

into the Commission, unless the parties have entered into an agreement which allows the FMS licensee to continue to operate on a mutually agreed upon basis. The date that the relocation rules sunset is determined as follows:

(1) For the 2110–2150 MHz and 2160–2175 MHz and 2175–2180 MHz bands, ten years after the first ET license is issued in the respective band; and

(2) For the 2180–2200 MHz band, December 8, 2013 (*i.e.*, ten years after the mandatory negotiation period begins for MSS/ATC operators in the service).

* * * * *

■ 12. Section 101.82 is revised to read as follows:

§ 101.82 Reimbursement and relocation expenses in the 2110–2150 MHz and 2160–2200 MHz bands.

(a) Reimbursement and relocation expenses for the 2110–2130 MHz and 2160–2180 MHz bands are addressed in §§ 27.1160–27.1174.

(b) *Cost-sharing obligations between AWS and MSS (space-to-Earth downlink).* Whenever an ET licensee (AWS or Mobile Satellite Service for space-to-Earth downlink in the 2130–2150 or 2180–2200 MHz bands) relocates an incumbent paired microwave link with one path in the 2130–2150 MHz band and the paired path in the 2180–2200 MHz band, the relocater is entitled to reimbursement of 50 percent of its relocation costs (see paragraph (e)) of this section from any other AWS licensee or MSS space-to-Earth downlink operator which would have been required to relocate the same fixed microwave link as set forth in paragraphs (c) and (d) of this section.

(c) *Cost-sharing obligations for MSS (space-to-Earth downlinks).* For an MSS space-to-Earth downlink, the cost-sharing obligation is based on the interference criteria for relocation, *i.e.*, TIA TSB 86 or any standard successor, relative to the relocated microwave link. Subsequently entering MSS space-to-Earth downlink operators must reimburse AWS or MSS space-to-Earth relocators (see paragraph (e)) of this section before the later entrant may begin operations in these bands, unless the later entrant can demonstrate that it would not have interfered with the microwave link in question.

(d) *Cost-sharing obligations among terrestrial stations.* For terrestrial stations (AWS and MSS Ancillary Terrestrial Component (ATC)), cost-sharing obligations are governed by §§ 27.1160 through 27.1174 of this chapter; provided, however, that MSS operators (including MSS/ATC operators) are not obligated to reimburse voluntarily relocating FMS incumbents

in the 2180–2200 MHz band. (AWS reimbursement and cost-sharing obligations relative to voluntarily relocating FMS incumbents are governed by § 27.1166 of this chapter).

(e) The total costs of which 50 percent is to be reimbursed will not exceed \$250,000 per paired fixed microwave link relocated, with an additional \$150,000 permitted if a new or modified tower is required.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80–286; FCC 06–70]

Jurisdictional Separations and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: Jurisdictional separations is the process by which incumbent local exchange carriers (incumbent LECs) apportion regulated costs between the intrastate and interstate jurisdictions. In this document, the Commission extends, on an interim basis, the current freeze of part 36 category relationships and jurisdictional cost allocation factors, which would otherwise expire on June 30, 2006. Extending the freeze will allow the Commission to provide stability for carriers that must comply with the Commission's separations rules while the Commission considers issues relating to comprehensive reform of the jurisdictional separations process.

DATES: Effective June 23, 2006.

FOR FURTHER INFORMATION CONTACT: Ted Burmeister, Attorney Advisor, at (202) 418–7389 or Michael Jacobs, at (202) 418–2859, Telecommunications Access Policy Division, Wireline Competition Bureau, TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in CC Docket No. 80–286, FCC 06–70, released on May 16, 2006. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

1. Jurisdictional separations is the process by which incumbent LECs apportion regulated costs between the intrastate and interstate jurisdictions. The *Order* extends, on an interim basis, the current freeze of part 36 category relationships and jurisdictional cost

allocation factors, which would otherwise expire on June 30, 2006. Specifically, the duration of such extension shall be no longer than three years from the initial date of this extension or until comprehensive reform of the jurisdictional separations process can be completed by the Commission and Federal-State Joint Board on Jurisdictional Separations (Joint Board), whichever is sooner. Extending the freeze will allow the Commission to provide stability for carriers that must comply with the Commission's separations rules while the Commission considers issues relating to comprehensive separations reform.

2. In the *2001 Separations Freeze Order*, 66 FR 33202, June 21, 2001, that established the current freeze, the Commission concluded that it had the authority to adopt an interim separations freeze to preserve the status quo pending reform and provide for a reasonable allocation of costs. The analysis performed there remains applicable here.

3. In addition, under the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), an administrative agency may implement a rule without public notice and comment “when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” The Commission finds that good cause exists in this instance. Extending the freeze will prevent the wasteful expenditure of significant resources by carriers to develop the ability to perform separations in a manner that likely would only be relevant for a relatively short time while the Commission considers comprehensive separations reform. The Commission finds, as it did in the *2001 Separations Freeze Order*, that avoiding a sudden cost shift will provide regulatory certainty that offsets the concern that there may be a temporary misallocation of costs between the jurisdictions.

4. The Commission also finds that an interim extension of the separations freeze without public notice and comment is consistent with *Mid-Tex Electric Cooperative, Inc. v. FERC*, 822 F.2d 1123 (DC Cir. 1987). Here, too, the interim extension of the separations freeze is limited, and the concurrent adoption of the companion *Further Notice of Proposed Rulemaking* should allow for a timely resolution of the underlying issues. In addition, the Commission finds that the interim extension of the separations freeze does not require a referral to the Joint Board, because it is temporary in scope and

because the issue of extension was within the scope of the Joint Board's earlier recommended decision. The Commission has continued to receive valuable comments, analysis, and expertise from the Joint Board on this matter during the current separations freeze.

5. The extended freeze will be implemented as described in the *2001 Separations Freeze Order*. Specifically, price-cap carriers will use the same relationships between categories of investment and expenses within Part 32 accounts and the same jurisdictional allocation factors that have been in place since the inception of the current freeze on July 1, 2001. Rate-of-return carriers will use the same frozen jurisdictional allocation factors, and will use the same frozen category relationships if they had opted previously to freeze those as well.

I. Procedural Matters

A. Final Regulatory Flexibility Certification

6. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for 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 "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 section 3 of the Small Business Act. 5 U.S.C. 601(3). Under the Small Business Act, a small business concern is one that: (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). 15 U.S.C. 632.

7. In the instant *Order*, we extend the current freeze of the part 36 category relationships and jurisdictional cost allocation factors for price cap carriers, and of the allocation factors only for rate-of-return carriers. Among the underlying objectives of the freeze are to ease the administrative burden of regulatory compliance and to provide greater regulatory certainty for all local exchange carriers subject to the Commission's part 36 rules, including some entities employing 1500 or fewer employees. The extension of the freeze will continue the status quo that has existed since July 1, 2001, when the

freeze originally became effective. Moreover, the freeze has eliminated the need for all incumbent LECs, including incumbent LECs with 1500 employees or fewer (small incumbent LECs), to complete certain annual studies formerly required by the Commission's rules.

8. The *Order* poses no additional regulatory burden on incumbent LECs, including small incumbent LECs. If this extended action can be said to have any effect under the RFA, it is to reduce a regulatory compliance burden for small incumbent LECs, by eliminating the aforementioned separations studies and providing these carriers with greater regulatory certainty. Furthermore, we note that the Commission specifically considered the impact of the freeze on small incumbent LECs (in general, rate-of-return carriers) in the *2001 Separations Freeze Order*, and provided them with the option to freeze their category relationships at the onset of the freeze. Our action, therefore, does nothing more than temporarily extend the status quo, which itself was certified in the *2001 Separations Freeze Order* not to have a significant economic impact on a substantial number of small entities.

9. Therefore, we certify that the requirements of the *Order* will not have a significant economic impact on a substantial number of entities. The Commission will send a copy of the *Order*, including a copy of this final certification, in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the *Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

B. Paperwork Reduction Act Analysis

10. The *Order* does not contain any new, modified, or proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new, modified, or proposed "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

11. The Commission will send a copy of the *Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

II. Ordering Clauses

12. Pursuant to the authority contained in sections 1, 2, 4, 201-205, 215, 218, 220, 229, 254, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201-205, 215, 218, 220, 229, 254 and 410, this *Order* is adopted.

13. The *Order* shall be effective June 23, 2006.

14. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the *Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 36

Communications common carriers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051209329-5329-01; I.D. 051806A]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid

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

ACTION: Closure.

SUMMARY: NMFS announces that the directed fishery for Loligo squid in the Exclusive Economic Zone (EEZ) will be closed effective 0001 hours, May 23, 2006. Vessels issued a Federal permit to harvest *Loligo* squid may not retain or land more than 2,500 lb (1,134 kg) of *Loligo* squid per trip for the remainder of the quarter (through June 30, 2006). This action is necessary to prevent the fishery from exceeding its Quarter II quota and to allow for effective management of this stock.

DATES: Effective 0001 hours, May 23, 2006, through 2400 hours, June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fishery Management Specialist, 978-281-9221, Fax 978-281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the *Loligo* squid