Report and Order [4] based on the comparative predicted first and second services, Reno was properly preferred over Redding for the Channel 11 assignment.[5] Since the assignment was predicted on such service, the Commission anticipates that the decision of the Administrative Law Judge in comparing mutually exclusive applications for Channel 11 at Reno will take that factor into account.

8. In adopting its television assignment scheme, the Commission, while considering the UHF and VHF bands as component parts of a single television service, recognized the difference in signal propagation characteristics. In light of the fact that VHF stations can effectively cover larger areas, the Commission determined that, where possible, it would assign VHF channels to larger cities with broad areas of common interest. This determination reflected the Commission's conclusion that, to achieve an equitable distribution of television facilities, metropolitan centers should be assigned VHF channels rather than smaller communities. *Sixth Report and Order, supra,* at 168 (1952). In general, UHF channels were to be assigned to smaller communities in order to provide service for more localized needs. Reno (population 110,751) is substantially larger than Redding (population 41,995). The Commission staff has determined that a number of UHF channels are available to serve Redding. Accordingly, an assignment of Channel 11 to Reno rather than Redding is consistent with its general television assignment scheme set forth in the *Sixth Report and Order.*

9. Since an assignment of Channel 11 to Reno is preferable to an assignment to Redding, based on predicted first and second service and the standards set forth in the *Sixth Report and Order,* it is not incumbent on the Commission to address other aspects of STI's argument. Nevertheless, the Commission notes that STI had the opportunity to present engineering data illustrating the extent of predicted first and second service to the Susanville area in the context of its initial comments supporting its Redding counterproposal. In such circumstances, a proponent for a new television assignment should provide all relevant information which sheds the most favorable light on its proposal. Significantly, STI does not assert that it initially lacked access to information on which to construct predicted first and second service from a Redding site at Bunchgrass Mountain. Had STI presented such information in the context of its initial comments, the Commission would have compared the resultant predicted service with the predicted service from Peavine Peak and based on accepted Commission methodology, would have recognized the advantage of a Reno assignment. On the other hand, the Reno proponents did not know of the Redding counterproposal and did not have an opportunity to file comments of a comparative nature to respond to that counterproposal. Nevertheless, the Commission has considered the merits of STI's comments on this matter and reaffirms its previous findings. As to the suggested Susanville alternative, since no party indicated in response to the *Notice* that it was willing to be licensed to that community, it was not appropriate for the Commission to consider it. Finally, we note that at least one other TV channel (Channel 26) is available for assignment to Redding to provide an additional local television service upon request.

10. Accordingly, it is ordered, That the subject Petition for Reconsideration, filed by Sarkes Tarzian, Inc., is denied.

11. It is further ordered, That the subject Petition for Leave to File Supplement to Petition for Reconsideration and the subject Supplement to Petition for Reconsideration, filed by Sarkes Tarzian, Inc., are denied.

12. Further information on this matter may be obtained by contacting Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-945 Filed 1-16-86; 8:45 am]

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Hirshland Communications, Inc. (BPCT-850509KO), Reno Eleven Telecasters (BPCT-850509KH), and Peavine, Inc. (BPCT-850509KV).

[4] See, *Sixth Report and Order on Television Allocations, supra.*

[5] In its referenced engineering statement, STI questions whether, in fact, either Bunchgrass Mountain near Redding or Peavine Peak is a suitable site from which to provide first or second service to Susanville area. In this regard, STI relies on terrain profile studies. According to STI, although the Commission has temporarily suspended use of terrain roughness factors, that suspension was the result of anomalous results occurring under certain terrain conditions, the terrain factors here do not produce such anomalous results, and their use here will produce accurate coverage predications. However, the Commission's *Order* extending previous action staying the use of terrain roughness factors is applicable to all atypical terrain configurations, "even in those limited number of cases where terrain anomalies are encountered." *Effects of Terrain on Signal Propagation, Evaluation; Temporary Suspension of Certain Portions of Sections,* 42 FR 25736, published May 19, 1977.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1150

[Ex Parte No. 392 (Sub-No. 1)]

Class Exemption for the Acquisition and Operation of Rail Lines

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission exempts from regulation acquisitions and operations under 49 U.S.C. 10901. This exemption does not apply when a class I railroad abandons a line and another class I railroad then acquires the line in a transaction that results in a major market extension as defined at 49 CFR 1180.3(c). To qualify for this exemption, applicant must file a verified notice providing information about the transaction. The new rules are set forth at 49 CFR 1150, Subpart D, *Exempt Transactions* (See attached appendix).

DATE: The rules are effective February 17, 1986.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

This action will not significantly affect either the quality of the human environment or energy conservation. This rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1150

Administrative practice and procedures, and Railroads.

Authority: 49 U.S.C. 10321, 10901, 49 U.S.C. 10505; and 5 U.S.C. 553.

Decided: December 19, 1985.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley, and Strenio. Vice Chairman Simmons concurred with a separate expression. Commissioner Lamboley concurred in part, and dissented in part with a separate expression.

James H. Bayne,

Secretary.

Appendix

PART 49—[AMENDED]

1. The authority citation for 49 CFR Part 1150 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10901 and 10505; and 5 U.S.C. 553.

2. Title 49, Subtitle B, Chapter X, Part 1150 of the Code of Federal Regulations is amended by adding a new Subpart D, reading as follows:

Subpart D—Exempt Transactions

Sec.

Subpart D—Exempt Transactions

§ 1150.31 Scope of exemption.

(a) Except as indicated below, this exemption applies to all acquisitions and operations under section 10901 (*See* 1150.1, *supra*). This exemption also includes: (1) Acquisition by a noncarrier of rail property that would be operated by a third party; (2) operation by a new carrier of rail property acquired by a third party; (3) a change in operators on the line; and (4) acquisition of incidental trackage rights. Incidental trackage rights include the grant of trackage rights by the seller, or the assignment of trackage rights to operate over the line of a third party that occur at the time of the exempt acquisition or operation. This exemption does not apply when a class I railroad abandons a line and another class I railroad then acquires the line in a proposal that would result in a major market extension as defined at 49 CFR 1180.3(c).

(b) Other exemptions that may be relevant to a proposal under this Subpart are the exemption for control at 49 CFR 1180.2(d) (1) and (2), and the exemption from securities regulation at 49 CFR 1175.

§ 1150.32 Procedures and relevant dates.

(a) To qualify for this exemption, applicant must file a verified notice providing details about the transaction, and a brief caption summary, conforming to the format in 1150.34, for publication in the **Federal Register**.

(b) The exemption will be effective 7 days after the notice is filed. The Commission, through the Director of the Office of Proceedings, will publish a notice in the **Federal Register** within 30 days of the filing. A change in operators would follow the provisions at 49 CFR 1150.34, and notice must be given to shippers.

(c) If the notice contains false or misleading information, the exemption is void *ab initio*. A petition to revoke under 49 U.S.C. 10505(d) does not automatically stay the exemption.

§ 1150.33 Information to be contained in notice.

(a) The full name and address of the applicant;

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

(d) The operator of the property;

(e) A brief summary of the proposed transaction, including (1) the name and address of the railroad transferring the subject property, (2) the proposed time schedule for consummation of the transaction, (3) the mile-posts of the subject property, including any branch lines, and (4) the total route miles being acquired;

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States; and

§ 1150.34 Caption summary.

The caption summary must be in the following form. The information symbolized by numbers is identified in the key below:

Interstate Commerce Commission

Notice of Exemption

Finance Docket No.

(1)—Exemption (2)–(3)

(1) Has filed a notice of exemption to (2) (3)'s line between (4). Comments must be filed with the Commission and served on (5). (6).

Key to symbols:

(1) Name of entity acquiring or operating the line, or both.

(2) The type of transaction, *e.g.*, to acquire, operate, or both.

(3) The transferor.

(4) Describe the line.

(5) Petitioners representative, address, and telephone number.

(6) Cross reference to other class exemptions being used.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley, and Strenio. Vice Chairman Simmons concurred with a separate expression. Commissioner Lamboley concurred in part, and dissented in part with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-1075 Filed 1-16-86; 8:45 am]

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49 CFR Part 1152

[Ex Parte No. 274 (Sub-14)]

Rail Abandonments; Offers of Financial Assistance

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: On April 12, 1985, a Notice of Proposed Rulemaking was published to modify the regulations at 49 CFR 1152.27 governing the filing of offers of financial assistance under 49 U.S.C. 10905, (50 FR 14401). Upon further consideration, the Commission has decided to revise: (1) Section 1152.27(h)(4) to provide that the offeror must submit its evidence and argument in support of its requested terms by the 30th day after the offer was made, the carrier must submit its reply evidence by the 50th day after the offer was made, and the offeror may submit rebuttal by the 60th day after the offer was made; and (2) § 1152.27(h)(1) to provide that the Commission will issue its decision within 60 days after the request for it to set terms was due (i.e., 90 days after the offer was made).

DATE: The rule will be effective February 17, 1986.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

This action will not significantly affect either the quality of the human environment or energy conservation. This rule will not have a significant economic impact on a substantial number of small entities because the purpose is to protect the rights of parties to have a balanced and quick resolution to their request to have the Commission set the terms for sale or subsidy.

The list of subjects involved in 49 CFR Part 1152 includes: Administrative Practice and Procedures, and Railroads.

Decided: December 30, 1985.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners

Taylor, Sterrett, Andre, Lamboley, and Strenio. Commissikoners Taylor and Strenio did not participate.

James H. Bayne,

Secretary.

Appendix

PART 1152—[AMENDED]

1. The authority citation for 49 CFR Part 1152 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10326 and 10905; and 5 U.S.C. 553.

2. 49 CFR Part 1152.27 is amended by revising paragraphs (h) (1) and (4) to read as follows:

§ 1152.27 Financial assistance procedures.

* * * * *

(h) * * *

(1) If the Commission is requested to establish conditions and compensation for financial assistance under paragraph (g)(1) of this section, the Commission will issue a decision within 60 days after the request is due (i.e., within 90 days after the offer is made).

* * * * *

(4) The offeror must submit all evidence and information supporting the terms it seeks within 30 days after the offer is made. The carrier's reply to this evidence and support for the terms it seeks are due within 50 days after the offer is made. The offeror may submit rebuttal evidence within 60 days after the offer is made. Evidence and information submitted after these dates may be rejected.

* * * * *

[FR Doc. 86-1079 Filed 1-16-86; 8:45 am]

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