

rural exemption adopted in 1996 excused rural LECs from specific new obligations under section 251, it did not excuse them from obligations established pursuant to other sections of the Act. As discussed above, LECs have long been required to negotiate interconnection agreements in good faith governing both the physical linking of networks and any associated charges. These obligations were adopted pursuant to sections 201 and 332 of the Act, and predate the obligations contained in section 251 adopted as part of the 1996 Act. Like the pre-1996 Act orders adopting the LEC-CMRS interconnection regime, the Commission's actions with respect to that regime in the *T-Mobile Order* were based on the Commission's plenary authority under sections 201 and 332 of the Act.

15. The adoption of the 1996 Act in general, and section 251 in particular, did not alter the relevant Commission authority under sections 201 and 332 of the Act with respect to the LEC-CMRS interconnection regime. Section 601(c) of the 1996 Act states that “[t]his Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.” The 1996 Act was adopted against the backdrop of Commission regulation of LEC-CMRS interconnection, and nothing in section 251 expressly modified, impaired, or superseded the Commission's efforts. To the contrary, as to section 201, section 251(i) provides: “Nothing in this section shall be construed to limit or otherwise affect the Commission's authority under section 201.” Courts likewise have upheld the Commission's continued exercise of sections 201 and 332 authority notwithstanding the adoption of section 251 in the 1996 Act. Thus, sections 201 and 332 provide the basis for the LEC-CMRS interconnection and compensation rules adopted prior to the 1996 Act and an independent and sufficient basis for the modifications of those rules adopted in the *T-Mobile Order*.

16. Moreover, the Section 251 rural exemption is limited to exempting rural incumbent LECs from obligations arising under a different statutory provision, *i.e.*, section 251(c) of the Act. Because the amendments to the LEC-CMRS interconnection regime adopted in the *T-Mobile Order* were supported by the Commission's authority under 201 and 332, the Commission's *T-Mobile Order* did not terminate or otherwise affect operation or applicability of the rural exemption as to rural LECs. We also emphasize that

the *T-Mobile Order* did not preempt the authority of a state commission under section 251(f)(1) to evaluate and, if appropriate, terminate a carrier's rural exemption.

17. Some parties have contended that, by precluding, as a practical matter, a LEC from receiving compensation from a CMRS provider for providing call termination services unless it enters into an agreement with the CMRS provider, the Commission “eviscerates the rural LEC's exemption from negotiating.” This characterization of the rural exemption is incorrect in that it fails to acknowledge the limited scope of the rural exemption, given the specific reference in section 251(f)(1) to section 251(c).

18. Thus, even to the extent that the *T-Mobile Order* relied, as an alternate basis for authority, on section 251(b), it is not at odds with the section 251(f)(1) rural exemption. In particular, we disagree with Petitioners' claim that the rural exemption extends to obligations in section 251(b) by virtue of a reference to such section in section 251(c). In the *CRC/Time Warner Declaratory Ruling*, the Commission clarified that rural incumbent LEC obligations under sections 251(a) and (b) can be implemented through the state commission arbitration and mediation provisions in section 252 of the Act independently of the 251(c)(1) negotiation obligation.

19. Finally, the LEC obligations under the LEC-CMRS regime are different from the obligations under the 251 regime. Specifically, the relevant “duty” in section 251(c)(1) is a legal obligation enforceable against the incumbent LEC to negotiate in good faith. To the extent that the *T-Mobile Order* framework gives a rural incumbent LEC some incentive to negotiate with CMRS providers, that incentive falls well short of a legal duty of the sort at issue in section 251(c)(1). This is particularly true where the rural LEC has other possible options to seek revenues (e.g., from its end users if it can modify its local retail rates), and thus seeking compensation from the CMRS provider is but one alternative.

### III. Conclusion

20. For the reasons discussed above, we reject claims that the *T-Mobile Order* “eviscerates the rural LEC's exemption from negotiating.” For those same reasons, we likewise reject arguments that the Commission's actions in the *T-Mobile Order* usurped the authority of state utility commissions to terminate the rural exemption. Thus, in response to the *Ronan Remand*, we conclude that the *T-Mobile Order* rule prohibiting the filing of wireless termination tariffs for

non-access traffic is not at odds with the section 251(f)(1) rural exemption.

## IV. Procedural Matters

### A. Final Regulatory Flexibility Act Certification

21. As we are adopting no rules in this Order on Remand, no regulatory flexibility analysis is required.

### B. Paperwork Reduction Act Analysis

22. This Order does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002.

### C. Congressional Review Act

23. The Commission will not send a copy of this Order on Remand in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act because no rules are being adopted.

## V. Ordering Clauses

24. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1-5, 7, 10, 201-05, 207-09, 214, 218-20, 225-27, 251-54, 256, 271, 303, 332, 403, 405, 502 and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151-55, 157, 160, 201-05, 207-09, 214, 218-20, 225-27, 251-54, 256, 271, 303, 332, 403, 405, 502, 503, and § 1.1, 1.2 of the Commission's rules, 47 CFR 1.1, 1.2, this Order on Remand in CC Docket No. 01-92 *is adopted*.

25. *It is further ordered* that this Order on Remand *shall become effective* November 3, 2014.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 2014-23515 Filed 10-1-14; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 14-54; RM-11698; DA 14-1361]

### Radio Broadcasting Services; Toquerville, Utah

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of JER Licenses, LLC, substitute alternative Channel 281C for vacant Channel 280C at Toquerville, Utah to accommodate the “hybrid” application that requests the downgrade of the new FM station from Channel 281C3 to Channel 280A at Peach Springs, Arizona. A staff engineering analysis confirms that Channel 281C can be allotted to Toquerville, Utah consistent with the minimum distance separation requirements of the Rules without a site restriction. The reference coordinates for Channel 281C at Toquerville are 37–15–12 NL and 113–17–00 WL. See Supplementary Info. *supra*.

**DATES:** Effective November 3, 2014.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *Report and Order*, DA 14–1361, adopted September 18, 2014, and released September 19, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC’s Reference Information Center at Portals II, CY–A257, 445 Twelfth Street SW., Washington, DC 20554. This document may also be purchased from the Commission’s duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email [www.BCPIWEB.com](http://www.BCPIWEB.com).

Our staff engineering analysis confirms that there is no line of sight and substantial terrain obstructions for Channel 246C at Toquerville, Utah at the proposed reference coordinates; and the restricted site substantially reduces the number of existing communications facilities for a Class C facility. We determine that alternative Channel 281C at Toquerville accommodates the Application for Channel 280A at Peach Springs, Arizona, and grant the Application, File No. BNPH–20120529ALI. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of this *Report and 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).

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

Radio, Radio broadcasting.

Federal Communications Commission.

**Nazifa Sawez,**

*Assistant Chief, Audio Division, Media Bureau.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336 and 339.

##### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 280C at Toquerville, and by adding Channel 281C at Toquerville.

[FR Doc. 2014–23522 Filed 10–1–14; 8:45 am]

**BILLING CODE 6712–01–P**

#### DEPARTMENT OF TRANSPORTATION

##### Office of the Secretary

##### 49 CFR Part 10

[Docket No. OST–2014–0142]

RIN 2105–AE36

#### Maintenance of and Access to Records Pertaining to Individuals

**AGENCY:** Office of the Secretary (OST), U.S. Department of Transportation (DOT).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This rule conforms DOT’s regulations on Maintenance of and Access to Records Pertaining to Individuals to the applicable System of Records Notices (SORNs) and current DOT practice. This rule adds the General Investigation Records System to the list of DOT Privacy Act Systems of Records that are exempt from one or more provisions of the Privacy Act. DOT also exempts the Personnel Security Record System from additional provisions of the Privacy Act, as well as correcting the identification number for that System. These exemptions were initially established in 1975; however, a 1980 rulemaking accidentally omitted these exemptions. These changes are effective immediately, though DOT invites public comment.

**DATES:** This rule is effective on October 2, 2014. *Comment Closing Date:* Comments on the revised Appendix are due on November 3, 2014.

**ADDRESSES:** You may file comments identified by the docket number DOT–OST–2014–0142 by any of the following methods:

○ *Federal Rulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

○ *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

○ *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.

○ *Fax:* 202–493–2251.

*Instructions:* You must include the agency name and docket number DOT–OST–2014–0142 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT’s complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Claire Barrett, Departmental Chief Privacy Officer, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590 or [claire.barrett@dot.gov](mailto:claire.barrett@dot.gov) or (202) 366–8135.

**SUPPLEMENTARY INFORMATION:** The Privacy Act of 1974, 5 U.S.C. 552a, requires that agencies tell the public when they maintain information about a person in a file which may be retrieved by reference to that person’s name or some other identifying particular. A group of these files is a “system of records,” and the existence of each system must be published in a “system of records notice” (SORN). An agency wishing to exempt portions of some systems of records from certain provisions of the Privacy Act must