

if a successful challenge on this issue would affect—

(i) The range of civil money penalty amounts that HCFA could collect (The scope of review during a hearing on imposition of a civil money penalty is set forth in § 488.438(e) of this chapter); or

(ii) A finding of substandard quality of care that results in the loss of approval for a SNF or NF of its nurse aide training program.

* * * * *

(15) The finding of substandard quality of care that leads to the loss by a SNF or NF of the approval of its nurse aide training program.

* * * * *

(d) *Administrative actions that are not initial determinations.* * * *

(10) * * *

(iii) The imposition of State monitoring.

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(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 14, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

Approved: July 16, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99-18802 Filed 7-20-99; 12:04 pm]

BILLING CODE 4120-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[CC Docket No. 97-11; FCC 99-104]

Section 214 Deregulated Entry Requirements and Streamlined Exit Requirements for Domestic Telecommunications Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted rules that de-regulate market entry and streamline market exit filing requirements, under section 214 of the Communications Act of 1934. The rules confer “blanket” section 214 certification for new lines of all domestic carriers, exempt line extensions and video programming services from section 214 requirements,

and provide that all section 214 applications to discontinue domestic service will be automatically granted unless the Commission notifies the applicants otherwise. The Commission’s action also grants the substance of the section 214 regulatory relief requested by the Independent Telephone and Telecommunications Alliance in its forbearance petition and extends that relief to all domestic carriers.

DATES: Effective August 23, 1999.

FOR FURTHER INFORMATION CONTACT: Marty Schwimmer, 202-418-2334.

SUPPLEMENTARY INFORMATION:

1. Section 214 of the Communications Act of 1934 requires common carriers to obtain Commission approval for the construction, acquisition, or operation of lines of communication (entry certification) and for the discontinuance of service to a community (exit certification). The FCC implements the section 214 requirements with its rules at 47 CFR part 63 and related rules of practice at 47 CFR part 1. The Telecommunications Act of 1996 exempted from section 214 line extensions and video programming systems, under section 402(b)(2)(A) (codified as a Note to section 214) and under Section 302(a) (codified as section 651), respectively. The 1996 Act also enabled the Commission to forbear from enforcing provisions of the Act, codified as Section 10 of the Act.

2. In 1997, the Commission released an NPRM proposing to modify its rules at 47 CFR part 63 to implement these changes, entitled Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996, *Notice of Proposed Rulemaking*, CC Docket No. 97-11, 12 FCC Rcd 1111 (1997), 62 FR 4965 (February 3, 1997). The Commission proposed to (1) codify the statutory exemptions, (2) forbear from enforcing the section 214 entry certification requirements for some carriers; and (3) streamline its exit certification rules. The Commission also sought comment on alternatives, including whether to streamline the section 214 entry certification procedures, which would include granting blanket authority rather than forbearing from enforcing section 214. On February 17, 1998, the Independent Telephone and Telecommunications Alliance (ITTA) filed a petition seeking forbearance from section 214 entry certification requirements for its members.

3. The Commission has revised 47 CFR parts 1 and 63, in a Report and Order released June 30, 1999, in Docket No. 97-11. In the same document, it has also granted the substance of the section

214 relief sought by ITTA, in a Memorandum Opinion and Order in AAD File No. 98-43. The revised rules confer section 214 authorization for new lines of all domestic carriers, so that no applications need be filed, codify the statutory exemptions from section 214 authorization for line extensions and video programming systems, and provide that all applications for section 214 authorization to discontinue service will be approved automatically, in 31 days for non-dominant carriers and 60 days for dominant carriers, unless the Commission notifies the carriers otherwise.

4. The Commission’s purpose in conferring blanket section 214 authority for new lines of all carriers, rather than forbearing from exercising its section 214 jurisdiction for only some carriers, is to deregulate and promote competition in domestic market entry. At the same time, with blanket authority, unlike forbearance, the Commission retains the ability to stop extremely abusive practices against consumers by withdrawing the section 214 authorization that allows the abusive carrier to operate.

5. The Commission’s purpose in automatically granting all domestic discontinuance applications of dominant carriers as well as non-dominant carriers is, similarly, to reduce regulatory exit burdens and advance Congress’ pro-competitive and de-regulatory policies. The Commission recognizes that carriers assume a certain amount of risk in entering a new market and that, if there are significant barriers to exit, a carrier may be reluctant to assume these risks and may choose not to enter the market. At the same time, the Commission also recognizes that even customers with competitive alternatives need fair notice and information to choose a substitute service, and that by requiring applications to be filed and notice to be given to all customers, unlike de-regulating exit procedures by eliminating filing and notice requirements altogether, subscribers will have adequate opportunity to comment on whether substitute service is available.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 63 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 207, 303, and 309(j), unless otherwise noted.

2. Section 1.763 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 1.763 Construction, extension, acquisition or operation of lines.

* * * * *

(b) In cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points), and the Governor of each State involved. * * *

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

3. The part heading is revised as set out above.

4. The authority citation for part 63 is revised to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

§§ 63.01 through 63.03 [Removed]

5. Sections 63.01 through 63.03 are removed.

§§ 63.05 and 63.06 [Removed]

6. Sections 63.05 and 63.06 are removed.

§ 63.08 [Removed]

7. Section 63.08 is removed.

8. Section 63.07 is redesignated as § 63.01 and is revised to read as follows:

§ 63.01 Authority for all domestic common carriers.

(a) Any party that would be a domestic interstate communications common carrier is authorized to provide domestic, interstate services to any

domestic point and to construct, acquire, or operate any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies. This authority does not apply to acquisitions of corporate control, which are not limited to acquisitions of equity ownership, such as stock or partnership interests, and which include actual working control by whatever manner exercised (such as, for example, by veto power, controlling interest in a board of directors, or other shareholder agreement provisions).

(b) Domestic common carriers subject to this section shall not engage in any line construction that may have a significant effect on the environment as defined in § 1.1307 of this chapter without prior compliance with the Commission's environmental rules. See § 1.1312 of this chapter.

9. New § 63.02 is added to read as follows:

§ 63.02 Exemptions for extensions of lines and for systems for the delivery of video programming.

(a) Any common carrier is exempt from the requirements of section 214 of the Communications Act of 1934, as amended, for the extension of any line.

(b) A common carrier shall not be required to obtain a certificate under section 214 of the Communications Act of 1934 with respect to the establishment or operation of a system for the delivery of video programming.

10. Section 63.04 is redesignated as § 63.25 and the section heading is revised to read as follows:

§ 63.25 Special provisions relating to temporary or emergency service by international carriers.

11. Section 63.52 is amended by revising the section heading and paragraph (b) to read as follows:

§ 63.52 Copies required; fees; and filing periods.

* * * * *

(b) No application accepted for filing and subject to part 63 of these rules, unless provided for otherwise, shall be granted by the Commission earlier than 30 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period.

* * * * *

12. Section 63.71 is revised to read as follows:

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

Any domestic carrier that seeks to discontinue, reduce or impair service shall be subject to the following procedures:

(a) The carrier shall notify all affected customers of the planned discontinuance, reduction, or impairment of service and shall notify and submit a copy of its application to the public utility commission and to the Governor of the State in which the discontinuance, reduction, or impairment of service is proposed, and also to the Secretary of Defense, Attn. Special Assistant for Telecommunications, Pentagon, Washington, DC 20301. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. Notice shall include the following:

- (1) Name and address of carrier;
- (2) Date of planned service discontinuance, reduction or impairment;
- (3) Points of geographic areas of service affected;
- (4) Brief description of type of service affected; and
- (5) One of the following statements:
 - (i) If the carrier is non-dominant with respect to the service being discontinued, reduced or impaired, the notice shall state:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, DC 20554, referencing the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(ii) If the carrier is dominant with respect to the service being discontinued, reduced or impaired, the notice shall state:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments within 30 days

after receipt of this notification. Address them to the Federal Communications Commission, Washington, DC 20554, referencing the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(b) The carrier shall file with this Commission, on or after the date on which notice has been given to all affected customers, an application which shall contain the following:

(1) Caption—"Section 63.71 Application";

(2) Information listed in § 63.71(a) (1) through (4) above;

(3) Brief description of the dates and methods of notice to all affected customers;

(4) Whether the carrier is considered dominant or non-dominant with respect to the service to be discontinued, reduced or impaired; and

(5) Any other information the Commission may require.

(c) The application to discontinue, reduce or impair service, if filed by a domestic, non-dominant carrier, shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective. The application to discontinue, reduce or impair service, if filed by a domestic, dominant carrier, shall be automatically granted on the 60th day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective. For purposes of this section, an application will be deemed filed on the date the Commission releases public notice of the filing.

[FR Doc. 99-18765 Filed 7-21-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-48; RM-9472]

Radio Broadcasting Services; Council Grove, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 244A to Carbondale, Colorado, as that

community's first local commercial FM transmission service in response to a petition for rule making filed by Mountain West Broadcasting. See 64 FR 8781, February 23, 1999. Coordinates used for Channel 244A at Carbondale are 39-25-30 NL and 107-22-43 WL. With this action, the proceeding is terminated.

DATES: Effective August 30, 1999. A filing window for Channel 244A at Carbondale, Colorado, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99-48, adopted July 7, 1999, and released July 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Carbondale, Channel 244A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-18826 Filed 7-22-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-47; RM-9471]

Radio Broadcasting Services; Council Grove, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 281C3 to Council Grove, Kansas, as that community's first local aural transmission service in response to a petition for rule making filed by Dana Puopolo. See 64 FR 8781, February 23, 1999. Coordinates used for Channel 281C3 at Council Grove are 38-39-42 NL and 96-29-18 WL. With this action, the proceeding is terminated.

DATES: Effective August 30, 1999. A filing window for Channel 281C3 at Council Grove, Kansas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99-47, adopted July 7, 1999, and released July 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Council Grove, Channel 281C3.