

below, removing paragraphs (c) and (d), and redesignating paragraph (e) as paragraph (c).

**§ 2550.30 How does a State decide whether to establish a state commission or an alternative administrative entity?**

\* \* \* \* \*

**§ 2550.40 [Amended]**

6. Amend § 2550.40 by removing paragraph (c).

**§ 2550.70 [Removed and reserved]**

7. Remove and reserve § 2550.70.
8. Amend § 2550.80 as follows:
  - a. Revise the first two sentences of the introductory text;
  - b. Redesignate paragraph (a)(3) as paragraph (a)(4);
  - c. Add new paragraph (a)(3); and
  - d. Revise paragraph (j) to read as follows:

**§ 2550.80 What are the duties of the State entities?**

Both State commissions and AAEs have the same duties. This section lists the duties that apply to both State commissions and AAEs—collectively referred to as State entities. \* \* \*

(a) \* \* \*

(3) The plan must include a summary of the State commission's program sustainability approach.

\* \* \* \* \*

(j) *Activity ineligible for assistance.* A State commission or AAE may not directly carry out any national service program that receives financial assistance under section 121 of the NCSA.

\* \* \* \* \*

Dated: August 10, 2004.

**Frank R. Trinity,**  
General Counsel.

[FR Doc. 04-18594 Filed 8-12-04; 8:45 am]

BILLING CODE 6050-28-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 69

[WC Docket No. 04-259; RM-10603; FCC 04-174]

### National Exchange Carrier Association Petition

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** By this document, the Federal Communications Commission (Commission) initiates a rulemaking proceeding to examine the proper number of end user common line

charges (commonly referred to as subscriber line charges or SLCs) that carriers may assess upon customers that obtain derived channel T-1 service where the customer provides the terminating channelization equipment and upon customers that obtain Primary Rate Interface (PRI) Integrated Service Digital Network (ISDN) service.

**DATES:** Comments due on or before October 12, 2004, and reply comments due on or before November 12, 2004.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, Marlene H. Dortch, 445 12th Street, SW., TW-B204, Washington, DC 20554. Parties should also send a copy of their paper filings to Jeremy D. Marcus, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-A230, 445 12th Street, SW., Washington, DC 20554. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jeremy D. Marcus, Wireline Competition Bureau, Pricing Policy Division, (202) 418-0059.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 04-259, RM-10603, FCC 04-174, adopted on July 14, 2004, and released on July 19, 2004. The full text of this document is available on the Commission's Web site Electronic Comment Filing System and for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365. The full text of the NPRM may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com), or via its Web site at <http://www.bcpiweb.com>.

### Initial Paperwork Reduction Act of 1995 Analysis

1. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Pub. L. 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25

employees," pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, *see* 44 U.S.C. 3506(c)(4).

### Introduction

2. This NPRM, adopted July 14, 2004, and released July 19, 2004, in WC Docket No. 04-259, RM-10603, FCC 04-174, initiates a proceeding to examine the proper number of SLCs that rate-of-return and price cap carriers may assess upon customers that obtain derived channel T-1 service where the customer provides the terminating channelization equipment and upon customers that obtain PRI ISDN service.

3. The Commission's rules specify that carriers must assess one SLC "per line," which is defined to mean per channel. For derived channel T-1 services, therefore, one SLC currently is assessed for each derived channel (*i.e.*, up to 24 channels per T-1) provided to the customer.

4. In 1997 in the *Access Charge Reform First Report and Order*, 62 FR 31868, June 11, 1997, the Commission modified the SLC rules for loops used to provide Basic Rate Interface (BRI) ISDN and PRI ISDN services for price cap carriers. Specifically, the Commission created exceptions to the general rule that one SLC be assessed for each channel of service provided, finding that a single SLC may be assessed for a loop used to provide BRI ISDN service, and that up to five SLCs may be assessed for a loop used to provide PRI ISDN service. In 2001, in the *MAG Order*, 66 FR 57919, November 30, 2001, the Commission adopted identical rule changes for rate-of-return carriers.

### Background

5. On September 26, 2002, the National Exchange Carrier Association, Inc. (NECA) filed a petition for rulemaking requesting that the Commission initiate a rulemaking proceeding to modify the rules governing the assessment of the SLC for derived channel T-1 services where the customer provides the terminating channelization equipment. Specifically, NECA proposed modifying section 69.104(p) of the Commission's rules, 47 CFR 69.104(p), to permit rate-of-return carrier to assess no more than five SLCs on customers of derived channel T-1 services. Verizon has requested that any rule change be applied as well to price cap carriers for new T-1 service offerings.

6. NECA and other local exchange carriers and carrier associations claim that the proposed rule changes are necessary to bring SLC assessments

more in line with costs because treating derived channel T-1 services differently from PRI ISDN services creates artificial price incentives that favor PRI ISDN services over derived channel T-1 services.

7. NECA proposed recovering revenue lost due to the reduction in the number of SLCs assessed through the development of a port charge and through an increase in the interstate common line support universal service fund (ICLS).

#### Discussion

8. The Commission initiates this NPRM to examine the assessment of SLCs on derived channel T-1 services where the customer provides the terminating channelization equipment. We find that our current rules, which require the assessment of 24 SLCs for these derived channel T-1 services, may be inconsistent with the Commission's long-standing efforts to align rates with costs. We also find it appropriate to re-examine our earlier finding, based on Bell Operating Companies' cost studies from the mid-1990s, that up to five SLCs may be assessed on customers of PRI ISDN service. Our examination of these issues will encompass both rate-of-return and price cap carriers.

9. We request that any party that proposes the Commission change the SLC rules include in its comments the specific language of its requested rule change(s).

10. *Cost of provisioning and Cost Studies.* We tentatively conclude that the number of SLCs that may be assessed on customers of derived channel T-1 service where the customer provides the terminating channelization equipment should be based on the actual common line cost relationship between these services. We seek comment on this tentative conclusion.

11. We seek comment on the actual common line cost relationship between derived channel T-1 service and basic analog service, and ask parties asserting a particular cost relationship to support their claims with a cost study showing the common line costs for derived channel T-1 service and basic, analog service, respectively. The cost studies should be sufficiently detailed to enable us to discern the common line cost relationship between these services with reasonable accuracy.

12. We also seek comment on the current relationship between PRI ISDN common line costs and basic, analog common line costs. We ask parties asserting a particular cost relationship to support their claims with a cost study showing the common line costs for PRI ISDN service and basic, analog service,

respectively. The cost studies should be sufficiently detailed to enable us to discern the common line cost relationship between these services with reasonable accuracy.

13. We ask that all cost studies include all of the underlying data used in the study, as well as the source(s) of the data, and clearly identify all of the assumptions made and formulas used. In particular, we ask parties to identify clearly all of the demand and growth assumptions reflected in their cost studies. In order to facilitate review by other parties and Commission staff, all cost studies should be fully transparent and verifiable. To the extent that a party expects to include confidential or proprietary data in a cost study, it may seek a protective order.

14. *Impact of Network Architecture.* We seek comment on the network architectures that carriers use to provide derived channel T-1 and PRI ISDN services. For example, in addition to using short copper loops, are carriers using fiber-based digital loop carrier systems to provide these services? Are carriers providing these services using all fiber loops, fiber to the premises, or other fiber-based loop architectures? Commenters should identify clearly the loop network architectures that they use to provide derived channel T-1 service, PRI ISDN service, and basic, analog service, including the relative frequency with which they deploy different architectures to provide these services. Commenters should also identify whether and, if so, why the loop architectures and their relative deployment frequencies are different from those used in their cost studies. We further request that commenters identify the key factors they consider to determine which loop network architecture(s) to deploy to provide derived channel T-1, PRI ISDN, and basic, analog services.

15. We seek comment on whether we should establish different rules for different loop architectures. Do variations in cost relationships resulting from the use of different architectures support different SLC assessment rules reflecting these cost relationships? For example, what incentives might different SLC assessment rules create regarding the deployment of efficient loop technologies? If we conclude that cost disparities among different network architectures counsel against adoption of SLC assessment rules based on relative cost relationships, are there alternative means of aligning common line costs with SLC cost recovery rules?

16. We also seek comment on whether carriers might incur different costs in providing derived channel T-1, PRI

ISDN, and basic, analog services, even if those services use the same loop architectures. For example, are copper loops used to provide T-1 or PRI ISDN services shorter or longer, on average, than copper loops used to provide basic, analog services? Do derived channel T-1 or PRI ISDN loops cause interference when they share cables with loops providing other services? Should factors like these affect our analysis? If so, we seek comment on the effect of any such factors on the costs and relative costs of loops used to provide these different services.

17. We also seek comment on the relationship between loop costs for derived channel T-1 loops and the loop costs of T-1 special access services. To the extent that these costs differ, we ask parties to explain in detail the causes of such variances.

18. *Line Port Charges.* Carriers assess a separate line port charge for ISDN line ports, and for other line ports, to the extent that the costs of these line ports exceed the costs of line ports used for basic, analog service. See 47 CFR 69.130, 69.157. We ask parties to identify with specificity the amount of (as well as the methodology used to calculate) the port charge that they would expect to assess for the port associated with derived channel T-1 service, as well as the amount (and calculation methodology) of the PRI ISDN port charge they currently assess upon end user customers. Carriers should include in their comments the amount of the port charge that they may have developed prior to the comment date. More generally, we ask parties to comment on the principles that should be used to determine whether a cost should be included in the basic common line costs recovered through the SLC or in the line port costs recovered through the separate line port charge.

19. *Impact on ICLS and Other Universal Service Issues.* ICLS seeks to ensure that each rate-of-return carrier continues to provide affordable, quality telecommunications services to its customers while also recovering its common line revenue requirement. We recognize that assessing fewer than 24 SLCs for derived channel T-1 services will tend to decrease each carrier's revenues from SLCs and increase its ICLS. We seek comment on whether this is consistent with the goals of universal service.

20. We seek comment from on the effect that changes in the SLC assessment rules for PRI ISDN and for derived channel T-1 services (including the development of any new port charges for derived channel T-1 service)

will have on ICLS. We ask parties to quantify the changes in the size of ICLS that they would expect as a result of possible rule changes that would alter the number of SLCs assessed for PRI ISDN service or for derived channel T-1 service. Parties should clearly identify the methodology used to perform such a calculation. In particular, parties should identify any changes in the demand for these services that would result from changing the SLC assessment rules and should identify how demand assumptions are used in their cost study calculations. With regard to changes to ICLS resulting from any SLC assessment rule change, we expect that the parties' demand assumptions will differ from current demand figures and we ask parties to identify clearly the current demand figures, the anticipated demand figures associated with the proposed rule changes, and the basis for changes in demand assumptions resulting from any rule changes.

21. We also seek comment on the implications of rule changes for other universal service issues. Commenters should address the effect of rule changes on competitive eligible telecommunications carriers (ETCs) and the portability of universal service under our current ETC and portability rules. See 47 CFR 54.307. In particular, we seek comment on whether, pursuant to any rule change, competitive ETCs should report 24 lines for derived channel T-1 services or should report the same number of lines for these services that the incumbent LECs are required to report. Commenters should also address whether changing the method of developing line counts will affect universal service support mechanisms.

22. *Impact on PICC, CCLC, and Retail Rates.* We seek comment on the effect that changes in the SLC assessment rules for PRI ISDN and for derived channel T-1 services (including the development of any new port charges for derived channel T-1 service) will have on the multi-line business (MLB) primary interexchange carrier charge (PICC) and carrier common line charge (CCLC). To the extent that we modify the SLC assessment rule for derived channel T-1 service so that the number of SLCs assessed for this service is no longer based on the number of lines (*i.e.*, channels), should we also modify the PICC rule to make the same change? Should SLC or PICC rules for price cap carriers distinguish between new and existing T-1 services? If we change the SLC and PICC assessment rules, should we also modify the maximum CMT revenues per line permitted under

section 61.3(d) of the Commission's rules, 47 CFR 61.3(d)?

23. Commenting price cap carriers should also identify the new SLC (both residential and single line business (RES/SLB) and MLB), MLB PICC, and CCLC rates that would result from their proposals. Parties should identify clearly the methodology used to perform such calculations. We ask parties to quantify, based on their individual proposals, the amount of foregone SLC revenues (on an annualized basis) that they expect to recover from the MLB PICC and CCLC.

24. Commenting carriers that currently assess the SLC at rates below the SLC cap(s) should identify the increase in the level of the SLCs they assess (both RES/SLB and MLB) that would result from their desired rule change(s).

25. We seek comment on whether setting the number of SLCs that may be assessed equal to the common line cost ratio between derived channel T-1 or PRI ISDN and basic, analog service may result in MLB customers paying less than the full common line costs, with carriers having to recoup the shortfall from ICLS (for rate of return carriers) or from the MLB PICC and CCLC (for price cap carriers). We seek comment on whether such a result is consistent with our policy goals and, if not, we ask parties to propose an alternative that would result in all of the common line costs, but no more, for these services being recovered from MLB customers.

26. We also seek comment on the effect of any proposed rule changes on all classes (*i.e.*, residential, SLB, MLB) of end user customers. We ask parties that propose changes to the SLC assessment rules for customers of derived channel T-1 service to identify with specificity the rate change(s), both interstate and intrastate, that would result for customers of this service. Parties should identify the aggregate rate change(s) for these customers, and should further identify the changes that would result from Commission rule changes, and any changes in intrastate rates that the commenter anticipates would result. In light of the waiver we grant herein, we ask that rate-of-return carriers identify with specificity the changes that they may have made by the comment date to the rates for their derived channel T-1 service.

27. *Other Matters.* Finally, for good cause shown, we grant an interim, partial waiver of rule 69.104(q), 47 CFR 69.104(q), permitting rate-of-return carriers to assess SLCs for only five channels upon customers subscribing to derived channel T-1 service where the customer provides the terminating

channelization equipment without foregoing recovery of the associated SLC revenues from ICLS. The waiver is interim and will remain in place only until we resolve the issues raised in the NPRM, at which time the waiver will expire. Carriers subject to this waiver order, when filing line count data pursuant to the Commission's rules, shall calculate their line counts in a manner consistent with this order. Competitive ETCs, which are not subject to this order, shall continue to file line count data using the existing assessment of 24 loops per derived channel T-1 service.

## Procedural Matters

### *Initial Regulatory Flexibility Act Analysis*

28. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104-121, Title II, 190 Stat. 867 (1996). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided below. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). See 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

### *Need for, and Objectives of, the Proposed Rules*

29. In this NPRM, the Commission continues to explore means of better aligning cost recovery (*i.e.*, rates) with the manner in which costs are incurred. SLCs are generally assessed by carriers on customers on a per channel basis. In 1997 in the *Access Charge Reform First Report and Order*, 62 FR 31868, June 11, 1997, the Commission created an exception to the SLC assessment rules for price cap carriers for PRI ISDN and BRI ISDN services, determining that five SLCs could be assessed for PRI ISDN service and one SLC could be assessed for BRI ISDN service. In 2001 in the *MAG Order*, 66 FR 57919, November 30, 2001, the Commission made the equivalent rule changes for rate-of-return carriers.

30. NECA requests that we amend the Commission's SLC assessment rules to reduce the number of SLCs from twenty-four to five that carriers may assess upon customers of derived channel T-1 services (where the customer provides the terminating channelization equipment), with carriers recovering the foregone SLC revenues from a line port charge and from ICLS. This NPRM tentatively concludes that the number of SLCs that carriers may assess on customers of derived channel T-1 service (where the customer provides the terminating channelization equipment) should be based on the actual common line cost relationship between loops used to provide these services and loops used to provide basic, analog services, rather than on a per channel basis. We seek comment on this conclusion. The Commission also seeks comment on whether the PRI ISDN exception to the general ISLC assessment rules should be modified. The Commission also requests that parties detail the affects their proposals will have on line port charges, ICLS and other universal service mechanisms, other access charges (*i.e.*, the PICC and the CCLC), and retail rates. The Commission requests that commenting parties provide detailed, transparent cost studies to support their proposals.

#### *Legal Basis*

31. This rulemaking action is supported by sections 1, 2, 4(i), 4(j), 201-205, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), (j), 201-205, and 303.

#### *Description and Estimate of the Number of Small Entities To Which the Notice Will Apply*

32. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

33. In this section, we further describe and estimate the number of small entity licensees and regulatees that may also be directly affected by rules adopted in this order. The most reliable source of

information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its *Trends in Telephone Service* report. The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers, Paging, and Cellular and Other Wireless Telecommunications. Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

34. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a wired telecommunications carrier having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

35. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

36. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,337 carriers reported that they were engaged in the provision of local exchange services. Of

these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted herein.

37. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), and "Other Local Exchange Carriers."* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of competitive exchange services or to competitive access providers or to "Other Local Exchange Carriers," all of which are discrete categories under which TRS data are collected. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 35 carriers reported that they were "Other Local Service Providers." Of the 35 "Other Local Service Providers," an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and "Other Local Exchange Carriers" are small entities that may be affected by the rules and policies adopted herein.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

38. The NPRM explores options for further aligning SLC rates with loop costs in the Commission's access charge regime and examines the universal service implications of any such SLC rule changes. The NPRM considers the varying operating circumstances of rate-of-return and price cap carriers, the implications of competitive and intrastate regulatory conditions on the options available, and the need to facilitate and ensure the deployment of advanced services in rural America. If adopted, changes to the Commission's SLC assessment rules may require additional or modified recordkeeping.

*Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

39. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

40. We will consider any proposals made to minimize significant economic impact on small entities. The overall objective of this proceeding is to consider the NECA proposal, as well as other proposals, that may better align rates with costs by amending the Commission's SLC assessment rules for PRI ISDN service and for derived channel T-1 services (where the customer provides the terminating channelization equipment). The NPRM seeks comment on the merits of changes in the SLC assessment rules. Comments should be supported by specific economic analysis and cost studies. The adoption of rule changes may require LECs to amend their end user tariffs. To the extent that the Commission may adopt rule changes that better enable small rate-of-return carriers to compete in offering advanced services, such carriers may stand to benefit from this proceeding.

*Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

41. None.

*Ex Parte Presentations*

42. This proceeding will continue to be governed by "permit-but-disclose" *ex parte* procedures that are applicable to non-restricted proceedings. See 47 CFR 1.1206. Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented generally is required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. See 47 CFR 1.1206(b). Interested parties are to file

any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene H. Dortch, 445 12th Street, SW., TW-B204, Washington, DC 20554, and serve with one copy: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A452, Washington, DC 20554, Attn: Jeremy D. Marcus. Parties shall also serve with one copy: Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com), or via its Web site <http://www.bcpiweb.com>.

*Comment Filing Procedures*

43. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before 60 days and reply comments on or before 90 days after publication of this NPRM in the **Federal Register**. All pleadings must reference WC Docket No. 04-259 and RM-10603. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply. Commenters also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

44. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

45. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or

overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

46. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com), or via its Web site at <http://www.bcpiweb.com>. In addition, one copy of each submission must be filed with the Chief, Pricing Policy Division, 445 12th Street, SW., Washington, DC 20554. Documents filed in this proceeding will be available for public inspection during regular business hours in the Commission's Reference Information Center, 445 12th Street, SW., Washington, DC 20554, and will be placed on the Commission's Internet site. For further information, contact Jeremy D. Marcus at (202) 418-0059.

47. Accessible formats (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau, at (202) 418-0531, TTY (202) 418-7365, or at [fcc504@fcc.gov](mailto:fcc504@fcc.gov).

**Ordering Clauses**

48. Accordingly, *it is ordered* that, pursuant to the authority contained in section 1.407 of the commission's rules, 47 CFR 1.407, the National Exchange Carrier Association, Inc. Petition for Rulemaking is *granted*.

49. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 201-205, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201-205, and 303, *notice is hereby given* of the rulemaking

described above and *comment is sought* on those issues.

50. *It is further ordered* that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

51. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 4(j), and 201–205 of the Communications Act of 1934, as amended, and section 1.3 of the Commission's rules, 47 U.S.C. 151, 152, 154(i), 154(j), 201–205 and 47 CFR 1.3, the joint petition for expedited waiver *is granted* to the extent stated herein.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 04–18550 Filed 8–12–04; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 04–2396, MB Docket No. 04–289, RM–19802]

#### Television Broadcast Service and Digital Television Broadcast Service; Columbia and Edenton, NC

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by the University of North Carolina proposing the reallocation of TV channel \*2 and DTV channel \*20 from Columbia to Edenton, North Carolina, as the community's first local TV service. TV channel \*2 and DTV channel \*20 can be allotted to Edenton in compliance with the Commission's minimum distance separation requirements at Station WUND's current licensed transmitter site. The coordinates for TV channel \*2 and DTV channel \*20 at Edenton are 35–54–00 N. and 76–20–45 W. In compliance with section 1.420(i), we will not accept competing expressions of interest in the use of TV channel \*2 and DTV channel \*20 at Edenton.

**DATES:** Comments must be filed on or before September 27, 2004, and reply comments on or before October 12, 2004.

**ADDRESSES:** The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rulemaking (except in

broadcast allotment proceedings). *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Marcus W. Trathen, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, P.O. Box 1800, Raleigh, North Carolina, 27602 (Counsel for the University of North Carolina).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking, MB Docket No. 04–289, adopted July 30, 2004, and released August 6, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (301) 816–2820, facsimile (301) 816–0169, or via e-mail [joshir@erols.com](mailto:joshir@erols.com).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain

any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

### PART 73—RADIO BROADCAST SERVICES

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

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

#### § 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under North Carolina is amended by removing channel \*2 at Columbia; and adding Edenton, channel \*2.

#### § 73.622 [Amended]

3. Section 73.622(b), the Table of Digital Television Allotments under North Carolina is amended by removing DTV channel \*20 at Columbia; and adding Edenton, DTV channel \*20.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

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