memorandum summarizing an oral *ex parte* presentation required under this paragraph shall be submitted by the end of the same business day on which the *ex parte* presentation was made. The memorandum shall identify plainly on the first page the specific exemption in § 1.1203(a) on which the presenter relies, and shall also state the date and time at which any oral *ex parte* presentation was made. Written replies to permissible *ex parte* presentations made pursuant to an exception to the Sunshine period prohibition, if any, shall be filed no later than the next business day following the presentation, and shall be limited in scope to the specific issues and information presented in the *ex parte* filing to which they respond.

*Example:* On Tuesday, the Commission's Secretary releases the Sunshine Agenda for the next Commission meeting, which triggers the beginning of the Sunshine period on Wednesday. On Thursday, a party makes an *ex parte* presentation to a Commissioner on a proceeding that appears on the Sunshine Agenda. That party must file an *ex parte* notice by the end of the day (11:59:59 p.m.) on Thursday. A reply would be due by the end of the day (11:59:59 p.m.) on Friday.

(vi) If a notice of an oral *ex parte* presentation is incomplete or inaccurate, staff may request the filer to correct any inaccuracies or missing information. Failure by the filer to file a corrected memorandum in a timely fashion as set forth in paragraph (b) of this section, or any other evidence of substantial or repeated violations of the rules on *ex parte* contacts, should be reported to the General Counsel.

(3) Notwithstanding paragraphs (b)(1) and (2) of this section, permit-but-disclose proceedings involving presentations made by members of Congress or their staffs or by an agency or branch of the Federal Government or its staff shall be treated as *ex parte* presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The Commission staff shall prepare written summaries of any such oral presentations and place them in the record in accordance with paragraph (b) of this section and also place any written presentations in the record in accordance with that paragraph.

(4) *Notice of ex parte presentations.* The Commission's Secretary shall issue a public notice listing any written *ex parte* presentations or written summaries of oral *ex parte* presentations received by his or her office relating to any permit-but-disclose proceeding. Such public notices generally should be released at least twice per week.

**Note to Paragraph (b):** Interested persons should be aware that some *ex parte* filings, for example, those not filed in accordance with the requirements of this paragraph (b), might not be placed on the referenced public notice. All *ex parte* presentations and memoranda filed under this section will be available for public inspection in the public file or record of the proceeding, and parties wishing to ensure awareness of all filings should review the public file or record.

■ 9. Section 1.1208 is amended by revising the introductory text to read as follows:

**§ 1.1208 Restricted proceedings.**

Unless otherwise provided by the Commission or its staff pursuant to § 1.1200(a) *ex parte* presentations (other than *ex parte* presentations exempt under § 1.1204(a)) to or from Commission decision-making personnel are prohibited in all proceedings not listed as exempt in § 1.1204(b) or permit-but-disclose in § 1.1206(a) until the proceeding is no longer subject to administrative reconsideration or review or judicial review. Proceedings in which *ex parte* presentations are prohibited, referred to as "restricted" proceedings, include, but are not limited to, all proceedings that have been designated for hearing, proceedings involving amendments to the broadcast table of allotments, applications for authority under Title III of the Communications Act, and all waiver proceedings (except for those directly associated with tariff filings). A party making a written or oral presentation in a restricted proceeding, on a non-*ex parte* basis, must file a copy of the presentation or, for an oral presentation, a summary of the presentation in the record of the proceeding using procedures consistent with those specified in § 1.1206.

* * * * *

■ 10. Section 1.1216 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

**§ 1.1216 Sanctions.**

(a) *Parties.* Upon notice and hearing, any party to a proceeding who directly or indirectly violates or causes the violation of any provision of this subpart, or who fails to report the facts and circumstances concerning any such violation as required by this subpart, may be subject to sanctions as provided in paragraph (d) of this section, or disqualified from further participation in that proceeding. In proceedings other than a rulemaking, a party who has violated or caused the violation of any provision of this subpart may be required to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected. In any proceeding, such alternative or additional sanctions as may be appropriate may also be imposed.

* * * * *

(d) *Penalties.* A party who has violated or caused the violation of any provision of this subpart may be subject to admonishment, monetary forfeiture, or to having his or her claim or interest in the proceeding dismissed, denied, disregarded, or otherwise adversely affected. In any proceeding, such alternative or additional sanctions as may be appropriate also may be imposed. Upon referral from the General Counsel following a finding of an *ex parte* violation pursuant to § 0.251(g) of this chapter, the Enforcement Bureau shall have delegated authority to impose sanctions in such matters pursuant to § 0.111(a)(15) of this chapter.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 0 and 1

**[GC Docket No. 10–44; FCC 11–16]**

### Commission's Rules of Practice, Procedure, and Organization

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission revises certain procedural and organizational rules. The rule revisions fall into three general categories. First, the Commission adopts several docket management measures, such as broadening the use of docketed proceedings; expanding the requirement for electronic filing (and reducing the scope of the obligation to file paper copies); and permitting staff in certain circumstances to notify parties electronically of docket filings and to close inactive dockets. Second, the Commission revises rules regarding the reconsideration of agency decisions, delegating authority to the staff to dismiss or deny defective or repetitive petitions for reconsideration of Commission decisions, and amending the rule that authorizes the Commission to reconsider a decision on its own motion within 30 days to make clear that the Commission may modify a decision (not merely set it aside or vacate it). Finally, the Commission implements changes to miscellaneous regulations. In order to make its

processes more uniform and understandable, the Commission sets a default effective date for FCC rules in the event the Commission does not specify an effective date in a rulemaking order and revises its computation of time rule to adopt the "next business day" approach when a Commission rule or order specifies that Commission action shall occur on a day when the agency is not open for business. To eliminate confusion, these rule amendments clarify when the Commission's Headquarters and other offices will be considered to be open for business; and corrects typographical errors in two debt collection rules. The Commission also makes a number of minor rules changes regarding requests under the Freedom of Information Act (FOIA) in order to correct errors or omissions that have been noted following the agency's last amendment of these rules in 2008. Overall, these revisions are intended to increase the efficiency of Commission decision-making, modernize Commission procedures for the digital age, and enhance the openness and transparency of Commission proceedings for practitioners and the public.

**DATES:** Effective June 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Joel Kaufman, Chief, Administrative Law Division, Office of General Counsel, 202–418–1758 or *joel.kaufman@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** In this Report and Order, the Commission amends certain part 1 procedural rules and part 0 organizational rules, 47 CFR 1 and 0.

On February 22, 2010, the Commission released a notice of proposed rulemaking seeking comment on a number of proposed changes to the Commission's part 1 procedural rules and part 0 organizational rules. *See Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization,* 25 FCC Rcd 2430 (2010) (*Notice*). By this Report and Order, we adopt final rules effecting a number of proposals described in the *Notice.* The following paragraphs describe these rules changes.

**Docket Management**

In the *Notice,* the Commission proposed a number of steps to bring agency practice and procedure into the digital age and to improve the efficiency of Commission decision-making. Among these were increased use of docketed proceedings, electronic filing of pleadings with the Commission, and electronic notifications to the parties to a proceeding. Below is a summary of the actions taken on these docket management proposals.

*1. Expanded Use of Docketed Proceedings*

When we commenced this proceeding, we observed that many Commission proceedings are not docketed. *See* 25 FCC Rcd at 2433. In such circumstances, the individual bureau or office handling the matter may assign the proceeding a unique file number or other identifier instead of a formal docket number, or may not assign a numerical identifier at all. Often, the record in non-docketed proceedings is in paper format only, thus precluding electronic searches and rendering it difficult for interested persons to follow and participate in these proceedings. Given these limitations, we indicated our interest in expanding the use of docketed proceedings to foster greater openness, transparency, and public participation in our work. Specifically, we stated that we would seek to use the formal docketing process more often in Commission proceedings when technically feasible.

In the Report and Order, we adopt the proposal generally to expand the docketing process. Specifically, we direct Commission bureaus or offices (with the exception of the Enforcement Bureau, to the extent discussed below) to assign a docket number to proceedings within its jurisdiction in all but exceptional circumstances. For example, we anticipate prompt migration of the following illustrative categories of proceedings to numbered docketing: Newly filed formal complaints concerning common carriers under section 208 (*see* 47 U.S.C. 208; 47 CFR 1.720 *et seq.*) and newly filed pole attachment complaints under section 224 (*see* 47 U.S.C. 224; 47 CFR 1.1401 *et seq.*); customer proprietary network information (CPNI) proceedings (*see* 47 U.S.C. 222; 47 CFR 64.2001 *et seq.*); Cable Special Relief petitions (*see* 47 CFR 76.7 *et seq.*); proceedings involving Over-the-Air Reception Devices (*see* 47 CFR 1.4000 *et seq.*); and common carrier certifications (*see* 47 CFR 54.314.). We delegate authority to the Consumer and Governmental Affairs Bureau, in consultation with the relevant bureaus and offices, to issue a Public Notice (or Notices) announcing effective date(s) for numbered docketing of these and other particular categories of proceedings. During this transition to a comprehensive docketing regime, we will permit bureaus and offices not to assign a formal docket number to certain proceedings if, in the considered judgment of staff, docketing would raise special technical difficulties (for instance, because the docketing process is not easily extended to existing systems such as the Universal Licensing System) or would impose undue burdens upon the Commission and its staff; would be of limited utility; would not materially enhance public accessibility because, for instance, the filings in a proceeding could be accessed electronically in any event; or otherwise would not be in the public interest.

With respect to the Enforcement Bureau, we determine that both the Bureau and the parties under investigation have legitimate interests in keeping the investigative phase of a proceeding non-public. To the extent that formal docketing would impede these interests, we do not think the internal management benefits of assigning a docket number would outweigh the costs. For these reasons, we do not require the Enforcement Bureau to assign a docket number to investigative proceedings prior to the issuance of a notice of apparent liability.

If such a notice has been issued, however, we believe that the public interest in being able to access information about the proceeding is greater and outweighs the (diminished) interests that support protecting the investigation from public view. Thus, we determine that a docket number should be assigned to an enforcement proceeding in which the Enforcement Bureau has issued a notice of apparent liability, even if the notice has not been publicly released. Mindful that docketing should not frustrate the agency's and parties' interests in conducting a thorough, fair investigation, we note that parties may seek confidential treatment of submissions made in response to a notice of apparent liability to the extent that such treatment is consistent with section 0.459 of our rules, 47 CFR 0.459. We also observe that enforcement proceedings are restricted for purposes of our *ex parte* rules after the issuance of a notice of apparent liability, and that non-parties must abide by the requirements applicable to such proceedings. *See generally* 47 CFR 1.1208 (rules applicable to restricted proceedings), 1.1212 (procedures for handling prohibited *ex parte* presentations).

Finally, in response to one commenter's suggestion in this context for improving our rules on declaratory rulings, we determine that petitions for declaratory ruling should be handled in a similar manner to petitions for rulemaking under section 1.106, rather than in accordance with section 1.45(b).

Thus, each petition should be docketed (either within an existing active docket, if the issues raised within the petition are substantially related to that docket, or within a new docket if the issues raised do not substantially relate to a current proceeding); the particular bureau or office to which the petition has been submitted should seek comment on the petition via public notice; the default filing deadline for responsive pleadings to a docketed petition will be 30 days from the release date of the public notice, unless the bureau or office specifies otherwise; and the default filing deadline for any replies will be 15 days thereafter, unless the bureau or office specifies otherwise. We amend the existing rule involving declaratory rulings, section 1.2, to reflect these requirements. *See* 47 CFR 1.2.

*2. Greater Use of Electronic Filing*

In the *Notice,* we sought comment on whether and to what extent we ought to augment even further the use of electronic filing of pleadings through the Electronic Comment Filing System (ECFS) in Commission proceedings. *See* 25 FCC Rcd at 2434. In the Report and Order, we find it in the public interest to require the use of electronic filing whenever technically feasible, and amend section 1.49 accordingly. *See* 47 CFR 1.49. To begin the implementation of this policy, and in conjunction with our decision to expand the use of numbered docketing, we require migration of the following categories of proceedings to a fully electronic filing format via ECFS: Newly filed formal complaints concerning common carriers under section 208 (*see* 47 U.S.C. 208; 47 CFR 1.720 *et seq.*) and newly filed pole attachment complaints under section 224 (*see* 47 U.S.C. 224; 47 CFR 1.1401 *et seq.*); customer proprietary network information (CPNI) proceedings (*see* 47 U.S.C. 222; 47 CFR 64.2001 *et seq.*); Cable Special Relief petitions (*see* 47 CFR 76.7 *et seq.*); proceedings involving Over-the-Air Reception Devices (*see* 47 CFR 1.4000 *et seq.*); and common carrier certifications (*see* 47 CFR 54.314.). We anticipate that in future orders we will extend the electronic filing requirement to other categories of proceedings (changes which would not require the use of notice and comment procedures, *see* 5 U.S.C. 553(b)(A)). During the transition to a comprehensive electronic filing regime, we permit bureaus and offices to permit paper filing in specific proceedings within the categories listed above, after notice to the public, if such a requirement would raise special technical difficulties or impose undue burdens upon the Commission and its staff; would not materially enhance public accessibility because, for instance, the filings in a proceeding could be accessed electronically in any event; or otherwise would not be in the public interest.

In the *Notice,* we also sought comment on the implications of an electronic filing requirement for parties wishing to submit materials under a request for confidentiality. *See* 25 FCC Rcd at 2435. In the Report and Order, we determine both that confidential filings ought to continue to be made in paper format and that in proceedings subject to electronic filing, parties seeking confidential treatment of a portion of a filing must submit in electronic format either a redacted version of the document (with filers bearing sole responsibility for ensuring that the redacted material is not viewable or accessible) or an affidavit that it is impossible to submit a redacted document consistent with section 0.459 of the Commission's rules. *See* 47 CFR 0.459. In extreme cases, where a party demonstrates that even the fact of the filing must remain confidential and that section 0.459 permits this, the affidavit may be filed in paper format under seal. This approach will ensure an appropriate balance between the twin goals of openness and transparency, on one hand, and protection of legitimate claims of confidentiality on the other.

An additional issue we raised in the *Notice* concerned the Commission's use of electronic filing mechanisms other than ECFS. *See* 25 FCC Rcd at 2435. Because the Commission currently is considering reforms to some of these other systems and envisions establishing a single portal for all Commission licensing systems, we reserve judgment in the Report and Order as to how to resolve issues involving the interplay between ECFS and other systems (such as, for example, whether filers using those systems also should be permitted to file or precluded from filing in ECFS). These issues will be addressed as new systems are developed and brought online.

We also sought comment on whether electronic filings through ECFS or our other electronic filing systems should be "machine readable." *See* 25 FCC Rcd at 2435–36. Specifically, we asked whether to require the submission of text filings in a searchable format (*e.g.,* the Microsoft Word ".doc" format or the non-copy protected, text-searchable Adobe ".pdf" format), and whether to require that submissions containing non-text information, particularly spreadsheets of data, be submitted in the format in which they were created, such as Microsoft Excel, Microsoft Word, or Microsoft PowerPoint ("native format"). In the Report and Order, we determine that electronic filings with the Commission should be machine readable whenever technically possible. In particular, filings containing text should be submitted in a format conducive to electronic search and/or copying, such as a Microsoft Word document or an Adobe .pdf copy. Similarly, filings containing non-text information should be submitted in native format such that, for example, third parties can sort the spreadsheet data within a filing using Microsoft Excel or similar programs. In cases of attachments exceeding 500 pages, information to be submitted in a format that does not permit electronic filing, and other exceptional circumstances, we will consider a waiver of the electronic filing requirement on a case-by-case basis. Filings submitted to ECFS in .pdf or similar format should not be locked or password-protected. Failure to abide by this requirement may result in rejection by the filing system, and parties will have to resubmit by the filing deadline a machine-readable file that meets this requirement. We direct the Consumer and Governmental Affairs Bureau (CGB), in consultation with other bureaus and offices as necessary, to further develop requirements embodying these principles and to publish by public notice any additional technical rules or standards that may be necessary to implement our decision.

Finally, consistent with our goal of minimizing paper submissions to the Commission, we amend sections 1.51 and 1.419 of our rules to provide that parties are required to file with the Commission only one original and one copy of each submission made in paper format, unless another Commission rule specifically provides otherwise. In addition to easing the practical burdens of participation on parties and members of the general public (for example, in some circumstances, our rules currently require the submission of an original and 14 copies of a filing, *see* 47 CFR 1.51(a)(2)), this reform will lessen the storage demands on Commission staff and promote more environmentally sustainable agency practice.

*3. Electronic Notification in Certain Proceedings*

Section 1.47 of the Commission's rules requires agency service of copies of orders, pleadings, and other documents on parties to a proceeding when required by statute or regulation. *See* 47 CFR 1.47. Typically, such service is made by mail. As we observed in the *Notice,* this process can be cumbersome and time-consuming, particularly when

many parties participate in a particular proceeding or when every document in a long-running docket must be served on every party over the life of the proceeding. *See* 25 FCC Rcd at 2436. In order to streamline Commission processes and improve efficiency, we amend section 1.47 of the Commission's rules, and make conforming changes to section 0.445, to allow the agency to serve parties to a proceeding in an electronic format (*e.g.,* e-mail or an Internet-based notification system such as an RSS feed) following any change in the docket, to the extent the Commission is required to serve such parties. In a proceeding involving a large number of parties, we determine that the Commission's service obligation will be satisfied by issuing a public notice that identifies the documents required to be served and that explains how parties can obtain copies of the documents. We allow staff to decide the appropriate format for electronic notification in a particular proceeding, consistent with any applicable statutory requirements, but expect that service by public notice will be used only in proceedings with 20 or more parties.

*4. Termination of Dormant Proceedings*

Mindful of the more than three thousand open dockets at the Commission, we proposed in the *Notice* to adopt rules permitting the termination of dormant proceedings. *See* 25 FCC Rcd at 2436. In the Report and Order, we amend section 0.141 of our organizational rules to delegate authority to the Chief of the CGB to review all open dockets periodically. When the CGB Chief identifies an open docket that appears to be a candidate for termination, the CGB Chief will consult with the Commission bureau or office with responsibility for that docket and, with the concurrence of the relevant bureau or office, will take the appropriate action to close the docket. In order to afford interested persons an opportunity to comment before any particular proceeding is terminated, we require the issuance of a public notice and a reasonable opportunity for public input prior to termination of a proceeding. The termination of a dormant proceeding also will be considered to include dismissal as moot of any pending petition, motion, or other request for relief in that proceeding that is procedural in nature or otherwise does not address the merits of the proceeding. A party aggrieved by a termination under this delegation of authority may file a petition for reconsideration with the Consumer and Governmental Affairs Bureau or an application for review with the full Commission. *See* 47 U.S.C. 155(c)(4); 47 CFR 1.115(a); 47 CFR 1.106.

Proceedings that are candidates for termination might include dockets in which no further action is required or contemplated and dockets in which no pleadings or other documents have been filed for several years. On the other hand, proceedings in which petitions addressing the merits are pending—for example, proceedings containing timely filed petitions for reconsideration that have not been addressed—should not be terminated under the authority delegated here unless the parties consent. We leave to the discretion of the CGB Chief the practical determinations involved in deciding which proceedings to terminate (*e.g.,* identifying a minimum period of dormancy that might indicate a particular docket should be considered for termination). We also note that the record in a terminated docket remains part of the Commission's official records, and that the various pleadings, orders, and other documents in that docket will continue to be accessible to the public post-termination.

**Reconsideration of Agency Decisions**

In the *Notice,* we discussed our current rules regarding reconsideration of Commission orders, noting that updating these rules could promote more efficient and accessible decision-making and give the Commission beneficial procedural flexibility in performing its functions. *See* 25 FCC Rcd at 2431–33. In the Report and Order, we address the two categories of rules on reconsideration that we identified in the *Notice:* petitions for reconsideration in rulemaking and adjudicatory proceedings, and reconsideration on the Commission's own motion.

*1. Petitions for Reconsideration*

Two procedural rules govern petitions for reconsideration of Commission orders. Section 1.429 applies to petitions for reconsideration of final orders issued in notice and comment rulemaking proceedings, while section 1.106 is a "catch-all" provision for petitions for reconsideration in agency adjudications. *See* 47 CFR 1.429., 1.106. As an initial matter, because the captions of the two rules are generic and do not explicitly reflect the dichotomy between rulemaking and adjudication, we revise the captions for sections 1.106 and 1.429 to "Petitions for reconsideration in non-rulemaking proceedings" and "Petitions for reconsideration of final orders in rulemaking proceedings," respectively. This proposal is a non-substantive clarification that should aid practitioners and the public in distinguishing between the rules for reconsideration in each context.

We also amend these rules to allow the agency to resolve more efficiently and expeditiously petitions for reconsideration filed with the Commission that are procedurally defective or merely repeat arguments the Commission previously has rejected, and that do not require the attention of the full Commission. Specifically, we amend sections 1.429 and 1.106 to authorize bureaus or offices to dismiss or deny petitions such as these on delegated authority. For a similarly procedurally defective or repetitive petition directed to a bureau or office (rather than the full Commission) seeking reconsideration of a staff-level decision, we delegate authority to the relevant bureau or office to dismiss or deny the petition.

For the guidance of staff and the public, the Report and Order includes the following illustrative list of circumstances in which staff may dismiss or deny a reconsideration petition on the basis that it plainly does not warrant consideration by the full Commission: (1) A petitioner omits information required by the Commission's rules to be included with a petition for reconsideration or otherwise fails to comply with procedural requirements set forth by the rules; (2) a petitioner fails to identify any material error, omission, or reason warranting reconsideration or fails to state with particularity the respects in which the petitioner believes the action taken should be changed; (3) a petitioner relies upon arguments that have been fully considered and rejected by the Commission within the same proceeding; (4) a petition relates to matters outside the scope of the order for which reconsideration has been requested; (5) a petitioner relies upon facts or arguments that could have been presented previously to the Commission or its staff but were not; (6) a petition relates to an order for which reconsideration has been previously denied on similar grounds; and (7) a petition was untimely filed. We expect that staff will refrain from exercising this authority to dismiss petitions for reconsideration in close cases, and will avoid dismissal on procedural grounds when it is in the public interest to do so. We also note that a party aggrieved by a staff dismissal or denial of a petition for reconsideration under this provision may file an application for review with the full Commission. *See* 47 U.S.C. 155(c)(4); 47 CFR 1.115(a).

In the *Notice,* we further proposed to require that persons filing petitions for reconsideration of Commission action do so through ECFS. *See* 25 FCC Rcd at 2432. In the Report and Order, we amend our rules to emphasize that in docketed proceedings, petitions for reconsideration submitted by electronic means other than ECFS (such as electronic mail) and petitions submitted directly to staff shall not be considered to have been properly filed, unless a law or rule specifically permits the alternative means of filing.

Finally, we proposed in the *Notice* to amend section 1.429 to provide that this rule, rather than the "catch-all" reconsideration provision in section 1.106, applies to petitions for reconsideration of Commission orders adopting rules without notice and comment (such as orders establishing or amending rules of agency organization, procedure, or practice). *See* 25 FCC Rcd at 2432. In the Report and Order, we decide to apply section 1.429 to orders adopting rules without notice and comment.

*2. Reconsideration on the Commission's Own Motion*

In the *Notice,* we proposed to amend section 1.108 of the Commission's rules, captioned "Reconsideration on Commission's own motion," which provides that "[t]he Commission may, on its own motion, set aside any action made or taken by it within 30 days from the date of public notice of such action, as that date is defined in § 1.4(b) of these rules." *See* 47 CFR 1.108. One court has construed this provision narrowly to preclude Commission modification of an action. *See Sprint Corp.* v. *FCC,* 315 F.3d 369, 375 (DC Cir. 2003). Because the purpose of the rule is to provide the Commission a mechanism for exercising plenary power to reconsider actions on its own motion, we amend section 1.108 to conform to the fuller definition of "reconsider" in section 1.106(k)(1), 47 CFR 1.106(k)(1).

**Miscellaneous Part 1 Rules**

We proposed in the *Notice* to amend other Part 1 procedural rules to clarify and improve our practices. We adopt these and other changes, as detailed below.

*1. Effective Dates of Rules*

Section 1.427(a), entitled "Effective date of rules," provides that "[a]ny 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." *See* 47 CFR 1.427(a). This provision contemplates that the Commission will specify in its rulemaking orders the effective date of adopted rules. While this typically is the case, the omission of such a statement can create confusion in the absence of a default rule on effective dates. *See* 25 FCC Rcd at 2437 & n.26. To forestall such confusion, we amend section 1.427(a) to provide that in the event a Commission order adopting a rule does not specify an effective date and does not affirmatively defer the setting of an effective date (*e.g.,* when an adopted rule requires approval by the Office of Management and Budget under the Paperwork Reduction Act), the rule will become effective 30 days after publication in the **Federal Register** unless a later effective date is required by statute (such as the Congressional Review Act) or otherwise is specified by the Commission.

*2. Computation of Time*

*Deadlines for Commission Action Established by Rule.* As stated in the *Notice,* uncertainty can arise when the Commission's rules set a deadline for Commission action on a date when the agency is not open for business. *See* 25 FCC Rcd at 2438. Although Section 1.4(j) of the Commission's rules adopts a "next business day" standard when a filing is due on such a date, it does not address the parallel situation in which Commission action is due by regulation. *See* 47 CFR 1.4(j). We amend this rule to provide that when the due date for Commission action otherwise would fall on a holiday, as defined by section 1.4(e)(1) of the rules, that date will be extended to the next business day.

*Deadlines for Commission Action Established by Statute.* As proposed in the *Notice,* we adopt a similar standard for statutory deadlines for Commission action, many of which arise under the Communications Act. *See* 25 FCC Rcd at 2438 & n.35. Specifically, in cases where a statutory deadline for Commission action falls on a holiday, as defined in section 1.4(e)(1) of our rules, we construe that deadline to require Commission action by the next business day, unless the statute provides otherwise. To effect this change, we amend section 1.4(a) of our rules to clarify its application to statutory deadlines for Commission action and add a new section 1.4(l) that applies the "next business day" standard (with the caveat for any statutory filing requirement) in this context.

*Definition of "Holiday."* As a matter of agency organization and practice, we adopt a clarifying change to section 1.4(e)(1) of our rules. Section 1.4(e)(1) currently defines the term "holiday" as "Saturday, Sunday, officially recognized Federal legal holidays and any other day on which the Commission's offices are closed and not reopened prior to 5:30 p.m. For example, a regularly scheduled Commission business day may become a holiday if its offices are closed prior to 5:30 p.m. due to adverse weather, emergency or other closing." 47 CFR 1.4(e)(1). We revise this rule in order expressly to address circumstances in which Commission Headquarters is closed but an office at a different Commission location is open, or a particular Commission office other than Headquarters is closed. Specifically, we amend section 1.4(e)(1) to clarify that the term "holiday" includes any day on which either the Commission's Headquarters are closed and not reopened prior to 5:30 p.m., or on which a Commission office aside from Headquarters is closed, but only with respect to filings that may be made in paper format at that non-Headquarters office or decisions that are issued by that office. For example, a regularly scheduled Commission business day may become a holiday with respect to the entire Commission if Headquarters is closed prior to 5:30 p.m. due to adverse weather, emergency or other closing, and a regularly scheduled Commission business day may become a holiday with respect to a particular Commission office aside from Headquarters if either Headquarters or that office is closed prior to 5:30 p.m. due to similar circumstances.

*3. Clerical Corrections to Sections 1.1164 and 1.1912*

We make two clerical corrections to sections 1.1164 and 1.1912 of our rules, 47 CFR 1.164 and 1.1912. Section 1.1164 addresses penalties for late or insufficient regulatory fee payments. Section 1.1164(c) provides that "[i]f a regulatory fee is paid in a timely manner, the regulatee will be notified of its deficiency." We amend this section in order to clarify its application to regulatees that do *not* pay requisite fees in a timely manner. Second, 1.1912 establishes procedures for debt collection by administrative offset, and further provides that the Commission "may omit [these] procedures set forth in paragraph (a)(4)(i) of this section" under certain circumstances. We change the reference in this provision to "paragraph (b)(4)(i)" of section 1.1912, which sets forth the relevant procedures.

**Miscellaneous Part 0 Rules**

Finally, we take this opportunity to make editorial changes to our regulations implementing the Freedom

of Information Act (FOIA), 5 U.S.C. 552, so as to address issues that have come to our attention since we last reviewed and amended these regulations. *See Amendment of Part 0 of the Commission's Rules Regarding Public Information, the Inspection of Records, and Implementing the Freedom of Information Act,* 24 FCC Rcd 6904 (2008) (*FOIA Rules*). In section 0.453(c)(5), we inadvertently omitted the words "carrier-to-carrier" in the description of informal complaints that are routinely available, and amend that subsection accordingly. *See* 47 CFR 0.453(c)(5). Section 0.459(f) incorrectly cites section 0.457(g), instead of section 0.457(d), and is corrected. *See* 47 CFR 0.459(f). In the *FOIA Rules* decision, we indicated that we were amending our rules "to require that written requests to obtain copies of records routinely available for public inspection must be processed through the Commission's copy contractor under section 0.465." *See* 24 FCC Rcd at 6907. We did not amend sections 0.460 or 0.465 to reflect these changes, and therefore do so in this Report and Order. We also change the citation in section 0.465(f) to section 0.460(a) in order to reference the proper rule allowing persons to appear at the Commission to review or copy available records. *See* 47 CFR 0.465(f). Section 0.461 refers to both calendar and business days, and is corrected to consistently refer to calendar days. *See* 47 CFR 0.461. The words "representation of the news media" in the last sentence of section 0.466(a)(4) is changed to "representative of the news media" to reflect the original intent of the law. *See* 47 CFR 0.466(a)(4). Section 0.467(a)(2) of our rules indicates that search and review fees for Commission employees are computed at the General Schedule level plus personnel benefits, but this does not include "other non-FCC personnel who conduct a search" as provided in section 0.467(a)(1). *See* 47 CFR 0.467(a)(1)–(2). We amend section 0.467(a)(2) to include such personnel. Finally, section 0.470(b)(1) refers to copying pages, but also refers to microfiches and computer printouts. *See* 47 CFR 0.470(b)(1). We eliminate the latter obsolete references.

*No Notice and Comment Required.* We have determined that the changes we adopt here are general statements of policy, interpretive rules, or rules of agency organization, procedure or practice, and are therefore exempt from the notice and comment requirements of the APA, 5 U.S.C. 553(b)(A) (notice requirements inapplicable to "interpretive rules, general statements of policy, or rules of agency organization, procedure or practice"). Nonetheless, the Commission initiated notice and comment procedures in order to obtain public input on proposed changes to our procedural and organizational rules.

*Regulatory Flexibility Act.* Our action does not require notice and comment, and therefore is not subject to the Regulatory Flexibility Act of 1980, as amended. *See* 5 U.S.C. 601(2), 603(a). We nonetheless note that we anticipate that the rules we adopt today will not have a significant economic impact on a substantial number of small entities. As described above, in proposing to revise certain of our Part 1 Rules of Practice and Procedure and our Part 0 Rules of Commission Organization, we primarily change our own internal procedures and organization and do not impose substantive new responsibilities on regulated entities. There is no reason to believe that operation of the proposed rules would impose significant costs on parties to Commission proceedings. To the contrary, we take today's actions with the expectation that overall they will make dealings with the Commission quicker, easier, and less costly for entities of all sizes.

*Paperwork Reduction Act.* This document does not contain new or modified proposed information collection requirements 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, Public Law 107–198, see 44 U.S.C. 3506(c)(4) (SBPRA).

*Congressional Review Act.* The Commission will not send a copy of this Report and Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules relating to agency management or personnel and rules of agency organization, procedure, or practice that do not "substantially affect the rights or obligations of non-agency parties."

**List of Subjects**

*47 CFR Part 0*

Organization and functions (Government agencies).

*47 CFR Part 1*

Administrative practice and procedure, claims, Communications common carriers, Federal buildings and facilities, Investigations, Lawyers, Telecommunications.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0 and 1 as follows:

## PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Section 0.141 is amended by revising paragraph (h) to read as follows:

**§ 0.141 Functions of the Bureau.**

* * * * *

(h) Serves as the official FCC records custodian for designated records, including intake processing, organization and file maintenance, reference services, and retirement and retrieval of records; manages the Electronic Comment Filing System and certifies records for adjudicatory and court proceedings. Maintains manual and computerized files that provide for the public inspection of public record materials concerning Broadcast Ownership, AM/FM/TV, TV translators, FM Translators, Cable TV, Wireless, Auction, Common Carrier Tariff matters, International space station files, earth station files, DBS files, and other miscellaneous international files. Also maintains for public inspection Time Brokerage and Affiliation Agreements, court citation files, and legislative histories concerning telecommunications dockets. Provides the public and Commission staff prompt access to manual and computerized records and filing systems. Periodically reviews the status of open docketed proceedings and, following:

(1) Consultation with and concurrence from the relevant bureau or office with responsibility for a particular proceeding,

(2) The issuance of a public notice listing proceedings under consideration for termination, and;

(3) A reasonable period during which interested parties may comment, closes any docket in which no further action is required or contemplated (with termination constituting a final determination in any such proceeding).

* * * * *

■ 3. Section 0.445 is amended by revising paragraph (a) to read as follows:

**§ 0.445 Publication, availability and use of opinions, orders, policy statements, interpretations, administrative manuals, and staff instructions.**

(a) Adjudicatory opinions and orders of the Commission, or its staff acting on delegated authority, are mailed or delivered by electronic means to the parties, and as part of the record, are available for inspection in accordance with §§ 0.453 and 0.455.

* * * * *

■ 4. Section 0.453 is amended by revising paragraph (c)(5) to read as follows:

**§ 0.453 Public reference rooms.**

* * * * *

(c) * * *

(5) All formal and informal carrier-to-carrier complaints against common carriers filed under § 1.711 through § 1.735 of this chapter, all documents filed in connection therewith, and all communications related thereto;

* * * * *

■ 5. Section 0.459 is amended redesignating paragraphs (a)(2) and (3) as paragraphs (a)(3) and (4), by revising paragraph (a)(1) and adding new paragraph (a)(2), and revising paragraph (f) to read as follows:

**§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.**

(a)(1) *Procedures applicable to filings in non-electronic proceedings.* Any person submitting information or materials to the Commission may submit therewith a request that such information not be made routinely available for public inspection. (If the materials are specifically listed in § 0.457, such a request is unnecessary.) A copy of the request shall be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies shall be physically separated from any materials to which the request does not apply; if this is not feasible, the portion of the materials to which the request applies shall be identified. In the latter circumstance, where confidential treatment is sought only for a portion of a document, the person submitting the document shall submit a redacted version for the public file.

(2) *Procedures applicable to filings in electronic proceedings.* In proceedings to which the electronic filing requirements set forth in § 1.49(f) of this chapter apply, a party seeking confidential treatment of a portion of a filing must submit in electronic format either a redacted version of the document or an affidavit that it is impossible to submit a redacted document consistent with the filing requirements of this section. Where a party demonstrates that even the fact of a filing must remain confidential, and that this is consistent with the requirements of this section, this affidavit may be filed in paper format under seal.

* * * * *

(f) If no request for confidentiality is submitted, the Commission assumes no obligation to consider the need for non-disclosure but, in the unusual instance, may determine on its own motion that the materials should be withheld from public inspection. *See* § 0.457(d).

* * * * *

■ 6. Section 0.460 is amended by revising paragraph (e)(1) to read as follows:

**§ 0.460 Requests for inspection of records which are routinely available for public inspection.**

* * * * *

(e)(1) Written requests for records routinely available for public inspection under §§ 0.453 and 0.455 shall be directed to the Commission's copy contractor pursuant to the procedures set forth in § 0.465. Requests shall be captioned "Request For Inspection Of Records," shall be dated, shall list the mailing address, telephone number (if any) of the person making the request, and the e-mail address (if any) and for each document requested, shall set out all information known to the person making the request which would be helpful in identifying and locating the document. Written requests shall, in addition, specify the maximum search fee the person making the request is prepared to pay (*see* § 0.467).

* * * * *

■ 7. Section 0.461 is amended by revising paragraph (d)(3) introductory text (note remains unchanged) to read as follows:

**§ 0.461 Requests for inspection of materials not routinely available for public inspection.**

* * * * *

(d) * * *

(3) If the request is for materials submitted to the Commission by third parties and not open to routine public inspection under § 0.457(d), § 0.459, or another Commission rule or order, or if a request for confidentiality is pending pursuant to § 0.459, or if the custodian of records has reason to believe that the information may contain confidential commercial information, one copy of the request will be provided by the custodian of the records (*see* § 0.461(e)) to the person who originally submitted the materials to the Commission. If there are many persons who originally submitted the records and are entitled to notice under this paragraph, the custodian of records may use a public notice to notify the submitters of the request for inspection. The submitter or submitters will be given ten calendar days to respond to the FOIA request. *See* § 0.459(d)(1). If a submitter has any objection to disclosure, he or she is required to submit a detailed written statement specifying all grounds for withholding any portion of the information (*see* § 0.459). This response shall be served on the party seeking to inspect the records. The requester may submit a reply within ten calendar days unless a different period is specified by the custodian of records. The reply shall be served on all parties that filed a response. In the event that a submitter fails to respond within the time specified, the submitter will be considered to have no objection to disclosure of the information.

* * * * *

■ 8. Section 0.465 is amended by revising paragraphs (b) and (f) to read as follows:

**§ 0.465 Request for copies of materials which are available, or made available, for public inspection.**

* * * * *

(b)(1) Records routinely available for public inspection under §§ 0.453 and 0.455 are available to the public through the Commission's current copy contractor. Section 0.461 does not apply to such records.

(2) Audio or video recordings or transcripts of Commission proceedings are available to the public through the Commission's current copy contractor. In some cases, only some of these formats may be available.

* * * * *

(f) Anyone requesting copies of documents pursuant to this section may either come in person to the Commission (*see* § 0.460(a)) or request that the copy contractor fulfill the request. If a request goes directly to the contractor, the requester will be charged by the contractor pursuant to the price list set forth in the latest contract.

■ 9. Section 0.466 is amended by revising paragraph (a)(4) to read as follows:

**§ 0.466 Definitions.**

(a) * * *

(4) The term *commercial use* request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial

interests of the requester. In determining whether a requester properly falls within this category, the Commission shall determine the use to which a requester will put the documents requested. Where the Commission has reasonable cause to question the use to which a requester will put the documents sought, or where that use is not clear from the request itself, the Commission shall seek additional clarification before assigning the request to a specific category. The dissemination of records by a representative of the news media (*see* § 0.466(a)(7)) shall not be considered to be for a commercial use.

* * * * *

■ 10. Section 0.467 is amended by revising paragraph (a)(2) to read as follows:

**§ 0.467 Search and review fees.**

(a) * * *

(2) The fees specified in paragraph (a)(1) of this section are computed at Step 5 of each grade level based on the General Schedule or the hourly rate of non-FCC personnel, including in addition twenty percent for personnel benefits. Search and review fees will be assessed in ¼ hour increments.

* * * * *

■ 11. Section 0.470 is amended by revising paragraph (b)(1) to read as follows:

**§ 0.470 Assessment of fees.**

* * * * *

(b)(1) The 100 page restriction on assessment of reproduction fees in paragraphs (a)(2) and (3) of this section refers to 100 paper copies of a standard size, which will normally be "8½ x 11" or "11 x 14."

* * * * *

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

■ 13. Section 1.2 is revised to read as follows:

**§ 1.2 Declaratory rulings.**

(a) The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.

(b) The bureau or office to which a petition for declaratory ruling has been submitted or assigned by the Commission should docket such a petition within an existing or current proceeding, depending on whether the issues raised within the petition substantially relate to an existing proceeding. The bureau or office then should seek comment on the petition via public notice. Unless otherwise specified by the bureau or office, the filing deadline for responsive pleadings to a docketed petition for declaratory ruling will be 30 days from the release date of the public notice, and the default filing deadline for any replies will be 15 days thereafter.

■ 14. Section 1.4 is amended by revising paragraphs (a), (e)(1) introductory text, redesignating the note following paragraph (e)(1) as "Note to paragraph (e)(1)," revising paragaph (j) introductory text, and adding paragraph (l) to read as follows:

**§ 1.4 Computation of time.**

(a) *Purpose.* The purpose of this rule section is to detail the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission. It also applies to computation of time for seeking both reconsideration and judicial review of Commission decisions. In addition, this rule section prescribes the method for computing the amount of time within which the Commission must act in response to deadlines established by statute, a Commission rule, or Commission order.

* * * * *

(e) * * *

(1) The term holiday means Saturday, Sunday, officially recognized Federal legal holidays and any other day on which the Commission's Headquarters are closed and not reopened prior to 5:30 p.m., or on which a Commission office aside from Headquarters is closed (but, in that situation, the holiday will apply only to filings with that particular office). For example, a regularly scheduled Commission business day may become a holiday with respect to the entire Commission if Headquarters is closed prior to 5:30 p.m. due to adverse weather, emergency or other closing. Additionally, a regularly scheduled Commission business day may become a holiday with respect to a particular Commission office aside from Headquarters if that office is closed prior to 5:30 p.m. due to similar circumstances.

* * * * *

(j) Unless otherwise provided (*e.g.* § 76.1502(e) of this chapter) if, after making all the computations provided for in this section, the filing date falls on a holiday, the document shall be filed on the next business day. *See* paragraph (e)(1) of this section. If a rule or order of the Commission specifies that the Commission must act by a certain date and that date falls on a holiday, the Commission action must be taken by the next business day.

* * * * *

(l) When Commission action is required by statute to be taken by a date that falls on a holiday, such action may be taken by the next business day (unless the statute provides otherwise).

■ 15. Section 1.47 is amended by revising paragraph (a) to read as follows:

**§ 1.47 Service of documents and proof of service.**

(a) Where the Commission or any person is required by statute or by the provisions of this chapter to serve any document upon any person, service shall (in the absence of specific provisions in this chapter to the contrary) be made in accordance with the provisions of this section. Documents that are required to be served by the Commission in agency proceedings (*i.e.,* not in the context of judicial proceedings, Congressional investigations, or other proceedings outside the Commission) may be served in electronic form. In proceedings involving a large number of parties, and unless otherwise provided by statute, the Commission may satisfy its service obligation by issuing a public notice that identifies the documents required to be served and that explains how parties can obtain copies of the documents.

**Note to paragraph (a):** Section 1.47(a) grants staff the authority to decide upon the appropriate format for electronic notification in a particular proceeding, consistent with any applicable statutory requirements. The Commission expects that service by public notice will be used only in proceedings with 20 or more parties.

* * * * *

■ 16. Section 1.49 is amended by revising paragraph (f) and redesignating the note at the end of the section as "Note to § 1.49".

The revision reads as follows:

**§ 1.49 Specifications as to pleadings and documents.**

* * * * *

(f)(1) In the following types of proceedings, all pleadings, including permissible ex parte submissions, notices of ex parte presentations, comments, reply comments, and petitions for reconsideration and replies thereto, must be filed in electronic format:

(i) Formal complaint proceedings under Section 208 of the Act and rules in §§ 1.720 through 1.736, and pole attachment complaint proceedings under Section 224 of the Act and rules in §§ 1.1401 through 1.1418;

(ii) Proceedings, other than rulemaking proceedings, relating to customer proprietary network information (CPNI);

(iii) Proceedings relating to cable special relief petitions;

(iv) Proceedings involving Over-the-Air Reception Devices; and

(v) Common carrier certifications under rule in § 54.314 of this chapter.

(2) Unless required under paragraph (f)(1) of this section, in the following types of proceedings, all pleadings, including permissible ex parte submissions, notices of ex parte presentations, comments, reply comments, and petitions for reconsideration and replies thereto, may be filed in electronic format:

(i) General rulemaking proceedings other than broadcast allotment proceedings;

(ii) Notice of inquiry proceedings;

(iii) Petition for rulemaking proceedings (except broadcast allotment proceedings); and

(iv) Petition for forbearance proceedings.

(3) For purposes of paragraphs (b) and (c) of this section, and any prescribed pleading lengths, the length of any document filed in electronic form shall be equal to the length of the document if printed out and formatted according to the specifications of paragraph (a) of this section, or shall be no more that 250 words per page.

■ 17. Section 1.51 is revised to read as follows:

**§ 1.51 Number of copies of pleadings, briefs, and other papers.**

(a) In hearing proceedings, unless otherwise specified by Commission rules, an original and one copy shall be filed, along with-an additional copy for each additional presiding officer at the hearing, if more than one.

(b) In rulemaking proceedings which have not been designated for hearing, *see* § 1.419.

(c) In matters other than rulemaking and hearing cases, unless otherwise specified by Commission rules, an original and one copy shall be filed. If the matter relates to part 22 of the rules, *see* § 22.6 of this chapter.

(d) Where statute or regulation provides for service by the Commission of papers filed with the Commission, an additional copy of such papers shall be filed for each person to be served.

(e) The parties to any proceeding may, on notice, be required to file additional copies of any or all filings made in that proceeding.

(f) For application and licensing matters involving the Wireless Radio Services, pleadings, briefs or other documents may be filed electronically in ULS, or if filed manually, one original and one copy of a pleading, brief or other document must be filed.

(g) Participants that file pleadings, briefs or other documents electronically in ULS need only submit one copy, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments. (*See* § 1.49)

(h) Pleadings, briefs or other documents filed electronically in ULS by a party represented by an attorney shall include the name, street address, and telephone number of at least one attorney of record. Parties not represented by an attorney that file electronically in ULS shall provide their name, street address, and telephone number.

■ 18. Section 1.106 is amended by revising the section heading and paragraphs (a)(1), (b)(2), (c), (d), (i), and (j), and by adding paragraph (p) to read as follows:

**§ 1.106 Petitions for reconsideration in non-rulemaking proceedings.**

(a)(1) Except as provided in paragraphs (b)(3) and (p) of this section, petitions requesting reconsideration of a final Commission action in non-rulemaking proceedings will be acted on by the Commission. Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission. A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding. Petitions for reconsideration of other interlocutory actions will not be entertained. (For provisions governing reconsideration of Commission action in notice and comment rulemaking proceedings, *see* § 1.429. This § 1.106 does not govern reconsideration of such actions.)

* * * * *

(b) * * *

(2) Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances are present:

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

(ii) The petition relies on facts or arguments 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.

* * * * *

(c) In the case of any order other than an order denying an application for review, a petition for reconsideration which relies on facts or arguments not previously presented to the Commission or to the designated authority may be granted only under the following circumstances:

(1) The facts or arguments fall within one or more of the categories set forth in § 1.106(b)(2); or

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

(d)(1) A petition for reconsideration shall state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed. The petition shall state specifically the form of relief sought and, subject to this requirement, may contain alternative requests.

(2) A petition for reconsideration of a decision that sets forth formal findings of fact and conclusions of law shall also cite the findings and/or conclusions which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and/or conclusions should be changed. The petition may request that additional findings of fact and/or conclusions of law be made.

* * * * *

(i) Petitions for reconsideration, oppositions, and replies shall conform to the requirements of §§ 1.49, 1.51, and 1.52 and 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 or other electronic filing system (such as ULS). 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.

(j) The Commission or designated authority 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. Where the petition for reconsideration relates to an instrument of authorization granted without hearing, the Commission or designated authority will take such action within 90 days after the petition is filed.

* * * * *

(p) 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)(2), (b)(3), or (c) 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 (d) 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, such as the affidavit required by paragraph (e) of this section (relating to electrical interference);

(7) Fail to comply with the procedural requirements set forth in paragraphs (f) and (i) 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 (c) of this section; or

(9) Are untimely.

* * * * *

■ 19. Section 1.108 is revised to read as follows:

**§ 1.108 Reconsideration on Commission's own motion.**

The Commission may, on its own motion, reconsider any action made or taken by it within 30 days from the date of public notice of such action, as that date is defined in § 1.4(b). When acting on its own motion under this section, the Commission may take any action it could take in acting on a petition for reconsideration, as set forth in § 1.106(k).

■ 20. Section 1.419 is amended by revising paragraph (b) to read as follows:

**§ 1.419 Form of comments and replies; number of copies.**

* * * * *

(b) Unless otherwise specified by Commission rules, an original and one copy of all comments, briefs and other documents filed in a rulemaking proceeding shall be furnished to the Commission. The distribution of such copies shall be as follows:

| | |
|---|---|
| Secretary (original) | 1 |
| Reference Information Center | 1 |
| Total | 2 |

Participants filing the required 2 copies who also wish each Commissioner to have a personal copy of the comments may file an additional 5 copies. The distribution of such copies shall be as follows:

| | |
|---|---|
| Commissioners | 5 |
| Secretary (original) | 1 |
| Reference Information Center | 1 |
| Total | 7 |

Similarly, members of the general public who wish to express their interest by participating informally in a rulemaking proceeding may do so by submitting an original and one copy of their comments, without regard to form, provided only that the Docket Number is specified in the heading. Informal comments filed after close of the reply comment period, or, if on reconsideration, the reconsideration reply comment period, should be labeled "ex parte" pursuant to § 1.1206(a). Letters submitted to Commissioners or Commission staff will be treated in the same way as informal comments, as set forth above. Also, to the extent that an informal participant wishes to submit to each Commissioner a personal copy of a comment and has not submitted or cannot submit the comment by electronic mail, the participant may file an additional 5 copies. The distribution of such copies shall be as follows:

| | |
|---|---|
| Commissioners | 5 |
| Secretary (original) | 1 |
| Reference Information Center | 1 |
| Total | 7 |

* * * * *

■ 21. Section 1.427 is amended by revising paragraph (a) to read as follows:

**§ 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.

* * * * *

■ 22. Section 1.429 is amended by revising the section heading and paragraphs (b), (h), and (i), and by adding paragraph (l) to read as follows:

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

* * * * *

(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.

* * * * *

(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.

* * * * *

(l) 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.

* * * * *

■ 23. Section 1.1164 is amended by revising paragraph (c) to read as follows:

**§ 1.1164 Penalties for late or insufficient regulatory fee payments.**

* * * * *

(c) If a regulatory fee is not paid in a timely manner, the regulatee will be notified of its deficiency. This notice will automatically assess a 25 percent penalty, subject the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be subject to rescission.

* * * * *

■ 24. Section 1.1912 is amended by revising paragraph (b)(4)(ii) to read as follows:

**§ 1.1912 Collection by administrative offset.**

* * * * *

(b) * * *

(4) * * *

(ii) The Commission may omit the procedures set forth in paragraph (b)(4)(i) of this section when:

(A) The offset is in the nature of a recoupment;

(B) The debt arises under a contract as set forth in Cecile Industries, Inc. v. Cheney, 995 F.2d 1052 (Fed. Cir. 1993) (notice and other procedural protections set forth in 31 U.S.C. 3716(a) do not supplant or restrict established procedures for contractual offsets accommodated by the Contracts Disputes Act); or

(C) In the case of non-centralized administrative offsets conducted under paragraph (c) of this section, the Commission first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review are omitted, the Commission shall give the debtor such notice and an opportunity for review as soon as practicable and shall promptly refund any money ultimately found not to have been owed to the Government.

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[FR Doc. 2011–10356 Filed 4–29–11; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

**[CG Docket No. 10–51; FCC 11–54]**

### Structure and Practices of the Video Relay Service Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts rules to address fraud, waste, and abuse in the Video Relay Service (VRS) industry. These rules are necessary to combat reported and detected activity that has resulted in inappropriate payments to VRS providers from the Interstate TRS Fund (Fund). The intended impact of these rules is to minimize fraud in order to safeguard the sustainability of the VRS program.

**DATES:** Effective June 1, 2011, except § 64.604(b)(4)(iii) of the Commission's rules, which shall become effective August 30, 2011. The recordkeeping and reporting requirements contained herein are subject to the Paperwork Reduction Act (PRA) and have not been approved by the Office of Management and Budget (OMB). Written comments by the public on the new information collections are due July 1, 2011. The Commission will publish a document in the **Federal Register** announcing the effective date of these requirements.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection requirements contained herein should be submitted to Cathy Williams, Federal Communications Commission via e-mail at *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Diane Mason, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418–7126 or e-mail *Diane.Mason@fcc.gov.*

For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, at (202) 418–2918, or via e-mail *Cathy.Williams@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Structure and Practices of the Video Relay Service Program*, Report and Order (*Report and Order*), document FCC 11–54, adopted on April 5, 2011 and released on April 6, 2011, in CG Docket No. 10–51. Notice of Proposed Rulemaking, FCC 10–88, adopted on May 24, 2010 and released on May 27, 2010 is published elsewhere in this issue. The full text of document FCC 11–54 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II,