

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Maps are available for inspection at the Upper Guadalupe River Authority, 125 Lehmann Drive, Kerrville, Texas. Maps are available for inspection at the City of Kerrville, 800 Junction Highway, Kerrville, Texas.	
WASHINGTON	
Clark County (Unincorporated Areas) (FEMA Docket No. 7250) <i>East Fork Lewis River:</i> Approximately 17,000 feet downstream of Daybreak Road Approximately 400 feet downstream of Daybreak Road Maps are available for inspection at the Clark County Department of Community Development, Development Services Division, Office of Engineering Review, 1408 Franklin Street, Vancouver, Washington.	*32 *75

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: June 14, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 96-98; FCC 00-183]

Clarification of the Commission's Rules Regarding Use of Combinations of Unbundled Network Elements To Provide Exchange Access Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification.

SUMMARY: This document clarifies certain requirements regarding the obligation of incumbent local exchange carriers to provide combinations of unbundled network elements to competitive telecommunications carriers for the provision of exchange access service. This action is needed to clarify the requirements that the Commission adopted in the Supplemental Order in this docket, and is also intended to provide the telecommunications industry with more

clearly defined standards for using such combinations.

DATES: Effective June 20, 2000.

FOR FURTHER INFORMATION CONTACT: Jodie Donovan, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Supplemental Order Clarification in CC Docket No. 96-98, FCC 00-183, adopted May 19, 2000 and released June 2, 2000. On November 5, 1999, the Commission released the Third Report and Order and Fourth Further Notice of Proposed Rulemaking (FNPRM) in this docket (65 FR 2367, Jan. 14, 2000; 65 FR 2542, Jan. 18, 2000). On November 24, 1999, the Commission released a Supplemental Order (65 FR 2367, 2368, Jan. 14, 2000; 65 FR 2542, 2547, Jan. 18, 2000) that modified the Third Report and Order and Fourth FNPRM with regard to the ability of requesting carriers to use combinations of unbundled network elements to provide exchange access service prior to resolution of the Fourth FNPRM. The Supplemental Order Clarification clarifies certain requirements contained in the Supplemental Order. The complete text of the Supplemental Order Clarification is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY-B400, 445 12th Street, SW, Washington, DC. It is also available on the Commission's website at <http://www.fcc.gov>.

Synopsis of the Supplemental Order Clarification

1. The Commission adopts a Supplemental Order Clarification in CC Docket No. 96-98 regarding the obligation of incumbent local exchange carriers (LECs) to provide access by competitive LECs to unbundled loop-transport combinations for the provision of exchange access service. This order is needed to clarify certain requirements that the Commission adopted in the Supplemental Order in this docket (65 FR 2542, 2547, Jan. 18, 2000).

2. In particular, this document extends the temporary constraint identified in the Supplemental Order in CC Docket No. 96-98 while the Commission compiles an adequate record in the Fourth FNPRM (65 FR 2367, Jan. 14, 2000) regarding the ability of requesting carriers to use unbundled loop-transport combinations as a

substitute for the incumbent LECs' special access service. Until the Commission resolves the issues in the Fourth FNPRM, interexchange carriers (IXCs) may not substitute an incumbent LEC's unbundled loop-transport combinations for special access services unless they provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer. This temporary constraint does not apply to stand-alone loops. By issuing the Supplemental Order Clarification, the Commission does not decide any of the substantive issues contained in the Fourth FNPRM.

3. The primary issue on which the Commission must build an adequate record concerns its identification of the network elements that "should be made available" for purposes of 47 U.S.C. section 251(d)(2). In considering whether loop-transport combinations meet the "impair" standard in section 251(d)(2), the Commission must determine whether the local exchange and exchange access markets, although legally distinct, are otherwise interrelated from an economic and technological perspective, such that a finding that a network element meets the "impair" standard for the local exchange market would itself entitle competitors to use that network element solely or primarily in the exchange access market. Unless the Commission finds that these markets are inextricably interrelated in these other respects, it is unlikely that Congress intended to compel the Commission, once it determines that a network element meets the "impair" standard for the local exchange market, to grant competitors access—for that reason alone, and without further inquiry—to that same network element solely or primarily for use in the exchange access market.

4. The Commission extends the temporary constraint so that it may take into account the market effects of its new unbundling rules (65 FR 2542, Jan. 18, 2000) as it conducts its "impair" analysis for special access service, and must allow a meaningful period of time to elapse from the date on which those new rules became effective. The Commission will therefore issue a Public Notice in early 2001 to gather evidence on this issue so that it may then resolve it expeditiously. In addition, the Commission and the parties need more time to evaluate the issues raised in the record in the Fourth FNPRM.

5. To reduce uncertainty for incumbent LECs and requesting carriers and to maintain the status quo while the Commission reviews the issues

contained in the Fourth FNPRM, it defines more precisely the "significant amount of local exchange service" that a requesting carrier must provide in order to obtain unbundled loop-transport combinations. These definitions provide a safe harbor that allows the Commission to preserve the status quo while it examines the issues in the Fourth FNPRM in more detail, while still allowing carriers to use combinations of unbundled loop and transport network elements to provide local exchange service.

6. The Commission finds that a requesting carrier is providing a "significant amount of local exchange service" to a particular customer if it meets one of three alternative definitions. The Commission notes that traffic is considered to be local under these definitions if it is defined as such in a requesting carrier's state-approved local exchange tariff and/or it is subject to a reciprocal compensation arrangement between the requesting carrier and the incumbent LEC: (1) The requesting carrier certifies that it is the exclusive provider of an end user's local exchange service. The loop-transport combinations must terminate at the requesting carrier's collocation arrangement in at least one incumbent LEC central office. This option does not allow loop-transport combinations to be connected to the incumbent LEC's tariffed services, or (2) The requesting carrier certifies that it provides local exchange and exchange access service to the end user customer's premises and handles at least one third of the end user customer's local traffic measured as a percent of total end user customer local dialtone lines; and for DS1 circuits and above, at least 50 percent of the activated channels on the loop portion of the loop-transport combination have at least 5 percent local voice traffic individually, and the entire loop facility has at least 10 percent local voice traffic. When a loop-transport combination includes multiplexing (e.g., DS1 multiplexed to DS3 level), each of the individual DS1 circuits must meet this criteria. The loop-transport combination must terminate at the requesting carrier's collocation arrangement in at least one incumbent LEC central office. This option does not allow loop-transport combinations to be connected to the incumbent LEC's tariffed services, or (3) The requesting carrier certifies that at least 50 percent of the activated channels on a circuit are used to provide originating and terminating local dialtone service and at least 50 percent of the traffic on each of these local dialtone channels is local voice

traffic, and that the entire loop facility has at least 33 percent local voice traffic. When a loop-transport combination includes multiplexing (e.g., DS1 multiplexed to DS3 level), each of the individual DS1 circuits must meet this criteria. This option does not allow loop-transport combinations to be connected to the incumbent LEC's tariffed services. Under this option, collocation is not required.

7. The Commission clarifies that the definitions described above provide a reasonable threshold for determining whether a carrier has taken affirmative steps to provide local service. There may be extraordinary circumstances under which a requesting carrier is providing a significant amount of local exchange service but does not qualify under any of the three definitions. In such a case, the requesting carrier may always petition the Commission for a waiver of the safe harbor requirements under its existing rules.

8. The Commission does not eliminate the prohibition on "co-mingling" (i.e. combining loops or loop-transport combinations with tariffed special access services) in the local usage definitions discussed. It is not persuaded on this record that removing this prohibition would not lead to the use of unbundled network elements by interexchange carriers solely or primarily to bypass special access services. The Commission also emphasizes that the co-mingling determinations that it makes in this order do not prejudice any final resolution on whether unbundled network elements may be combined with tariffed services. The Commission will seek further information on this issue in the Public Notice that we will issue in early 2001.

9. The Commission also clarifies that incumbent LECs must allow requesting carriers to self-certify that they are providing a significant amount of local exchange service over combinations of unbundled network elements. The Commission also states that it continues to believe that the Access Service Request process that incumbent LECs use to provision access circuits will allow requesting carriers to avoid material provisioning delays and unnecessary costs to integrate unbundled loop-transport combinations into their networks, and expect that carriers will use this process for circuit conversions.

10. In order to confirm reasonable compliance with the local usage requirements in the Supplemental Order Clarification, the Commission also finds that incumbent LECs may conduct limited audits only to the extent

reasonably necessary to determine a requesting carrier's compliance with the local usage definitions. Incumbent LECs requesting an audit should hire and pay for an independent auditor to perform the audit, and competitive LECs should reimburse the incumbent if an audit uncovers non-compliance with the local usage definitions. Incumbent LECs must provide at least 30 days written notice to a carrier that it will conduct an audit, and may not conduct more than one audit of the carrier in any calendar year unless an audit finds non-compliance. At the same time that an incumbent LEC provides notice of an audit to the affected carrier, it should send a copy of the notice to the Commission. The Commission expects that carriers will maintain appropriate records that they can use to support their local usage certification, and emphasizes that an audit should not impose an undue financial burden on smaller requesting carriers that may not keep extensive records. In the event of an audit of these smaller carriers, the incumbent LEC should verify compliance using the records that the carriers keep in the normal course of business.

Procedural Issues: Final Regulatory Flexibility Certification

11. The Regulatory Flexibility Act (RFA) requires that regulatory flexibility analyses be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." See 5 U.S.C. 605(b). The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." See 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. See 5 U.S.C. 601(3). 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). See 15 U.S.C. section 632. SBA rules provide that for establishments providing "Telephone Communications Except Radiotelephone," which is Standard Industrial Classification (SIC) Code 4813, a small entity is one employing no more than 1,500 persons.

12. This Clarification of the Supplemental Order in CC Docket No. 96-98 sets out the criteria under which a requesting carrier may use combinations of unbundled network

elements to provide exchange access services. The criteria is consistent with several of the Commission's findings in the Supplemental Order. It also extends the date by which the Commission will resolve its Fourth FNPRM from June 30, 2000. Until resolution of the Fourth FNPRM, IXC's are prohibited from converting special access services that they purchase from the Bell Operating Companies or other incumbent local exchange carriers to combinations of unbundled loops and transport network elements unless they meet the designated criteria. This clarification therefore pertains directly to IXC's, and indirectly to Bell Operating Companies (BOCs), other incumbent local exchange carriers, competitive local exchange carriers, and competitive access providers.

13. The Commission certifies that this clarification of the Supplemental Order will not have a significant economic impact on a substantial number of small entities because it maintains the status quo regarding the ability of IXC's to purchase special access services for a longer period of time. It also maintains the status quo for any small incumbent local exchange carriers from which interexchange carriers purchase special access services. The clarification also allows some limited auditing by incumbent local exchange carriers to determine whether IXC's that use combinations of unbundled network elements meet the established criteria in the Order. This limited auditing will not have a significant economic impact on a substantial number of small entities because any incumbent LEC that chooses to voluntarily exercise its limited auditing rights will bear all expenses associated with any resulting audit. The Commission has also required that audits be conducted based on the records that a small carrier keeps in the normal course of business. The Commission will send a copy of the Supplemental Order Clarification, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Supplemental Order Clarification 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**. *See* 5 U.S.C. 605(b).

Ordering Clauses

14. Pursuant to authority contained in sections 1,3,4,201–205, 251, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153,

154, 201–205, 251, 252, 256, 271, 303(r), the Commission clarifies the Supplemental Order discussed.

15. The requirements in this order will become effective immediately upon publication in the **Federal Register**.

16. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Supplemental Order Clarification, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 022500C]

RIN 0648–AM29

Fisheries of the Exclusive Economic Zone Off Alaska; Rebuilding Overfished Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Approval of fishery management plan amendment.

SUMMARY: NMFS announces the approval of Amendment 11 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). This amendment is necessary to implement a plan to rebuild the overfished stock of Bering Sea Tanner crab (*Chionoecetes bairdi*). This action is intended to ensure that conservation and management measures continue to be based on the best scientific information available and is intended to achieve, on a continuing basis, the optimum yield from the affected crab fisheries.

DATES: The amendment was approved on June 8, 2000.

ADDRESSES: Copies of Amendment 11 to the FMP, and the Environmental Assessment (EA) prepared for the amendment are available from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228 or gretchen.harrington@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS declared the Bering Sea stock of Tanner crab overfished on March 3, 1999, because the spawning stock biomass was below the minimum stock size threshold defined in Amendment 7 to the FMP (64 FR 11390). Amendment 7 specified objective and measurable criteria for identifying when all of the crab fisheries covered by the FMP are overfished or when overfishing is occurring. NMFS notified the North Pacific Fishery Management Council (Council) once NMFS determined that the stock was overfished (64 FR 15308, March 31, 1999). The Council then took action to develop a rebuilding plan within 1 year. Amendment 11, the rebuilding plan, is an FMP amendment that accomplishes the purposes outlined in the national standard guidelines to rebuild the overfished stock. Amendment 11 specifies a time period for rebuilding the stock that satisfies the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The rebuilding plan is estimated to allow the Bering Sea Tanner crab stock to rebuild, with a 50 percent probability, in 10 years. The stock will be considered “rebuilt” when the stock reaches the maximum sustainable yield stock size level in 2 consecutive years.

The Council's rebuilding plan incorporates the harvest strategy developed by the Alaska Department of Fish and Game and adopted by the Alaska Board of Fisheries. Section 8.0 of the FMP defers to the State of Alaska the authority to develop harvest strategies, with oversight by NMFS and the Council. The rebuilding harvest strategy should result in more spawning biomass because fishery and bycatch mortality would be reduced. This higher spawning biomass is expected to produce large year-classes when environmental conditions are favorable.

An EA was prepared for Amendment 11 that describes the management background, the purpose and need for action, the management alternatives, and the environmental and the socio-economic impacts of the alternatives. A copy of the EA can be obtained from NMFS (*see ADDRESSES*).

A notice of availability for the proposed Amendment 11 to the FMP, which described the proposed amendment and invited comments from the public, was published in the **Federal Register** on March 7, 2000 (65 FR 11973). Comments were invited until May 8, 2000. NMFS received no public comments on Amendment 11.

NMFS determined that Amendment 11 to the FMP is consistent with the Magnuson-Stevens Act and other