriers should absorb the cost of allowing the customers with a number ported from a wireless carrier to maintain the same local calling area that the customer had with the wireless service provider. Alternatively, the FNPRM seeks comment about whether wireline carriers may serve customers with numbers ported from wireless carriers on a Foreign Exchange (FX) or Virtual FX basis. The FNPRM seeks comment on the procedural, technical, and regulatory implications of each of these approaches. These questions provide an excellent opportunity for small entity commenters and others concerned with small entity issues to describe their concerns and propose alternative approaches.

15. The FNPRM also seeks comment about whether the Commission should require wireline carriers to reduce the length of the current wireline porting interval for ports to wireless carriers. The FNPRM analyzes the current wireline porting interval and seeks comment about whether there are technical or practical impediments to requiring wireline carriers to achieve shorter porting intervals for intermodal porting. The FNPRM recognizes that, if a reduced porting interval was adopted, carriers may need additional time to modify and test their systems and

procedures. Accordingly, the FNPRM seeks comment on an appropriate transition period in the event a shorter porting interval is adopted.

16. Throughout the FNPRM the Commission emphasizes in its request for comment, the individual impacts on carriers as well as the critical competition goals at the core of this proceeding. The Commission will consider all of the alternatives contained not only in the FNPRM, but also in the resultant comments, particularly those relating to minimizing the effect on small businesses.

F. Federal Rules That Overlap, Duplicate, or Conflict With the Proposed Rules

17. None.

#### Ex Parte Presentations

18. This is a "permit but disclose" proceeding pursuant to § 1.1206 of the Commission's rules. Ex parte presentations that are made with respect to the issues involved in the Petition will be allowed but must be disclosed in accordance with the requirements of § 1.1206(b) of the Commission's rules.

19. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, filing parties should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, parties should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Commenters also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

20. Parties who choose to file by paper must file an original and four copies of each filing. Each filing should include the applicable docket number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All

hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

21. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered diskette filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to: 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, the docket number of this proceeding, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

22. Alternative formats (computer diskette, large print, audio recording

and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer and Governmental Affairs Bureau, at (202) 418-7426 (voice) or (202) 418-7365 (TTY), or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

[FR Doc. 03-30542 Filed 12-9-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-3746; MB Docket No. 03-175; RM-10719]

### Radio Broadcasting Services; Rising Star, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal.

**SUMMARY:** In this document, the Commission dismisses a petition for rule making filed by Charles Crawford ("Petitioner"), requesting the allotment of Channel 290C3 at Rising Star, Texas. See 68 FR 47283, August 8, 2003. Petitioner's comments were late-filed with no request to accept on a late-filed basis. Although timely filed, a counterproposal filed by Katherine Pyeatt was dismissed as unacceptable due to a short spacing to a licensed station. With this action, this proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 03-175, adopted November 21, 2003, and released November 26, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Natek, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898.

Federal Communications Commission.

**John A. Karousos,**  
Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03-30544 Filed 12-9-03; 8:45 am]

BILLING CODE 6712-01-P