

as an attachment in WordPerfect 8, Microsoft Word 2003, or earlier versions of these applications, no later than August 27, 2007.

**ADDRESSES:** Address all comments concerning this proposed rule to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 N. Capitol Street, NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: [secretary@fmc.gov](mailto:secretary@fmc.gov).

**FOR FURTHER INFORMATION CONTACT:** Sandra L. Kusumoto, Director, Bureau of Certification and Licensing, 800 N. Capitol Street, NW., Room 970, Washington, DC 20573-0001, (202) 523-5787, E-mail: [skusumoto@fmc.gov](mailto:skusumoto@fmc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission's regulations at 46 CFR 515.25(a) currently state that, upon approval for an ocean transportation intermediary ("OTI") license, an applicant must provide valid proof of financial responsibility prior to the issuance of the license by the Commission's Bureau of Certification and Licensing ("BCL"). The regulation currently allows an applicant two (2) years in which to furnish such proof of financial responsibility, failing which the application will be considered invalid by the Commission.

An extended time period of two (2) years between approval of an OTI application and an applicant's procurement of financial responsibility has created significant areas of concern for the Commission. First, this may be viewed as an opportunity by applicants who have been deemed approved but who have gone two (2) years without procuring a surety bond to, nonetheless, commence providing OTI services. This result would frustrate the statutory goal of protecting the shipping public. Second, an applicant's inability or unwillingness to procure a surety bond over the course of two (2) years may be an indication of questionable financial integrity, a key factor in establishing an applicant's continuing fitness to perform OTI services.

Based on a study conducted by BCL staff of new OTI licenses issued in fiscal year 2006, it appears that the greatest majority of qualified applicants did not require two (2) years to procure surety bonds. BCL statistics show that more than half of the qualified applicants obtained surety bonds within 30 days of approval of their applications and 87 percent of the applicants obtained surety bonds in a time period of 120 days or less. The remainder of the applicants, or 13 percent, required between 120 days and two (2) years to obtain surety bonds subsequent to approval of their OTI applications. This

is an indication that reducing the allotment of time for providing proof of valid financial responsibility is unlikely to be burdensome upon either the industry in general or new OTI applicants in particular.

Given the current bonding practices of a significant majority of new OTI applicants, it appears that a time frame in excess of 120 days is unnecessary while creating an opportunity for abuse of the licensing process. Accordingly, the Commission proposes to amend 46 CFR 515.25(a) by reducing the period of time within which an OTI applicant is required to provide the requisite proof of financial responsibility subsequent to approval of the application from two (2) years to 120 days. This would ensure greater efficiency on the part of OTI applicants in complying with financial responsibility requirements following approval of their applications. Upon expiration of the 120-day time period, if valid proof of financial responsibility has not been provided by an applicant, the OTI application would be considered invalid thereby requiring the filing of a new application for an OTI license.

In conjunction with the aforementioned amendment, the Commission further proposes to remove as unnecessary the third sentence of 46 CFR 515.25(a) dealing with supplementary investigations for the determination of an applicant's continued qualification if more than six (6) months elapse between the time of the approval of the application and an applicant's submission of financial responsibility to the Commission. Removal of the option of supplementary investigations from 46 CFR 515.25(a) likewise necessitates removing paragraph (b)(3) of 46 CFR 515.5 inasmuch as the collection of fees for supplementary investigations would no longer be appropriate.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Federal Maritime Commission certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The rule directly applies to the licensing requirements of OTIs, which are regulated persons (or businesses) under the Commission's jurisdiction that qualify as small entities under the guidelines of the Small Business Administration. The rule will modify the financial responsibility requirements that must be met by persons applying for a license to operate as an OTI. The modifications in the rule will simplify the OTI licensing application process, and increase administrative efficiencies, while

further serving to safeguard the shipping public from unlicensed operators. The rule imposes no new or additional cost burden on persons applying for an OTI license, nor will it have a harmful effect on the general public, the U.S. economy, or any of the regulated entities under the jurisdiction of the Commission.

#### List of Subjects in 46 CFR Part 515

Common carriers, Exports, Non-vessel-operating common carriers, Ocean transportation intermediaries, Financial responsibility requirements, Reports and recordkeeping requirements, Surety bonds.

Accordingly, the Federal Maritime Commission proposes to amend 46 CFR part 515 as follows:

#### PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

1. The authority citation for part 515 is revised to read as follows:

**Authority:** 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718 (recodified October 2006 as 46 U.S.C. 305, 40102, 40104, 40501-40503, 40901-40904, 41101-41106, 41107, 41108, 41109, 41301-41302, 41305-41307, 42101, 42301-42306, and 42307); Pub. L. 105-383, 112 Stat. 3411, 21 U.S.C. 862.

#### § 515.5 [Amended]

2. In § 515.5, remove paragraph (b)(3).  
3. Amend § 515.25(a) by removing the fourth sentence and revising the last sentence to read as follows:

#### § 515.25 Filing of proof of financial responsibility.

(a) \* \* \* Should the applicant not file the requisite proof of financial responsibility within 120 days of notification, the Commission will consider the application to be invalid.

\* \* \* \* \*

By the Commission.

**Bryant L. VanBrakle,**  
Secretary.

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 0, 1, 61 and 69

[WC Docket No. 05-25; RM-10593; FCC 07-123]

#### Parties Asked To Refresh Record in the Special Access Notice of Proposed Rulemaking

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In the Special Access Notice of Proposed Rulemaking (NPRM), the Commission commenced a broad examination of the regulatory framework to apply to interstate special access services provided by price cap local exchange carriers (LECs), including whether the special access pricing flexibility rules that the Commission adopted in 1999 have worked as intended. This document invites interested parties to update the record in light of industry developments.

**DATES:** Comments are due on or before August 8, 2007 and reply comments are due on or before August 15, 2007.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 05–25 and RM–10593, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *E-mail:* [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message: "Get form." A sample form and directions will be sent in response.

- *First-class or overnight U.S. Postal Service mail:* Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Detailed instructions for submitting comments, including how to submit comments by hand, messenger delivery or by commercial overnight courier, and additional information on the rulemaking process are contained in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Margaret Dailey, Wireline Competition Bureau, Pricing Policy Division (202) 418–1520, [margaret.dailey@fcc.gov](mailto:margaret.dailey@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice, FCC 07–12, released on July 9, 2007. The full text of this document is available for public inspection during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Washington, DC 20554 and may be viewed on the Commission's Web site at <http://www.fcc.gov/>.

Pursuant to the Commission's rules governing notices of proposed rulemakings, 47 CFR 1.415, 1.419, the Commission invites interested parties to update the record in this proceeding. In the Special Access NPRM, 70 FR 19381, April 13, 2005, the Commission

commenced a broad examination of the regulatory framework to apply to interstate special access services provided by price LECs, including whether the special access pricing flexibility rules that the Commission adopted in 1999 have worked as intended. 47 CFR 69.701 *et seq.*; Pricing Flexibility Order, 64 FR 51258, Sept. 22, 1999. On June 8, 2005, a Protective Order was entered to enable parties to submit documents that contain proprietary or confidential information and to ensure adequate protection for such documents. In response to the Special Access NPRM, the Commission received comments on June 13, 2005 and reply comments on July 29, 2005.

Since these comments were filed, a number of developments in the industry may have affected parties' positions on the issues raised in the Special Access NPRM. These developments include a number of significant mergers and other industry consolidations, the continued expansion of intermodal competition in the market for telecommunications services, which affects the uses of, and competition to provide, a variety of special access services or alternatives; and GAO's November 2006 release of Report 07–80 (GAO Report), which summarizes its review of certain aspects of the market for special access services. Accordingly, the Commission requests that parties refresh the record in this proceeding to reflect the effects of these developments. Parties should include any new information or arguments that may be relevant to the Commission's consideration of what action, if any, may be appropriate in this proceeding. We also ask parties to address the specific questions below, which were not raised in the Special Access NPRM. First, parties should comment on the effect of the post Special Access NPRM mergers and other industry consolidation on the availability of competitive special access facilities and providers. Parties should also comment on the effect these mergers may have had on scale economies or the profitability of special access services. In addition, since the release of the Special Access NPRM, demand for wireless voice and wireless broadband services has increased, and special access has been an important input for these services. We seek comment on how special access pricing affects the price and availability of wireless services and the investment in and deployment of wireless networks. In the Special Access NPRM, the Commission sought comment on both the price and cost of special access services, and on how costs for special access facilities

should be estimated. We seek comment here on methods that may be used to estimate the costs of special access facilities, including whether models may appropriately be used to estimate such costs. For example, cost and engineering models have been used to estimate the cost of Unbundled Network Elements. Could they also be used to estimate costs of special access facilities? We note that a number of carriers have embarked on significant upgrades to their networks to provide high capacity services to their customers. We seek information on projected costs per customer to deploy these facilities. To assist in the assessment of the reasonableness of rates for special access services, we ask parties to supplement the record with information on vendor prices for high capacity transmission equipment, outside plant, fiber, and fiber installation, and on prices for nonregulated services that provide similar or equivalent capabilities to special access services, such as Ethernet and packet-based services.

In the Special Access NPRM, the Commission noted that an examination of the current state of competition in the marketplace is critical to a determination of whether our pricing flexibility rules have worked as intended. We asked parties to comment and provide data on whether DS–1 special access channel terminations between the LEC end office and the customer premises are in the same product market as DS–3 and OCn channel terminations. In light of rapid changes in fiber technologies, we now ask parties to comment on whether we should further subdivide optical fiber services into low capacity OCn services (such as OC–3) and higher capacity OCn services. We particularly seek information as to how much capacity competitors believe is necessary to justify building new facilities to serve customers.

This inquiry is also relevant to the Commission's analysis of demand responsiveness. In the Special Access NPRM, the Commission stated that parties may demonstrate that the market for a particular special access service is not competitive by showing that a significant number of an incumbent price cap LEC's customers cannot purchase a comparable special access service from an entity other than the LEC. Parties are invited to comment on whether any changes in the market have affected the availability of comparable alternatives. To the extent that parties contend that continued regulation of special access services is warranted, we request that they provide specific

proposals for an appropriate regulatory scheme to assure reasonable rates and conditions for special access services. Finally, we ask parties to comment on the analysis and findings in the GAO Report summarizing GAO's review of competition in the market for special access services.

### Procedural Matters

#### *Ex Parte Requirements*

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. 47 CFR 1.1206(b)(2). Other rules pertaining to oral and written presentations are set forth at 47 CFR 1.1206(b).

#### *Comment Filing Procedures*

Pursuant to Commission rules governing notices of proposed rulemakings, interested parties may file comments on or before August 8, 2007 and reply comments on or before August 15, 2007. 47 CFR 1.415, 1.419. All pleadings must reference WC Docket No. 05-25 and RM-10593. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Comments may be filed electronically using the Internet by accessing the ECFS at <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web sites for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, commenters 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." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking 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). Parties are strongly encouraged to file comments electronically using the Commission's ECFS. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

The Commission's contractor 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, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

Parties should also send a copy of their filings to Margaret Dailey, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-A232, 445 12th Street, SW., Washington, DC 20554, or by e-mail to [margaret.dailey@fcc.gov](mailto:margaret.dailey@fcc.gov). Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Documents in WC Docket No. 05-25 and RM-10593 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). These documents may also be viewed on the Commission's Web site at <http://www.fcc.gov/>. People with Disabilities: To request materials in accessible formats for people with disabilities

(braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

### List of Subjects

#### *47 CFR Part 0*

Organization and functions (Government agencies).

#### *47 CFR Part 1*

Administrative practice and procedure, Communications common carriers, Telecommunications.

#### *47 CFR Parts 61 and 69*

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 36 and 54

[WC Docket No. 03-109; DA 07-1241]

### Wireline Competition Bureau Seeks To Refresh the Record on Lifeline and Link-Up

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule, comments requested.

**SUMMARY:** By this document, the Wireline Competition Bureau (Bureau) seeks to refresh the record on issues raised in the *Further Notice of Proposed Rulemaking*, 69 FR 34629, June 22, 2004, in the Lifeline and Link-Up docket. In that docket, the Commission sought comment on whether the income-based criterion in the federal default eligibility criteria should be increased to 150% of the Federal Poverty Guidelines (FPG) to make phone service affordable to more low-income individuals and families. The Commission also sought to explore whether adoption of rules governing the advertisement of the Lifeline/Link-Up program, as opposed to guidelines, would strengthen the operation of these programs.

**DATES:** Comments are due on or before August 24, 2007. Reply comments are due on or before September 10, 2007.

**ADDRESSES:** All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of