

Federal Communications Commission

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or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to § 1.429, and a notice of proposed rule making will be issued only after the reclassification issue is resolved. Triggering petitions will be dismissed upon the filing, rather than the grant, of an acceptable construction permit application to increase antenna height to at least 451 meters HAAT by a subject Class C station.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[39 FR 44022, Dec. 20, 1974, as amended at 40 FR 53391, Nov. 18, 1975; 41 FR 1287, Jan. 7, 1976; 51 FR 15629, Apr. 25, 1986; 51 FR 20291, June 4, 1986; 52 FR 8260, Mar. 17, 1987; 52 FR 25866, July 9, 1987; 54 FR 16366, Apr. 24, 1989; 54 FR 26201, June 22, 1989; 55 FR 28914, July 16, 1990; 58 FR 38535, July 19, 1993; 59 FR 59503, Nov. 17, 1994; 61 FR 43472, Aug. 23, 1996; 65 FR 79776, Dec. 20, 2000; 71 FR 76215, Dec. 20, 2006; 86 FR 66194, Nov. 22, 2021]

§ 1.421 Further notice of rulemaking.

In any rulemaking proceeding where the Commission deems it warranted, a further notice of proposed rulemaking will be issued with opportunity for parties of record and other interested persons to submit comments in conformity with §§ 1.415 and 1.419.

§ 1.423 Oral argument and other proceedings.

In any rulemaking where the Commission determines that an oral argument, hearing or any other type of proceeding is warranted, notice of the time, place and nature of such proceeding will be published in the FEDERAL REGISTER.

[58 FR 66300, Dec. 20, 1993]

§ 1.425 Commission action.

The Commission will consider all relevant comments and material of record before taking final action in a rulemaking proceeding and will issue a decision incorporating its finding and a brief statement of the reasons therefor.

§ 1.427 Effective date of rules.

(a) Any rule issued by the Commission will be made effective not less than 30 days from the time it is published in the FEDERAL REGISTER except as otherwise specified in paragraphs (b) and (c) of this section. If the report and

order adopting the rule does not specify the date on which the rule becomes effective, the effective date shall be 30 days after the date on which the rule is published in the FEDERAL REGISTER, unless a later date is required by statute or is otherwise specified by the Commission.

(b) For good cause found and published with the rule, any rule issued by the Commission may be made effective within less than 30 days from the time it is published in the FEDERAL REGISTER. Rules involving any military, naval or foreign affairs function of the United States; matters relating to agency management or personnel, public property, loans, grants, benefits or contracts; rules granting or recognizing exemption or relieving restriction; rules of organization, procedure or practice; or interpretative rules; and statements of policy may be made effective without regard to the 30-day requirement.

(c) In cases of alterations by the Commission in the required manner or form of keeping accounts by carriers, notice will be served upon affected carriers not less than 6 months prior to the effective date of such alterations.

[28 FR 12432, Nov. 22, 1963, as amended at 76 FR 24392, May 2, 2011]

§ 1.429 Petition for reconsideration of final orders in rulemaking proceedings.

(a) Any interested person may petition for reconsideration of a final action in a proceeding conducted under this subpart (see §§ 1.407 and 1.425). Where the action was taken by the Commission, the petition will be acted on by the Commission. Where action was taken by a staff official under delegated authority, the petition may be acted on by the staff official or referred to the Commission for action.

NOTE: The staff has been authorized to act on rulemaking proceedings described in § 1.420 and is authorized to make editorial changes in the rules (see § 0.231(d)).

(b) A petition for reconsideration which relies on facts or arguments which have not previously been presented to the Commission will be granted only under the following circumstances:

(1) The facts or arguments relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission;

(2) The facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity; or

(3) The Commission determines that consideration of the facts or arguments relied on is required in the public interest.

(c) The petition for reconsideration shall state with particularity the respects in which petitioner believes the action taken should be changed.

(d) The petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of public notice of such action, as that date is defined in §1.4(b). No supplement to a petition for reconsideration filed after expiration of the 30 day period will be considered, except upon leave granted pursuant to a separate pleading stating the grounds for acceptance of the supplement. The petition for reconsideration shall not exceed 25 double-spaced typewritten pages. See also §1.49(f).

(e) Except as provided in §1.420(f), petitions for reconsideration need not be served on parties to the proceeding. (However, where the number of parties is relatively small, the Commission encourages the service of petitions for reconsideration and other pleadings, and agreements among parties to exchange copies of pleadings. See also §1.47(d) regarding electronic service of documents.) When a petition for reconsideration is timely filed in proper form, public notice of its filing is published in the FEDERAL REGISTER. The time for filing oppositions to the petition runs from the date of public notice. See §1.4(b).

(f) Oppositions to a petition for reconsideration shall be filed within 15 days after the date of public notice of the petition's filing and need be served only on the person who filed the petition. See also §1.49(d). Oppositions

shall not exceed 25 double-spaced typewritten pages. See §1.49(f).

(g) Replies to an opposition shall be filed within 10 days after the time for filing oppositions has expired and need be served only on the person who filed the opposition. Replies shall not exceed 10 double-spaced typewritten pages. See also §§1.49(d) and 1.49(f).

(h) Petitions for reconsideration, oppositions and replies shall conform to the requirements of §§1.49 and 1.52, except that they need not be verified. Except as provided in §1.420(e), an original and 11 copies shall be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554, by mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System. Petitions submitted only by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

(i) The Commission may grant the petition for reconsideration in whole or in part or may deny or dismiss the petition. Its order will contain a concise statement of the reasons for the action taken. Any order addressing a petition for reconsideration which modifies rules adopted by the original order is, to the extent of such modification, subject to reconsideration in the same manner as the original order. Except in such circumstance, a second petition for reconsideration may be dismissed by the staff as repetitious. In no event shall a ruling which denies a petition for reconsideration be considered a modification of the original order.

(j) The filing of a petition for reconsideration is not a condition precedent to judicial review of any action taken by the Commission, except where the person seeking such review was not a party to the proceeding resulting in the action or relies on questions of fact or law upon which the Commission has been afforded no opportunity to pass. Subject to the provisions of paragraph (b) of this section, such a person may qualify to seek judicial review by filing a petition for reconsideration.

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(k) Without special order of the Commission, the filing of a petition for reconsideration shall not excuse any person from complying with any rule or operate in any manner to stay or postpone its enforcement. However, upon good cause shown, the Commission will stay the effective date of a rule pending a decision on a petition for reconsideration. See, however, § 1.420(f).

(1) Petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the relevant bureau(s) or office(s). Examples include, but are not limited to, petitions that:

(1) Fail to identify any material error, omission, or reason warranting reconsideration;

(2) Rely on facts or arguments which have not previously been presented to the Commission and which do not meet the requirements of paragraphs (b)(1) through (3) of this section;

(3) Rely on arguments that have been fully considered and rejected by the Commission within the same proceeding;

(4) Fail to state with particularity the respects in which petitioner believes the action taken should be changed as required by paragraph (c) of this section;

(5) Relate to matters outside the scope of the order for which reconsideration is sought;

(6) Omit information required by these rules to be included with a petition for reconsideration;

(7) Fail to comply with the procedural requirements set forth in paragraphs (d), (e), and (h) of this section;

(8) Relate to an order for which reconsideration has been previously denied on similar grounds, except for petitions which could be granted under paragraph (b) of this section; or

(9) Are untimely.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[41 FR 1287, Jan. 7, 1976, as amended at 44 FR 5436, Jan. 26, 1979; 46 FR 18556, Mar. 25, 1981; 52 FR 49161, Dec. 30, 1987; 63 FR 24126, May 1, 1998; 76 FR 24392, May 2, 2011]

INQUIRIES

§ 1.430 Proceedings on a notice of inquiry.

The provisions of this subpart also govern proceedings commenced by issuing a "Notice of Inquiry," except that such proceedings do not result in the adoption of rules, and Notices of Inquiry are not required to be published in the FEDERAL REGISTER.

[51 FR 7445, Mar. 4, 1986]

Subpart D [Reserved]

Subpart E—Complaints, Applications, Tariffs, and Reports Involving Common Carriers

SOURCE: 28 FR 12450, Nov. 22, 1963, unless otherwise noted.

GENERAL

§ 1.701 Show cause orders.

(a) The Commission may commence any proceeding within its jurisdiction against any common carrier by serving upon the carrier an order to show cause. The order shall contain a statement of the particulars and matters concerning which the Commission is inquiring and the reasons for such action, and will call upon the carrier to appear before the Commission at a place and time therein stated and give evidence upon the matters specified in the order.

(b) Any carrier upon whom an order has been served under this section shall file its answer within the time specified in the order. Such answer shall specifically and completely respond to all allegations and matters contained in the show cause order.

(c) All papers filed by a carrier in a proceeding under this section shall conform with the specifications of §§ 1.49 and 1.50 and the subscription and verification requirements of § 1.52.

[28 FR 12450, Nov. 22, 1963, as amended at 36 FR 7423, Apr. 20, 1971]

§ 1.703 Appearances.

(a) *Hearings.* Except as otherwise required by § 1.221 regarding application proceedings, by § 1.91 regarding proceedings instituted under section 312 of