

appurtenances as needed to convert property acquired through a FEMA hazard mitigation program to uses compatible with open space, recreational, or wetland management practices.

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Dated: May 8, 2000.

**James L. Witt,**

Director.

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## FEDERAL MARITIME COMMISSION

### 46 CFR Part 520

[Docket No. 00-07]

#### Advance Notice of Proposed Rulemaking Concerning Public Access Charges to Carrier Automated Tariffs and Tariff Systems Under the Ocean Shipping Reform Act of 1998

**AGENCY:** Federal Maritime Commission.

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Maritime Commission is concerned that certain tariff access charges and minimum monthly subscription requirements may limit the public's ability to access tariffs and tariff systems, contrary to the requirements of the Ocean Shipping Reform Act of 1998. The Commission, therefore, is seeking public comments to address the reasonableness of tariff access charges.

**DATES:** Comments on or before June 15, 2000.

**ADDRESSES:** Comments (original and 15 copies) are to be submitted to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523-5725.

**FOR FURTHER INFORMATION CONTACT:** Austin L. Schmitt, Director, Bureau of Trade Analysis, Federal Maritime Commission, Washington, DC 20573, (202) 523-5796.

**SUPPLEMENTARY INFORMATION:** Effective May 1, 1999, the Ocean Shipping Reform Act of 1998 ("OSRA"), Pub. L. 105-258, 112 Stat. 1902, modified the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701 *et seq.* to require common carriers and conferences to publish their rates in private, automated tariff systems. OSRA requires these tariffs to be made available electronically to any person, without limits on time, quantity, or other such limitation, through appropriate access from remote locations, and authorizes

that "a reasonable charge" may be assessed for access (except for access by Federal agencies). 46 U.S.C. app. 1707(a)(2)). In addition, the legislative history concerning public access to tariffs provides the following guidance:

*The Act's requirement that common carrier tariffs be kept open to public inspection is retained. . . . There should be no government constraints on the design of a private tariff publication system as long as that system assures the integrity of the common carrier's tariff and the tariff system as a whole, and the system provides the appropriate level of public access to the common carrier's tariff information.* S. Rep. No. 61, 105th Cong., 1st Sess. at 23 (1997) (emphasis added).

The Commission believes that in passing OSRA, Congress intended to provide the general public access to tariff information at a nominal cost. Moreover, most businesses have now embraced the Internet as an important and user-friendly means of conveying information to potential customers at little or no cost to the customer. The Commission is concerned that certain access charges and minimum subscription requirements may limit the public's ability to access the carriers' tariff information that is now available on the Internet, contrary to the intentions of OSRA. Several informal complaints have been received by the Commission regarding carrier tariff systems<sup>1</sup> and the level of access charges, while others have questioned the propriety of time and quantity restrictions. A Commission staff review of tariff access charges indicates the existence of a wide range of charges and/or monthly minimums. For example, it has been brought to the Commission's attention that in some tariff systems, a public user desiring to check one term of a bill of lading or one rate, would have to subscribe to the system for a minimum of three months at a cost as high as \$1,500.<sup>2</sup>

Because the charges of some carriers may limit public availability and access to tariffs contrary to the intentions of OSRA, the Commission is initiating this Advance Notice of Proposed Rulemaking to address the issue of a "reasonable charge" for tariff access. The Commission is seeking comments from interested parties on any aspect of

<sup>1</sup> Most common carriers and conferences have delegated the responsibility for public accessibility, and the authority to assess charges for such access, to their agents, the tariff publishers. Nevertheless, the Commission will continue to look to common carriers and conferences, as the regulated entities, to ensure compliance with applicable laws and regulations.

<sup>2</sup> On the other hand, our review indicates that of the top ten publishers, two tariff publishers have no access charges.

this issue, and particularly on the following questions:

(1) Should the Commission promulgate any regulations or guidelines on the subject of "reasonable charges" for access to tariffs or tariff systems?

(2) Should a determination of the reasonableness of an access charge be based only on whatever additional costs may be incurred by carriers in making their tariffs accessible to the public and not include any costs for developing or maintaining tariffs that are the result of the carriers' responsibilities under OSRA?

(3) Should the public's cost to access carrier tariffs be similar to that encountered in accessing information made available on the Internet by other businesses?

(4) Should the public's cost to access carrier tariffs be comparable to that afforded to the public for the entire universe of carriers' tariffs under the Commission's former ATFI system?

(5) Should the number of tariffs accessible within any one system be considered in determining a "reasonable charge"?

In addition to soliciting the comments of regulated entities and tariff publishers, the Commission encourages any interested party to comment on these questions and on any experiences associated with the costs of accessing carrier tariffs.

By the Commission.

**Bryant L. VanBrakle,**  
Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 00-918; MM Docket No. 99-206; RM-9625]

#### Radio Broadcasting Services; Kimberly, ID

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; denial.

**SUMMARY:** This document denies a petition for rule making filed by Mountain West Broadcasting proposing the allotment of FM Channel 291C3 to Kimberly, Idaho, as that locality's first local aural transmission service. See 64 FR 31176, June 10, 1999. Evidence presented established that the proposed transmitter site at coordinates 42-30-22 NL and 114-21-45 WL to accommodate