

spectrum for use by new DTV stations and to avoid prolonging the DTV transition. The Commission finds that grant of the relief requested by KM would hinder the DTV transition in that the uncertainty created by the filing of allotment modification petitions for different channels by mutually exclusive applicants would frustrate the efforts of parties seeking new or modified DTV allotments.

Procedural Matters

35. The *MO&O* states that alternative formats (computer diskette, large print, audiocassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or at mcontee@fcc.gov. According to the Commission, the *MO&O* can also be downloaded at <http://www.fcc.gov/cgb/dro/>.

Ordering Clauses

36. Pursuant to sections 1, 2, 4(i), 5(c), 7, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336, 405, 614 and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336, 405, 614 and 615, the Commission takes this action.

37. The *MO&O* concludes that the Petitions for Reconsideration filed by Access Spectrum, LLC, Pappas Telecasting of America, a California Limited Partnership, and Iberia Communications, LLC, Spectrum Exchange Group, LLC and Allen & Company, WB Television Network, and Univision Television Group, Inc. are denied; that the Petitions for Reconsideration or Clarification filed by KM Communications, Inc., and Office of the Chief Technology Officer, Government of the District of Columbia are denied; and that the Petition for Clarification or Reconsideration filed by Spectrum Clearing Alliance is granted, to the extent indicated above, and is otherwise denied.

38. On the Commission's own motion, pursuant to sections 1.106 and 1.108 of the Commission's rules, 47 CFR 1.106, 1.108, the eligibility to apply for new services in the Lower 700 MHz Band is modified to the extent indicated in Section III.A.3 of the *MO&O*.

39. The Commission orders that its determinations are effective immediately upon release of the *MO&O*. The Commission states that good cause exists for the Commission's determinations to take effect immediately because, at the time the *MO&O* was released, Auction No. 44 for

the Lower 700 MHz Band was scheduled to commence on June 19, 2002.

Federal Communications Commission.
Marlene H. Dortch,
Secretary.
 [FR Doc. 02-17176 Filed 7-8-02; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 63

[IB Docket No. 00-231, FCC 02-154]

2000 Biennial Regulatory Review; International Telecommunications Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends several of the Commission's rules regarding the provision of international telecommunications service. This document also clarifies the intent of certain rules and eliminates certain rules that are no longer necessary. This proceeding is part of the Commission's year 2000 biennial regulatory review. The rule changes will remove unnecessary burdens on the public and the agency.

DATES: Effective August 8, 2002 except for §§ 43.61, 63.10(d), 63.18(e)(3), 63.19(a) and (b), 63.20(a), and 63.24(e) and (f) which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The FCC will publish a document in the **Federal Register** announcing the effective date for those sections. OMB, the general public, and other Federal agencies are invited to comment on the information collection requirements on or before September 9, 2002.

ADDRESSES: Federal Communications Commission, Secretary, 445 12th Street, SW., Room TW-B204F, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection contained herein should be submitted to Judith Boley Herman, Federal Communications Commission, In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith Boley Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and Jeanette Thornton, OMB Desk Officer,

Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to Jeanette_I_Thornton@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Peggy Reitzel, Policy Division, International Bureau, (202) 418-1499. For additional information concerning the information collections contained in this Order contact Judith Boley Herman at (202) 418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 02-154, released on June 10, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. The document is also available for download over the Internet at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-154A1.pdf. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, Telephone: 202-863-2893, Fax: 202-863-2898, e-mail qualexint@aol.com. This Order contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA). It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the proposed information collections contained in this proceeding.

Summary of Report and Order

1. On November 13, 2000, the Commission adopted a Notice of Proposed Rulemaking (NPRM) (65 FR 79795, December 20, 2000), to determine whether it should amend and clarify several of its rules relating to international telecommunications services. The Commission initiated this proceeding in response to the Telecommunications Act of 1996, which requires the Commission to review all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest. The Commission solicited comments on all of the proposals and tentative conclusions contained in the NPRM.

2. On May 22, 2002, the Commission adopted a Report and Order (Order) in this proceeding. The Commission

amended several of its rules regarding the provision of international telecommunications service. In addition, the Commission amended several rules to clarify the intent of those rules and to eliminate certain rules that no longer have any application. The rule changes will remove unnecessary burdens from both the public and the Commission.

3. The Commission adopted changes to its rules regarding assignments and transfers of control of international section 214 authorizations. The Commission consolidated several rule sections and revised the rules for *pro forma* transfers and assignments to be more consistent with those procedures used for other service authorizations, particularly commercial mobile radio services (CMRS). The Order permits a case-by-case determination of whether a transfer of control or assignment is substantial or *pro forma* in nature based on the guidance set forth in previous Commission decisions. The Order will treat a change from less than 50 percent ownership to 50 percent or more ownership as a transfer of control. For a *pro forma* transfer or assignment of control, a carrier will be required to notify the Commission of the new ownership structure within 30 days after the change. Licensees will be required to file a notification with the Commission within 30 days after consummation of a *pro forma* assignment or transfer of control. The Commission added definitions and explanatory language on assignments and transfers of control as well as procedures to be followed in the event of an involuntary assignment or transfer of control. The Commission concluded that these changes will allow greater flexibility to applicants in structuring transactions and will provide greater clarity to authorized international carriers regarding assignments and transfers of controls.

4. The Commission adopted its tentative conclusion that it is no longer necessary to apply the settlement rate benchmarks condition to section 214 authorizations to provide facilities-based international private line service. The Commission determined that the application of this condition to facilities-based private line service is not necessary to prevent carriers from evading the condition as it applies to facilities-based switched services.

5. The Commission modified its rules to relieve international carriers of the requirement to seek prior approval for discontinuance of service, except where such carriers possess market power on the U.S. end of the route. The Commission retained its notification

requirement whereby carriers must provide affected customers with 60 days notice of a planned discontinuance, reduction or impairment of service and file with the Commission a copy of the notification. The Commission, however, exempted CMRS carriers from the procedures for discontinuances of international services.

6. The Commission clarified its rules regarding attribution of indirect ownership interests in U.S. and foreign carriers. In addition, the Order eliminated the rule which requires dominant carriers to notify the Commission if they convey transmission capacity on submarine cables to another U.S. carrier. Because the time period has expired, the Commission deleted the requirement that certain foreign-owner carriers file with the Commission annual revenue and traffic reports with respect to all common carrier telecommunication services they offered in the United States in 1988, 1989, and 1990. Further, the Commission clarified its rule that a facilities-based carrier may provide service over U.S. facilities that are not subject to authorization by the Commission, as long as those facilities are not on the Commission's "Exclusion List for International Section 214 Authorizations" (Exclusion List). Also, the Commission removed from § 63.22(b) the general reference to a list of countries in the Exclusion List.

7. The Order also removes duplicative notes contained in § 63.18. The Order deleted the obsolete language that required U.S. international carriers to file applications to supplement already-authorized facilities. In addition, the Order amended § 63.10(d) and 63.53(b) to eliminate the requirement that certain documents be submitted on computer diskettes because the Commission permits electronic filing.

8. The Commission exempted CMRS carriers providing resale of international switched services from filing quarterly traffic and revenue reports for their service to foreign markets where they are affiliated with a foreign carrier with market power in that market and that collects settlement payments from U.S. carriers. The Commission declined the commenters' request to eliminate the quarterly traffic and revenue data reporting requirements for carriers that meet certain traffic thresholds. The Commission did not consider Verizon's request to change the affiliation notification procedures because Verizon's request was addressed in a previous decision. Although the Commission did not eliminate the requirement that carriers inform the Commission of their interlocking directorates with foreign carriers, it

clarified this requirement. The Commission declined to expand the reach of § 63.21(i) to commonly controlled subsidiaries. The Commission concluded that once a Bell Operating Company receives section 271 authority to provide InterLATA service in one state in its region it does not need to amend its section 214 international authorization when it gains section 271 authority for additional states.

Procedural Matters

9. *Paperwork Reduction Act.* The Order contained new or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in the Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due September 9, 2002. Comments should address the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060-XXXX.

Title: Amendment of Parts 43 and 63 of the Commission's Rules for International Telecommunications Services (IB Docket No. 00-231).

Form Number: N/A.

Type of Review: New collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 149.

Number of Responses: 190.

Frequency of Response: On Occasion. Third party disclosure.

Total Annual Burden: 263 burden hours.

Total Annual Costs: \$72,000.

Needs and Uses: The information will be used by the Commission staff in carrying out its duties under the Communications Act. The information collections are necessary to determine the qualifications of applicants to provide common carrier international telecommunications service, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest,

convenience, and necessity. The information collections are necessary to maintain effective oversight of U.S. international carriers generally. The notification requirements will ensure that the Commission's records accurately reflect the identity of every authorized carrier as well as other needed information.

10. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." 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 Small Business Administration (SBA). An Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. *See 2000 Biennial Regulatory Review*, IB Docket 00-231 (65 FR 79795, December 20, 2000). The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were received on the IRFA.

11. The Commission initiated this proceeding in response to the Telecommunications Act of 1996, which requires the Commission to review all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest. The Commission identified a number of rules that could be modified or eliminated in light of competition in international telecommunications services. The Commission also identified a number of rules that could be clarified to make it easier for practitioners and other members of the public to understand and follow those rules. Commenters not only supported the proposals contained in the NPRM, but they requested changes to several other rules.

12. We believe that these changes are in the public interest and will remove unnecessary burdens on the public and the Commission. The rules and policies contained in the Order will benefit all carriers providing international common carrier service pursuant to

Section 214 of the Act, regardless of whether the carrier is a small entity.

13. The Order adopts changes to the rules regarding assignments and transfers of control of international section 214 authorizations. In particular the Order consolidates the rules into one rule section, and it revises the rules for *pro forma* transfers and assignments to be more consistent with those procedures currently used for other service authorizations, particularly commercial mobile radio services (CMRS). The changes will eliminate confusion over our rules regarding assignments and transfers of control. Also, the rules will provide greater flexibility for all applicants, including small entities, in structuring transactions. The modifications to the rules eliminate filing requirements on small entities and, therefore, do not pose a significant economic impact on such entities.

14. The Order also removes the benchmark condition applicable to section 214 authorizations that provide facilities-based international private line service. The Commission adopted this condition for facilities-based switched service to affiliated markets to address the potential for a carrier to engage in a predatory price squeeze. We believe the condition is no longer necessary to prevent carriers from evading the condition as it applies to facilities-based switched service. We find that this condition is burdensome to carriers and could prevent the development of innovative services. We believe that removal of this specific condition will be in the public interest, and it will not impose a significant economic impact on small entities.

15. The Order also relieves international carriers of the requirement to seek prior approval for discontinuance of service, except where such carriers possess market power on the U.S. end of the route. The Order retains a notification requirement to provide customers with sufficient time to obtain an alternative service provider before service is discontinued. The Commission, however, exempted CMRS carriers from the procedures for discontinuances of international services. Currently the rules require prior notification of discontinuances of service by U.S. carriers regulated as dominant. We do not believe that the dominant and nondominant classification should be used in determining criteria for requiring prior approval. Rather, the Commission believes that prior approval should be required only for carriers possessing market power on the U.S. end of the route. This modification clarifies the

carriers subject to the rule, and it removes the burdensome prior notification procedure for certain carriers while protecting customers from abrupt discontinuances of service. We do not believe that this change will impose any significant economic impact on small entities.

16. The Order clarifies other rules and eliminates rules that are no longer necessary, duplicative, or obsolete. In addition, the Order eliminates many procedural burdens placed on all entities. The measures contained in the Order are administrative and procedural changes designed to further streamline and simplify the rules for international telecommunications carriers, and there will be no significant impact imposed on small entities.

17. Therefore, we certify that none of the requirements of the Order will have a significant economic impact on a substantial number of small entities.

18. *Report to Congress:* The Commission will send a copy of the Order, including a copy of the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the Order and this Certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration and will be published in the **Federal Register**, 5 U.S.C. 605(b).

Ordering Clauses

19. Pursuant to the authority contained in sections 1, 4, 11, 214, 218, 219, 220 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 161, 214, 218, 219, 220, 403, this Report and Order in IB Docket No. 00-231 is hereby adopted.

20. Parts 43 and 63 of the Commission's rules are amended as set forth in the Rule Changes. These amendments and policy changes set forth in this Report and Order shall be effective August 8, 2002, except for §§ 43.61, 63.10(d), 63.18(e)(3), 63.19(a) and (b), 63.20(a), and 63.24(e) and (f) which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The FCC will publish a document in the **Federal Register** announcing the effective date for those sections.

21. The Commission's Consumer Information and Government Affairs Bureau, Reference Information Center, shall send a copy of this order, including the Final Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 43 and 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.
Marlene H. Dortch,
Secretary.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 43 and 63 as follows:

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402 (b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

2. Section 43.61 is amended by revising paragraph (c) to read as follows:

§ 43.61 Reports of international telecommunications traffic.

(c) Each common carrier engaged in the resale of international switched services that is affiliated with a foreign carrier that has sufficient market power on the foreign end of an international route to affect competition adversely in the U.S. market and that collects settlement payments from U.S. carriers shall file a quarterly version of the report required in paragraph (a) of this section for its switched resale services on the dominant route within 90 days from the end of each calendar quarter. Commercial Mobile Radio Service (CMRS) carriers, as defined in § 20.9 of this chapter, are not required to file reports pursuant to this paragraph. For purposes of this paragraph, *affiliated* and *foreign carrier* are defined in § 63.09 of this chapter.

§ 43.81 [Removed].

3. Remove § 43.81.

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

4. The authority citation for part 63 continues 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.

5. Section 63.09 is amended by revising Note 2 to read as follows:

§ 63.09 Definitions applicable to international Section 214 authorizations.

* * * * *

Note 2: Ownership and other interests in U.S. and foreign carriers will be attributed to their holders and deemed cognizable pursuant to the following criteria: Attribution of ownership interests in a carrier that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain that is equal to or exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest. For example, if A owns 30 percent of company X, which owns 60 percent of company Y, which owns 26 percent of “carrier,” then X’s interest in “carrier” would be 26 percent (the same as Y’s interest because X’s interest in Y exceeds 50 percent), and A’s interest in “carrier” would be 7.8 percent (0.30 x 0.26 because A’s interest in X is less than 50 percent). Under the 25 percent attribution benchmark, X’s interest in “carrier” would be cognizable, while A’s interest would not be cognizable.

6. Section 63.10 is amended by revising paragraphs (d) and (e) to read as follows:

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

* * * * *

(d) A carrier classified as dominant under this section shall file an original and two copies of each report required by paragraphs (c)(3), (c)(4), and (c)(5) of this section with the Chief, International Bureau. The carrier shall also file one copy of these reports with the Commission’s copy contractor. The transmittal letter accompanying each report shall clearly identify the report as responsive to the appropriate paragraph of § 63.10(c).

(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 switched 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 (rel. Aug. 18, 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>).

7. Section 63.17 is amended by revising paragraph (b)(4) to read as follows:

§ 63.17 Special provisions for U.S. international common carriers.

* * * * *

(b) * * *
 (4) No U.S. common carrier may engage in switched hubbing to or from a third country where it has an affiliation with a foreign carrier unless and until it has received authority to serve that country under § 63.18(e)(1), (e)(2), or (e)(3).

8. Section 63.18 is amended by removing paragraph (e)(3), redesignating paragraph (e)(4) as paragraph (e)(3), revising newly redesignated paragraph (e)(3) and paragraph (g), and by adding a Note to paragraph (h) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(e) * * *
 (3) *Other authorizations.* If applying for authority to acquire facilities or to provide services not covered by paragraphs (e)(1) and (e)(2) of this section, the applicant shall provide a description of the facilities and services for which it seeks authorization. The applicant shall certify that it will comply with the terms and conditions contained in § 63.21 and § 63.22 and/or § 63.23, as appropriate. Such description also shall include any additional information the Commission shall have specified previously in an order, public notice or other official action as necessary for authorization.

* * * * *
 (g) Where the applicant is seeking facilities-based authority under paragraph (e)(3) of this section, a statement whether an authorization of the facilities is categorically excluded as defined by § 1.1306 of this chapter. If answered affirmatively, an environmental assessment as described in § 1.1311 of this chapter need not be filed with the application.

(h) * * *

Note to Paragraph (h): Ownership and other interests in U.S. and foreign carriers will be attributed to their holders and deemed cognizable pursuant to the following criteria: Attribution of ownership interests in a carrier that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages

for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain that is equal to or exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest. For example, if A owns 30 percent of company X, which owns 60 percent of company Y, which owns 26 percent of "carrier," then X's interest in "carrier" would be 26 percent (the same as Y's interest because X's interest in Y exceeds 50 percent), and A's interest in "carrier" would be 7.8 percent (0.30×0.26 because A's interest in X is less than 50 percent). Under the 25 percent attribution benchmark, X's interest in "carrier" would be cognizable, while A's interest would not be cognizable.

* * * * *

9. Section 63.19 is revised to read as follows:

§ 63.19 Special procedures for discontinuances of international services.

(a) With the exception of those international carriers described in paragraphs (b) and (c) of this section, any international carrier that seeks to discontinue, reduce or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.601:

(1) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment at least 60 days prior to its planned action. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice.

(2) The carrier shall file with this Commission a copy of the notification on or after the date on which notice has been given to all affected customers.

(b) The following procedures shall apply to any international carrier that the Commission has classified as dominant in the provision of a particular international service because the carrier possesses market power in the provision of that service on the U.S. end of the route. Any such carrier that seeks to retire international facilities, dismantle or remove international trunk lines, but does not discontinue, reduce or impair the dominant services being provided through these facilities, shall only be subject to the notification requirements of paragraph (a) of this section. If such carrier discontinues, reduces or impairs the dominant service, or retires facilities that impair or reduce the service, the carrier shall file an application pursuant to §§ 63.62 and 63.500.

(c) Commercial Mobile Radio Service (CMRS) carriers, as defined in § 20.9 of this chapter, are not subject to the provisions of this section.

10. Section 63.20 is amended by revising paragraph (a) to read as follows:

§ 63.20 Copies required; fees; and filing periods for international service providers.

(a) Unless otherwise specified the Commission shall be furnished with an original and five copies of applications filed for international facilities and services under Section 214 of the Communications Act of 1934, as amended. Upon request by the Commission, additional copies of the application shall be furnished. Each application shall be accompanied by the fee prescribed in subpart G of part 1 of this chapter.

* * * * *

§ 63.21 [Amended]

11. Section 63.21 is amended by removing paragraph (h) and redesignating paragraphs (i) and (j) as paragraphs (h) and (i).

12. Section 63.22 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 63.22 Facilities-based international common carriers.

* * * * *

(a) A carrier authorized under § 63.18(e)(1) may provide international facilities-based services to international points for which it qualifies for non-dominant regulation as set forth in § 63.10, except in the following circumstance: If the carrier is, or is affiliated with, a foreign carrier in a destination market and the Commission has not determined that the foreign carrier lacks market power in the destination market (see § 63.10(a)), the carrier shall not provide service on that route unless it has received specific authority to do so under § 63.18(e)(3).

(b) The carrier may provide service using half-circuits on any U.S. common carrier and non-common carrier facilities that do not appear on an exclusion list published by the Commission. Carriers may also use any necessary non-U.S.-licensed facilities, including any submarine cable systems, that do not appear on the exclusion list. Carriers may not use U.S. earth stations to access non-U.S.-licensed satellite systems unless the Commission has specifically approved the use of those satellites and so indicates on the exclusion list. The exclusion list is available from the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

(c) Specific authority under § 63.18(e)(3) is required for the carrier to provide service using any facilities listed on the exclusion list, to provide service between the United States and any country on the exclusion list, or to construct, acquire, or operate lines in any new major common carrier facility project.

* * * * *

13. Section 63.23 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.23 Resale-based international common carriers.

* * * * *

(a) A carrier authorized under § 63.18(e)(2) may provide resold international services to international points for which the applicant qualifies for non-dominant regulation as set forth in § 63.10, except that the carrier may not provide either of the following services unless it has received specific authority to do so under § 63.18(e)(3):

(1) Resold switched services to a non-WTO Member country where the applicant is, or is affiliated with, a foreign carrier; and

(2) Switched or private line services over resold private lines to a destination market where the applicant is, or is affiliated with, a foreign carrier and the Commission has not determined that the foreign carrier lacks market power in the destination market (see § 63.10(a)).

(b) The carrier may not resell the international services of an affiliated carrier regulated as dominant on the route to be served unless it has received specific authority to do so under § 63.18(e)(3).

* * * * *

14. Section 63.24 is revised to read as follows:

§ 63.24 Assignments and transfers of control.

(a) *General.* Except as otherwise provided in this section, an international section 214 authorization may be assigned, or control of such authorization may be transferred by the transfer of control of any entity holding such authorization, to another party, whether voluntarily or involuntarily, directly or indirectly, only upon application to and prior approval by the Commission.

(b) *Assignments.* For purposes of this section, an assignment of an authorization is a transaction in which the authorization is assigned from one entity to another entity. Following an assignment, the authorization is held by an entity other than the one to which it was originally granted.

(c) *Transfers of control.* For purposes of this section, a transfer of control is a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder. A change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. In all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis with reference to the factors listed in the Note to this paragraph (c).

Note to Paragraph (c): Because the issue of control inherently involves issues of fact, it must be determined on a case-by-case basis and may vary with the circumstances presented by each case. The factors relevant to a determination of control in addition to equity ownership include, but are not limited to the following: power to constitute or appoint more than fifty percent of the board of directors or partnership management committee; authority to appoint, promote, demote and fire senior executives that control the day-to-day activities of the licensee; ability to play an integral role in major management decisions of the licensee; authority to pay financial obligations, including expenses arising out of operations; ability to receive monies and profits from the facility's operations; and unfettered use of all facilities and equipment.

(d) *Pro forma assignments and transfers of control.* Transfers of control or assignments that do not result in a change in the actual controlling party are considered non-substantial or pro forma. Whether there has been a change in the actual controlling party must be determined on a case-by-case basis with reference to the factors listed in Note 1 to this paragraph (d). The types of transactions listed in Note 2 to this paragraph (d) shall be considered presumptively pro forma and prior approval from the Commission need not be sought.

Note 1 to Paragraph (d): Because the issue of control inherently involves issues of fact, it must be determined on a case-by-case basis and may vary with the circumstances presented by each case. The factors relevant to a determination of control in addition to equity ownership include, but are not limited to the following: power to constitute or appoint more than fifty percent of the board of directors or partnership management committee; authority to appoint, promote, demote and fire senior executives that control the day-to-day activities of the licensee; ability to play an integral role in major management decisions of the licensee; authority to pay financial obligations, including expenses arising out of operations; ability to receive monies and profits from the facility's operations; and unfettered use of all facilities and equipment.

Note 2 to Paragraph (d): If a transaction is one of the types listed further, the transaction is presumptively pro forma and prior approval need not be sought. In all other cases, the relevant determination shall be made on a case-by-case basis. Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests; Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests; Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one; Corporate reorganization that involves no substantial change in the beneficial ownership of the corporation (including re-incorporation in a different jurisdiction or change in form of the business entity); Assignment or transfer from a corporation to a wholly owned direct or indirect subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or Assignment of less than a controlling interest in a partnership.

(e) *Applications for substantial transactions.* (1) In the case of an assignment or transfer of control shall of an international section 214 authorization that is not pro forma, the proposed assignee or transferee must apply to the Commission for authority prior to consummation of the proposed assignment or transfer of control.

(2) The application shall include the information requested in paragraphs (a) through (d) of § 63.18 for both the transferor/assignor and the transferee/assignee. The information requested in paragraphs (h) through (p) of § 63.18 is required only for the transferee/assignee. At the beginning of the application, the applicant shall include a narrative of the means by which the proposed transfer or assignment will take place.

(3) The Commission reserves the right to request additional information as to the particulars of the transaction to aid it in making its public interest determination.

(4) An assignee or transferee shall notify the Commission no later than 30 days after either consummation of the proposed assignment or transfer of control, or a decision not to consummate the proposed assignment or transfer of control. The notification may be made by letter (sending an original and five copies to the Office of the Secretary) and shall identify the file numbers under which the initial authorization and the authorization of the assignment or transfer of control were granted.

(f) *Notifications for non-substantial or pro forma transactions.* (1) In the case

of a pro forma assignment or transfer of control, the section 214 authorization holder is not required to seek prior Commission approval.

(2) A pro forma assignee or carrier that is subject to a pro forma transfer of control shall file a notification with the Commission no later than 30 days after the assignment or transfer is completed. The notification may be made by letter (sending an original and five copies to the Office of the Secretary). The notification must contain the following:

(i) The information requested in paragraphs (a) through (d) and (h) of § 63.18 for the transferee/assignee;

(ii) A certification that the transfer of control or assignment was pro forma and that, together with all previous pro forma transactions, does not result in a change in the actual controlling party.

(3) A single letter may be filed for an assignment or transfer of control of more than one authorization if each authorization is identified by the file number under which it was granted.

(4) Upon release of a public notice granting a pro forma assignment or transfer of control, petitions for reconsideration under § 1.106 of this chapter or applications for review under § 1.115 of this chapter of the Commission's rules may be filed within 30 days. Petitioner should address why the assignment or transfer of control in question should have been filed under paragraph (e) of this section rather than under this paragraph (f).

(g) *Involuntary assignments or transfers of control.* In the case of an involuntary assignment or transfer of control to: a bankruptcy trustee appointed under involuntary bankruptcy; an independent receiver appointed by a court of competent jurisdiction in a foreclosure action; or, in the case of death or legal disability, to a person or entity legally qualified to succeed the deceased or disabled person under the laws of the place having jurisdiction over the estate involved; the applicant must make the appropriate filing no later than 30 days after the event causing the involuntary assignment or transfer of control.

§ 63.53 [Amended]

15. Section 63.53 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

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