(6) *Programs of other Federal assistance.* We also consider programs of other Federal agencies because at times their programs of assistance might more appropriately meet the needs created by the disaster.

(b) *Factors for the Individual Assistance Program.* We consider the following factors to measure the severity, magnitude and impact of the disaster and to evaluate the need for assistance to individuals under the Stafford Act.

(1) *Concentration of damages.* We evaluate the concentrations of damages to individuals. High concentrations of damages generally indicate a greater need for Federal assistance than widespread and scattered damages throughout a State.

(2) *Trauma.* We consider the degree of trauma to a State and to communities. Some of the conditions that might cause trauma are:

(i) Large numbers of injuries and deaths;

(ii) Large scale disruption of normal community functions and services; and

(iii) Emergency needs such as extended or widespread loss of power or water.

(3) *Special populations.* We consider whether special populations, such as low-income, the elderly, or the unemployed are affected, and whether they may have a greater need for assistance. We also consider the effect on American Indian and Alaskan Native Tribal populations in the event that there are any unique needs for people in these governmental entities.

(4) *Voluntary agency assistance.* We consider the extent to which voluntary agencies and State or local programs can meet the needs of the disaster victims.

(5) *Insurance.* We consider the amount of insurance coverage because, by law, Federal disaster assistance cannot duplicate insurance coverage.

(6) *Average amount of individual assistance by State.* There is *no set threshold* for recommending Individual Assistance, but the following averages may prove useful to States and voluntary agencies as they develop plans and programs to meet the needs of disaster victims.

AVERAGE AMOUNT OF ASSISTANCE PER DISASTER

[July 1994 to July 1999]

| | Small states (under 2 million pop.) | Medium states (2–10 million pop.) | Large states (over 10 million pop.) |
|---|---|---|---|
| Average Population (1990 census data) | 1,000,057 | 4,713,548 | 15,522,791 |
| Number of Disaster Housing Applications Approved | 1,507 | 2,747 | 4,679 |
| Number of Homes Estimated Major Damage/Destroyed | 173 | 582 | 801 |
| Dollar Amount of Housing Assistance | $2.8 million | $4.6 million | $9.5 million |
| Number of Individual and Family Grant Applications Approved | 495 | 1,377 | 2,071 |
| Dollar Amount of Individual and Family Grant Assistance | 1.1 million | 2.9 million | 4.6 million |
| Disaster Housing/IFG Combined Assistance | 3.9 million | 7.5 million | 14.1 million |

**Note:** The high 3 and low 3 disasters, based on Disaster Housing Applications, are not considered in the averages. Number of Damaged/Destroyed Homes is estimated based on the number of owner-occupants who qualify for Eligible Emergency Rental Resources. Data source is FEMA's National Processing Service Centers. Data are only available from July 1994 to the present.

*Small Size States (under 2 million population, listed in order of 1990 population):* Wyoming, Alaska, Vermont, District of Columbia, North Dakota, Delaware, South Dakota, Montana, Rhode Island, Idaho, Hawaii, New Hampshire, Nevada, Maine, New Mexico, Nebraska, Utah, West Virginia. U.S. Virgin Islands and all Pacific Island dependencies.

*Medium Size States (2–10 million population, listed in order of 1990 population):* Arkansas, Kansas, Mississippi, Iowa, Oregon, Oklahoma, Connecticut, Colorado, South Carolina, Arizona, Kentucky, Alabama, Louisiana, Minnesota, Maryland, Washington, Tennessee, Wisconsin, Missouri, Indiana, Massachusetts, Virginia, Georgia, North Carolina, New Jersey, Michigan. Puerto Rico.

*Large Size States (over 10 million population, listed in order of 1990 population):* Ohio, Illinois, Pennsylvania, Florida, Texas, New York, California.

Dated: August 24, 1999.

**James L. Witt,**

*Director.*

[FR Doc. 99–22510 Filed 8–31–99; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 63

**[IB Docket No. 96–261; FCC 99–124]**

### International Settlement Rates, Report and Order on Reconsideration and Order Lifting Stay

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; reconsideration.

**SUMMARY:** This document affirms a previous finding that the Commission has authority under the Communications Act to establish settlement rate benchmarks and to require U.S. carriers to negotiate settlement rates that comply with those benchmarks. In addition, the Commission amended the Section 214 condition for facilities-based service to affiliated markets, so that it applies only to U.S. affiliates of carriers that have market power in the destination country. The Commission took this action in response to petitions for reconsideration filed in this proceeding.

**DATES:** Effective October 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Lisa Choi, Telecommunications Division, International Bureau, (202) 418–1480.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order on Reconsideration and Order Lifting Stay, FCC 99–124, adopted on May 28, 1999, and released on June 11, 1999. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Room (Room CY–A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. The document is also available for download over the internet at *http://www.fcc.gov/bureaus/international/orders/1999/fcc99124.wp*. The complete text of this Order also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

**Summary of Report and Order on Reconsideration and Order Lifting Stay**

1. In the *Benchmarks Order* (62 FR 45758, August 29, 1997), the Commission established benchmarks that govern the international settlement rates that U.S. carriers may pay foreign carriers to terminate international traffic originating in the United States. In the Final Rule on reconsideration, the Commission upheld its *Benchmarks Order* with one modification.

2. In the *Benchmarks Order*, the Commission calculated the benchmark rates using foreign carriers' publicly available tariff rates and information published by the International Telecommunication Union (ITU). The Commission developed a methodology for calculating the benchmarks called the ''tariffed component price'' (TCP) methodology. It grouped countries by their level of economic development, using a World Bank and ITU classification scheme, and calculated benchmarks using the TCP methodology for each category. The benchmarks are: 15¢ for upper income countries; 19¢ for upper-middle and lower-middle income countries; and 23¢ for lower income countries.

3. The Commission established a transition schedule for U.S. carriers to negotiate settlement rates that comply with the benchmarks. The transition schedule is also based on level of economic development, with an additional category for countries with very low levels of telecommunications network development. Under the transition schedule, U.S. carriers are required to negotiate settlement rates that comply with the benchmarks according to the following schedule: one year from implementation of the *Benchmarks Order* for carriers in upper income countries; two years for carriers in upper-middle income countries; three years for carriers in lower-middle income countries; four years for carriers in lower income countries; and five years for carriers in countries with teledensity (lines per 100 inhabitants) less than one.

4. The Philippines Parties, AT&T, and MCI filed petitions requesting reconsideration or clarification of various aspects of the *Benchmarks Order*. The Philippines Parties asserted that the benchmark rules violate the Due Process Clause of the Fifth Amendment and that the Commission does not have jurisdiction to adopt benchmark rates. In the Final Order on Reconsideration, the Commission affirmed its conclusion in the *Benchmarks Order* that it has jurisdiction to adopt settlement rate benchmarks under the Communications Act and relevant case law. The Commission determined that above-cost settlement rates paid by U.S. carriers to terminate international traffic are neither just nor reasonable, and it acted pursuant to its statutory authority in Section 201(b) of the Communications Act to prohibit U.S. carriers from continuing to pay such charges. The Commission also concluded that its benchmarks are consistent with international obligations of the United States.

5. In the final order on reconsideration, the Commission disagreed with the Philippines Parties and found that the complaint procedures satisfy whatever process rights a foreign correspondent may have by affording them an opportunity to participate in the proceedings.

6. The Commission adopted two authorization conditions in the *Benchmarks Order*, one that applies to authorizations to provide facilities-based service to affiliated markets and one that applies to all authorizations to provide switched services over facilities-based or resold international private lines. These two authorization conditions are intended to address different competitive concerns.

7. The condition for facilities-based service to affiliated markets addresses the potential for a carrier to engage in a predatory price squeeze, *i.e.*, to price below the level of its imputed costs when providing service from the United States to a foreign market where it has an affiliate. In the *Benchmarks Order*, the Commission found that a U.S.-licensed carrier has both the ability and incentive to engage in a price squeeze when it provides facilities-based service to a market in which its affiliated foreign carrier provides the terminating service and collects above-cost settlement rates. The Commission's facilities-based condition addresses the concern about price squeeze behavior by requiring that a carrier's settlement rates be at or below the relevant benchmark before its U.S.-licensed affiliate may provide facilities-based service on the affiliated route. This condition substantially reduces the above-cost settlement rates that could be used to execute a price squeeze on affiliated routes. However, the Commission recognized in the *Benchmarks Order* that the facilities-based condition does not completely eliminate the incentives or the ability of a carrier to execute a price squeeze because the settlement rate benchmarks are still above-cost. The Commission therefore decided that it will take enforcement action if, after the U.S.-licensed carrier has commenced service to the affiliated market, the Commission discovers that the carrier has attempted to execute a predatory price squeeze or engaged in other anticompetitive behavior that distorts market performance. That action may include a requirement that the foreign affiliate reduce its settlement rate for the route to a level at or below the best practices rate the Commission adopted in the *Benchmarks Order*, 8 cents, or a revocation of the U.S.-licensed carrier's authorization to serve the affiliated market. The Commission adopted a rebuttable presumption that a carrier has distorted market performance if any of the carrier's tariffed collection rates on the affiliated route are less than the carrier's average variable costs on that route. For purposes of this presumption, the Commission adopted a proxy for average variable costs that is equal to the carrier's net settlement rate plus any originating access charges.

8. The Commission decided in the *Benchmarks Order* to apply the facilities-based condition to existing Section 214 authorization holders that serve affiliated markets (*i.e.*, those that were authorized to provide service prior to the January 1, 1998 effective date of the *Benchmarks Order*). The Commission required that existing authorization holders comply with the condition by having their foreign affiliates negotiate with U.S. international carriers a settlement rate for affiliated routes that complies with the appropriate benchmark and is in effect within ninety days of the January 1, 1998 effective date. The Commission, subsequently, issued a temporary stay of the effectiveness of the condition for facilities-based service to affiliated markets as it applies to existing Section 214 authorization holders in a March 30, 1998 Stay Order pending action on reconsideration.

9. The condition for provision of switched services over private lines, also known as ISR, addresses the potential for ''one-way bypass'' of the settlements system to occur. To address the concern about one-way bypass, the Commission adopted an authorization condition that requires that at least 50 percent of the traffic on a route be settled at rates at or below the appropriate benchmark level before carriers may provide switched services over private lines. The Commission reasoned that, if settlement rates are closer to cost, the impact of one-way bypass on the level of U.S. settlement payments will be diminished. As with the condition for facilities-based service to affiliated markets, the Commission recognized that the condition for provision of switched services over

private lines does not completely eliminate the potential for one-way bypass to occur. The Commission, therefore, decided that it will take enforcement action if the Commission learns that one-way bypass has occurred. That enforcement action may include a requirement that carriers be prohibited from using their authorizations to provide switched services over private lines on a given route until settlement rates for at least half of the traffic on that route are at or below the best practice rate of 8 cents. It could also include a revocation of carriers' authorizations. The Commission adopted a test for determining when one-way bypass has occurred. Pursuant to that test, the Commission will presume that one-way bypass has occurred if the ratio of outbound to inbound settled traffic increases more than 10 percent in two successive quarterly traffic measurement periods.

10. In the Order on Reconsideration, the Commission declined to modify the benchmark conditions to require compliance with the best practice rate rather than the benchmark rates, as AT&T requested. The Commission concluded that the combination of this requirement and the tests to detect one-way bypass and price squeeze behavior is sufficient to prevent anticompetitive distortions in the U.S. market. The Commission also declined to revise the proxy for average variable costs for purposes of the Commission's test to detect price squeeze behavior. The Commission concluded that the more complex test AT&T urged it to adopt is not necessary for purposes of the test. The Commission's intent was to adopt a ''bright line'' test with a proxy for average variable costs that would allow either the Commission or other interested parties to identify readily whether a carrier is pricing its services at a predatory level. The Commission thus adopted a proxy for average variable costs that is based on publicly available data. The data necessary to calculate a U.S. carrier's net settlement rate are included in carrier's quarterly traffic reports and information on U.S. carrier's access charges is available in tariffs filed with the Commission and in the Commission's annual Monitoring Report. In contrast, the data necessary to identify all possible average variable costs will be in the hands of the carrier whose prices are at issue. Including all variable costs in the test, as AT&T requested, would defeat the purpose of applying a bright line test.

11. In response to a petition by MCI, the Commission is persuaded that it should modify the condition for facilities-based service to affiliated markets to apply solely to U.S. carriers that are providing service on a route where they have an affiliate with market power. Upon review of the record, the Commission concluded that there is not a substantial threat of price squeeze behavior by an integrated carrier that lacks market power in the foreign market. As a result, the Commission will apply the condition for facilities-based service to affiliated markets solely to carriers that are providing service on a route where they have a foreign affiliate with market power.

12. Given the decision to apply the condition for facilities based service to affiliate markets solely to carriers that are providing service on a route where they have an affiliate with market power, the Commission also decided to include the condition in the section of the Commission's rules that contains the dominant carrier safeguards, § 63.10. In the *Foreign Participation Order*, the Commission concluded that it would streamline the Section 214 application of any applicant not otherwise eligible for streamlined processing so long as the applicant's affiliate is a foreign carrier in a WTO Member country and the applicant certifies that it will comply with the Commission's dominant carrier regulations. By our action in this Order, those regulations now include the condition for facilities-based service to affiliated markets.

13. For purposes of determining which carriers must comply with the condition, for facilities-based service to affiliated markets, the Commission will apply the rebuttable presumption the Commission adopted in our Foreign *Participation Order* that foreign carriers with less than 50 percent market share in each relevant market on the foreign end lack sufficient market power to affect competition adversely in the U.S. market. For purposes of the condition for facilities-based service to an affiliated market, the relevant market is international transport and facilities, including cable landing station access and backhaul facilities.

14. The Commission also lifted its stay of the effectiveness of the condition for facilities-based service to affiliated markets as it applies to Section 214 authorization holders that were authorized to provide service prior to January 1, 1998. Pursuant to the *Benchmarks Order*, existing Section 214 authorization holders that serve affiliated markets would have been required to negotiate with U.S. international carriers a settlement rate for affiliated routes that complies with the appropriate benchmark within ninety days of January 1, 1998, if the Commission had not issued the Stay Order. In accordance with the Order on Reconsideration, only Section 214 authorization holders that are affiliated with a carrier that has market power in the foreign market must comply with the condition for facilities-based service to affiliated markets. The Commission will require such existing Section 214 authorization holders to negotiate with U.S. international carriers a rate for terminating traffic for affiliated routes that complies with the appropriate benchmark and is in effect within thirty days of the effective date of the final rule on reconsideration.

**Supplemental Final Regulatory Flexibility Analysis**

15. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was included in the Notice in IB Docket No. 96–261 (61 FR 68702 (December 30, 1996), and a Final Regulatory Flexibility Analysis (FRFA) was included in the *Benchmarks Order*. As required by the RFA, the Commission includes the FRFA contained in the *Benchmarks Order* as the Supplemental FRFA for this document. The Commission released a public notice announcing that the Supplemental FRFA is available to the public (see Public Notice, DA 99–1655, released, August 18, 1999).

**Ordering Clauses**

16. Accordingly, *it is ordered*, pursuant to Sections 1, 2, 4(i), 5(c), 201, 211, 214 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c)(5), 201, 211, 214, and 303(r), and § 1.106 of the Commission's Rules, 47 CFR Part 1.106, that the AT&T Petition for Partial Reconsideration and the Petition for Reconsideration of the Philippines Parties are denied.

17. *It is further ordered* that the MCI Telecommunication Corp. Petition for Clarification or Reconsideration is granted in part and *denied* in part.

18. *It is further ordered*, pursuant to Sections 1 and 4(i) of the Communications Act, 47 U.S.C. 151 and 154(i), that the stay of the effectiveness of the condition for facilities-based service to affiliated markets as it applies to Section 214 authorization holders that were authorized to provide service prior to January 1, 1998, is *lifted*.

19. *It is further ordered*, pursuant to Sections 1, 2, 4(i), 5(c)(5), 201, 211, 214 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c)(5), 201, 211, 214, and 303(r), that Part 63 of the Commission's rules, 47 CFR Part 63, *is amended* as set forth in the rule changes.

**List of Subjects in 47 CFR Part 63**

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

**Rule Changes**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 63 as follows:

## PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

1. The authority citation for Part 63 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 160, 161, 201–205, 218, 403, 533 unless otherwise noted.

2. Section 63.10 is amended by adding paragraphs (c)(6) and (e) to read as follows:

**§ 63.10 Regulatory classification of U.S. international carriers.**

* * * * *

(c)(6) If authorized to provide facilities-based service, comply with paragraph (e) of this section.

* * *

(e) Except as otherwise ordered by the Commission, a carrier that is classified as dominant under this section for the provision of facilities-based services on a particular route and that is affiliated with a carrier that collects settlement payments for terminating U.S. international switched traffic at the foreign end of that route may not provide facilities-based service on that route unless the current rates the affiliate charges U.S. international carriers to terminate traffic are at or below the Commission's relevant benchmark adopted in IB Docket No. 96–261. *See* FCC 97–280 (12 FCC Rcd 19806 (1997) (62 FR 45758, August 29, 1997)), (available at the FCC's Reference Operations Division, Washington, D.C. 20554, and on the FCC's World Wide Web Site at http://www.fcc.gov).

[FR Doc. 99–22722 Filed 8–31–99; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Parts 73 and 74

**[MM Docket No. 87–268; FCC 98–315]**

## Advanced Television Systems and Their Impact Upon the Existing Television Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule, correction.

**SUMMARY:** The Federal Communications Commission published in the **Federal Register** of January 28, 1999 (64 FR 4322), a *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders* (*Second MO&O*) in this proceeding that revised and clarified certain aspects of the Commission's policies relating to digital television (DTV) service in response to requests from petitioners. The amended rules in that decision inadvertently removed a portion of § 73.622(e) of the rules. This notice restores the text that was removed from § 73.622. This notice also changes the FCC address in that section to reflect the recent relocation of the agency's headquarters office.

**DATES:** Effective October 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Alan Stillwell (202–418–2470), Office of Engineering and Technology.

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission published a *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders* in MM Docket No. 87–268, FCC 98–315, on January 28, 1999 (64 FR 4322). The *Second MO&O* revised and clarified certain aspects of the Commission's policies relating to channel allotments for digital television (DTV) service in response to requests from petitioners. This notice restores portions of § 73.622(e) of the Commission's rules that were inadvertently removed in the *Second MO&O*. This notice also changes the FCC address in that section to reflect the recent relocation of the agency's headquarters office.

In rule FR Doc. 99–1941 published on January 28, 1999 make the following corrections:

1. On page 4327, in the first column, § 73.622 is amended by revising paragraph (e) to read as follows:

**§ 73.622 Digital television table of allotments.**

* * * * *

(e) *DTV Service Areas.* (1) The service area of a DTV station is the geographic area within the station's noise-limited F(50,90) contour where its signal strength is predicted to exceed the noise-limited service level. The noise-limited contour is the area in which the predicted F(50,90) field strength of the station's signal, in dB above 1 microvolt per meter (dBu) as determined using the method in section 73.625(b) exceeds the following levels (these are the levels at which reception of DTV service is limited by noise):

| | dBu |
|---|---|
| Channels 2–6 | 28 |
| Channels 7–13 | 36 |
| Channels 14–69 | 41 |

(2) Within this contour, service is considered available at locations where the station's signal strength, as predicted using the terrain dependent Longley-Rice point-to-point propagation model, exceeds the levels above. Guidance for evaluating coverage areas using the Longley-Rice methodology is provided in *OET Bulletin No. 69.* Copies of *OET Bulletin No. 69* may be inspected during normal business hours at the Federal Communications Commission, 445 12th Street, S.W, Dockets Branch (Room CY A–257), Washington, DC 20554. This document is also available through the Internet on the *FCC Home Page* at http://www.fcc.gov.

**Note to paragraph (e)(2):** During the transition, in cases where the assigned power of a UHF DTV station in the initial DTV Table is 1000 kW, the Grade B contour of the associated analog television station, as authorized on April 3, 1997, shall be used instead of the noise-limited contour of the DTV station in determining the DTV station's service area. In such cases, the DTV service area is the geographic area within the station's analog Grade B contour where its DTV signal strength is predicted to exceed the noise-limited service level, *i.e.*, 41 dB, as determined using the Longley-Rice methodology.

(3) For purposes of determining whether interference is caused to a DTV station's service area, the maximum technical facilities, *i.e.*, antenna height above average terrain (antenna HAAT) and effective radiated power (ERP), specified for the station's allotment are to be used in determining its service area.

* * * * *

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 99–22502 Filed 8–31–99; 8:45 am]

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