

recreational, historical, educational, and geological values in the Bagby Hot Springs Area:

Willamette Meridian

Mt. Hood National Forest

T. 7 S., R. 5 E.,

Sec. 14, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 22, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Sec. 24, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 25, W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 26, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and that portion of the S $\frac{1}{2}$ S $\frac{1}{2}$ outside the Bull of the Woods Wilderness Area as more particularly identified and described in the official records of the Bureau of Land Management, Oregon State Office;

Sec. 27, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and that portion of the S $\frac{1}{2}$ SE $\frac{1}{4}$ outside the Bull of the Woods Wilderness Area as more particularly identified and described in the official records of the Bureau of Land Management, Oregon State Office;

Sec. 34, that portion of the N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ outside the Bull of the Woods Wilderness Area as more particularly identified and described in the official records of the Bureau of Land Management, Oregon State Office;

Sec. 35, that portion of the N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ outside the Bull of the Woods Wilderness Area as more particularly identified and described in the official records of the Bureau of Land Management, Oregon State Office.

The area described contains approximately 1,936 acres in Clackamas County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: July 28, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93-19013 Filed 8-6-93; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6992

[AK-932-4210-06; AA-56314]

Partial Revocation of Executive Order No. 4257, Dated June 27, 1925; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects approximately 228 acres of National Forest System lands withdrawn for use by the Coast Guard, Department of Transportation, for the Sukoi Islets and the Turn Point Lighthouses. The lands are no longer needed for the purpose for which they were withdrawn. This action also opens the Sukoi Islets Lighthouse land for selection by the State of Alaska, if such land is otherwise available. Any of this land that is not selected by the State will be open to such forms of disposition as may by law be made of National Forest System lands. The Turn Point Lighthouse land is part of the Misty Fjords National Monument and Misty Fjords National Monument Wilderness, as established and designated by the Alaska National Interest Lands Conservation Act, and remains withdrawn from all forms of entry, appropriation, or disposal under the public land laws.

EFFECTIVE DATE: August 9, 1993.

FOR FURTHER INFORMATION CONTACT:

Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Executive Order No. 4257, dated June 27, 1925, which withdrew National Forest System lands for lighthouse purposes, is hereby revoked insofar as it affects the following described lands:

Copper River Meridian

Tongass National Forest

(a) Sukoi Islets Lighthouse

The western island of the Sukoi Islets, Frederick Sound, located within protracted secs. 26, 27, and 35, of T. 57 S., R. 79 E., excluding a parcel of land more particularly described as:

Beginning at a point 100 feet due East of Sukoi Islets Light; Thence along due North, South line to mean high water, all land due West of this North, South line containing approximately 2.0 acres.

The area described contains approximately 118 acres.

(b) Turn Point Lighthouse

A parcel of land located within protracted secs. 15 and 22, of T. 74 S., R. 101 E., beginning at a point on low water line, west shore of Portland Canal, 3040 feet in a direct line, southerly from the center of Turn Point Beacon, a tripod anchored to concrete piers; Thence west true 1520 feet; Thence north true, 5050 feet, more or less, to an intersection with the low line; Thence southeasterly and southerly following the windings of low water line to point of beginning. The area described contains approximately 110 acres.

The areas described aggregate approximately 228 acres.

2. Subject to valid existing rights, the land described in paragraph 1(a) is hereby opened to selection by the State of Alaska under section 6(a) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988).

3. As provided by section 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the land described in paragraph 1(a), for a period of ninety-one (91) days from the date of publication of this order, if such land is otherwise available. Any of the land described in paragraph 1(a) that is not selected by the State of Alaska will continue to be subject to the terms and conditions of the Tongass National Forest reservation, and any other withdrawal of record.

4. At 10 a.m. on November 8, 1993, the land described in paragraph 1(a) will be opened to such forms of disposition as may by law be made of the National Forest System land, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

5. The land described in paragraph 1(b) is part of the Misty Fjords National Monument and Misty Fjords National Monument Wilderness pursuant to sections 503, 703, and 707 of the Alaska National Interest Lands Conservation Act, 94 Stat. 2399, 2418, and 2421, and remains withdrawn from all forms of entry, appropriation, or disposal under the public land laws. Any land described in paragraph 1(b) that may be outside of the Misty Fjords National Monument and Misty Fjords National Monument Wilderness will remain withdrawn from all forms of entry, appropriation, or disposal under the public lands laws until a further opening order is published.

Dated: July 28, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93-19011 Filed 8-6-93; 8:45 am]

BILLING CODE 4310-JA-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21, 25, 73, 74, 76 and 100

[MM Docket No. 92-261, FCC 93-334]

Revision of Broadcast and Cable Television EEO Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order in MM Docket No. 92-261 adopts rules to implement Section 22 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"). Specifically, in this Report and Order the Commission has amended its broadcast EEO Rule to require a mid-term review of broadcast television stations. In addition, the Commission amended its cable EEO regulations and reporting form to expand the number of job categories from nine to 15, require the collection of job title information, and to expand the scope of the cable EEO regulations to include any multichannel video programming distributor. This action is taken in order to comply with the EEO provisions set forth in Section 22 of the 1992 Cable Act.

EFFECTIVE DATES: Rules: September 8, 1993. Revised FCC Form 395-A: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Lisa M. Higginbotham, Mass Media Bureau, Enforcement Division. (202) 632-7069.

SUPPLEMENTARY INFORMATION: Public reporting burden for the collection of information under FCC Form 395-A is estimated to be 1.95 hours per response. This reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, AMD-PIRS, Records Management Division, Washington, DC 20554, and to the Office of Management

and Budget, Paperwork Reduction Project, Washington, DC 20503.

This is a synopsis of the Commission's Report and Order in MM Docket No. 92-261, adopted June 24, 1993, and released July 23, 1993. The complete text of this document which was adopted in MM Docket No. 92-261, is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. at (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. This Report and Order in MM Docket No. 92-261 adopts rules to implement Section 22 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"). This Act adds a new Section 334 to the Communications Act of 1934 which codifies the Commission's broadcast EEO rule (47 CFR 73.2080) and its EEO reporting forms as they apply to broadcast television stations (FCC Form 396 and FCC Form 395-B) and requires a mid-term review of broadcast television stations' employment practices. The 1992 Cable Act also amends Section 634 of the Communications Act to require the collection of more specific employee data from cable operators, expand the number of job categories from nine to 15, raise the basic forfeiture for cable EEO violations from \$200 to \$500, and expand the scope of the EEO provisions to include multichannel video programming distributors. The Notice of Proposed Rule Making ("NPRM") in this rule making proceeding, 58 FR 3929 (January 12, 1993), sought comment on proposed rules to implement the EEO provisions of the 1992 Cable Act.

Mid-term Reviews for Broadcast Television Stations

2. In the Report & Order we amended our current broadcast EEO Rule (47 CFR 73.2080) to require an EEO mid-term review of broadcast television stations. This review will consist of an evaluation of a station's employment profile using our processing guidelines. To conduct this review, we will use the first two Forms 395-B filed after the station's group license expiration date as specified in 47 CFR 73.1020 of our rules. The mid-term review letters, which will be sent only to those licensees who fail the review, will contain sufficient information to provide licensees with specific guidance as to areas of possible EEO deficiency.

The results of the mid-term review will not result in a sanction against the licensee but will constitute only an early warning that a licensee's EEO efforts may need improvement. Thus, the absence of a deficiency letter at mid-term will not be evidence of compliance at renewal time. Moreover, at renewal time, we will take cognizance of all pertinent EEO data, including data relied upon for the mid-term review. The first group of broadcast television stations that will be subject to the mid-term review, will be those stations whose licenses expired on October 1, 1991. This group includes those broadcast television stations located in the District of Columbia, Maryland, Virginia, and West Virginia.

Cable Equal Employment Opportunities

3. *Collection of Employee Data.* In the NPRM, the Commission proposed to amend the cable annual employment report (FCC Form 395-A) to collect employment data for full and part-time employees separately as well as by job title. In addition, the Commission proposed to collect recruitment, hiring, promotion and employment information for the additional six new upper-level job categories. Based upon the comments in this proceeding, we have revised the amount of information collected on the Form 395-A. Specifically, cable operators will continue to report employee data for full and part-time employees in the aggregate on one grid. To collect the job title information, we will allow cable operators to submit computer-generated employee lists as suggested by one commenter. Cable operators also will submit hiring and promotion data for the six new job categories. Although we will not collect specific recruitment information, on the Form 395-A, we remind cable operators that they are expected to maintain documentation of their recruitment efforts for all job categories, including the six new job categories, and to submit such documentation upon Commission request.

4. *Definitions for Job Categories.* The 15 job categories include: Corporate Officers, General Manager, Chief Technician, Comptroller, General Sales Manager, Production Manager, Managers, Professionals, Technicians, Sales, Office and Clerical, Craftworkers, Operatives, Laborers, and Service Workers. In the NPRM, the Commission proposed definitions for the first six job categories and to adopt the current definitions for the remaining nine job categories. Based upon the record in this proceeding, we have

revised and clarified the definitions for 11 of the 15 job categories.

5. *Analysis of Employee Data.* In the NPRM, the Commission sought comment on whether it should provide workforce statistics for the six new job categories, as it currently does for the original nine job categories. It also sought comment on whether it was required to engage in a competency-based analysis. Based on the record in this proceeding, we have determined that we should maintain our current practice of providing statistical information only for each of the original nine job categories and in the aggregate. In addition, we will not engage in a competency-based analysis when reviewing employee data submitted by cable operators.

6. *Multichannel Video Programming Distributors.* In the NPRM, the Commission proposed to amend its rules to include "any multichannel video programming distributor" within the scope of its cable EEO regulations. In addition, it proposed to adopt the Act's definition of this term. In the Report and Order, we have revised our cable EEO rules to include within their scope multichannel video programming distributors. As such, the cable EEO regulations will be imposed on only those entities which exercise control over multiple channels of video programming offered directly to the public. An entity is deemed to have control over the video programming it distributes if it selects video programming channels or programs and determines how they are presented for sale to consumers.

7. Accordingly, a local exchange carrier (LEC) offering video dialtone service currently does not provide video programming directly to the public or have the ability to exercise control over the selection of video programming provided directly to the public. Consequently, LECs are not under these circumstances subject to the cable EEO provisions. Rather, the entity that exercises control over video programming—the program service provider using the video dialtone transport facility—will under our new rules be subject to our cable EEO rules and policies. Similarly, a licensee or lessee of an MMDS facility which does not exercise control over the video programming distributed (e.g., those operating as common carriers) would not be subject to these cable EEO rules. Rather, our cable EEO requirements would apply to the "wireless cable" provider, whether using owned or leased MDS, MMDS (and/or ITFS) facilities to distribute video programming. Likewise, the licensee of

a DBS facility that does not exercise control over video programming distributed would not be subject to our EEO rules. Rather, our EEO requirements would apply to the "provider" of the DBS service whether using owned or leased satellite facilities to distribute video programming. If both the licensee and the customer-programmer exercise control, both would be subject to the EEO rules.

8. In each of the above-listed scenarios, the cable EEO provisions apply to those program packagers who distribute two or more channels of video programming directly to the public. We do not believe, however, that Congress intended to impose the cable EEO requirements on entities that principally own and originate programming, even though a small portion of their business may be devoted to distributing commonly-owned programming in packages to subscribers. We will, therefore, adopt a limited exception to the cable EEO rules to accommodate such programmers. Specifically, a programming service offering six or less channels of commonly-owned video programming over a leased transport facility will not be subject to the cable EEO requirements. However, a programmer offering more than six channels of commonly-owned video programming must comply with the cable EEO requirements. For purposes of this exception, programming services will be considered "commonly-owned" if the same entity holds a majority of the stock (or is a general partner) of each program service.

9. *Effective Date of New Provisions.* Entities using MDS, MMDS, ITFS, DBS, TVRO, and/or video dialtone transport facilities that previously have not been subject to the cable EEO requirements are expected, as of the effective date of these rules, to ascertain the requirements of the cable EEO regulations and to take steps to ensure compliance with all of these provisions, including the reporting requirements. Although the Commission will make an effort to compile a mailing list of the entities newly subject to the cable EEO regulations, it is ultimately the responsibility of each "multichannel video programming distributor" to which the statutory requirement applies to obtain and file the requisite annual reporting forms. Parties seeking to be included on the forms mailing list are requested to provide the Commission (Equal Employment Opportunity Branch, Mass Media Bureau) with a letter indicating the company's name and address and the location(s) of the regulated operation no later than October 1, 1993. We anticipate that

entities that are newly subject to the cable EEO rules will file cable annual employment reports (FCC Form 395-A) pursuant to 47 CFR 76.77 beginning with the 1994 Annual Employment Report. However, in order to facilitate the transitional filing period for these entities we will waive the requirement for the submission by these entities of the 12-month hiring and promotion data as requested in Section V. B & C and Section VII of the 1994 Annual Employment Report.

Administrative Matters

Final Regulatory Flexibility Analysis

10. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. *Need and purpose of this action.* This action is taken to implement the equal employment opportunity (EEO) provisions of the Cable Television Consumer Protection and Competition Act of 1992.

II. *Summary of issues raised by comments in response to the Initial Regulatory Flexibility Analysis.* No comments were received in response to the request for comments to the Initial Regulatory Flexibility Analysis. However, comments received in response to the Notice of Proposed Rule Making indicate that smaller cable systems are concerned about the administrative impact of the EEO reporting requirements. One commenter suggested that we eliminate redundant reporting requirements or streamline EEO reporting forms for small cable systems.

III. *Significant alternatives considered and rejected.* The Act streamlines reporting requirements for small cable entities which employ fewer than six full-time employees. Cable entities, which employ six or more full-time employees, must comply with all of the EEO reporting requirements. Thus, we find no reason to provide a more streamlined reporting form for small cable operators as one commenter suggests. We have, however, revised our Form 395-A to require less information than that proposed in the Notice. We believe that this revised form complies with the 1992 Cable Act, collects sufficient data to ascertain EEO compliance; and imposes a minimum burden on cable operators.

IV. *Paperwork Reduction Act Statement:* The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new and modified information collection on the public. Implementation of any new or modified

requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

11. The Secretary shall cause a copy of this Report & Order, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ordering Clauses

12. Accordingly, it is ordered that, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and the Cable Television Consumer Protection and Competition Act of 1992, Public Law No. 102-385, parts 1, 21, 25, 73, 74, 76, and 100 of the Commission's rules, 47 CFR parts 1, 21, 25, 73, 74, 76, and 100 are amended as set forth below.

13. It is further ordered that the amendments to parts 1, 21, 25, 73, 74, 76, and 100 of the Commission's rules as set forth in this Report and Order will be effective thirty (30) days from the date of publication within the Federal Register.

14. It is further ordered that the revised Form 395-A set forth in this Report & Order will be effective ninety (90) days from the date of publication within the Federal Register.

15. It is further ordered that the Petition for Further Rule Making filed by NAACP on February 17, 1993, is denied.

16. It is further ordered that MM Docket No. 92-261 is terminated.

List of Subjects

47 CFR Part 1

Reporting and recordkeeping requirements.

47 CFR Part 21

Reporting and recordkeeping requirements, Television.

47 CFR Part 25

Reporting and recordkeeping requirements, Satellites.

47 CFR Part 73

Television broadcasting.

47 CFR Part 74

Television broadcasting.

47 CFR Part 76

Equal employment opportunity, Reporting and recordkeeping requirements.

47 CFR Part 100

Equal employment opportunity.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Amendatory Text

Parts 1, 21, 25, 73, 74, 76 and 100 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Paragraph (c) is added to § 1.815 to read as follows:

§ 1.815 Reports of annual employment.

* * * * *

(c) *Cross references.*

(1) *Applicability of cable television EEO reporting requirements to MDS and MMDS facilities, see § 21.920 of this Chapter.*

(2) *Applicability of cable television EEO reporting requirements for FSS facilities, see § 25.601 of this Chapter.*

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

3. The authority citation for part 21 is revised to read as follows:

Authority: Secs. 1, 2, 4, 201-205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070-1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201-205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

4. Paragraph (g) is added to § 21.307 to read as follows:

§ 21.307 Equal employment opportunities.

* * * * *

(g) *Cross reference.* Applicability of cable television EEO requirements to MDS and MMDS facilities, see § 21.920.

5. Section 21.920 is added to Subpart K to read as follows:

§ 21.920 Applicability of cable television EEO requirements to MDS and MMDS facilities.

Notwithstanding other EEO provisions within § 1.815 of this chapter and § 21.307, an entity that uses an owned or leased MDS, MMDS and/or ITFS facility to provide more than one channel of video programming directly to the public must comply with the equal employment opportunity requirements set forth in part 76, subpart E of this chapter, if such entity exercises control (as defined in part 76,

subpart E of this chapter) over the video programming it distributes.

PART 25—SATELLITE COMMUNICATIONS

6. The authority citation for part 25 is revised to read as follows:

Authority: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101-104, 76 Stat. 419-427; 47 U.S.C. 701-744; 47 U.S.C. 554.

7. Part 25 is amended by adding Subpart I to read as follows:

Subpart I—Equal Employment Opportunities

25.601 Equal employment opportunity requirement.

Subpart I—Equal Employment Opportunities

§ 25.601 Equal employment opportunity requirement.

Notwithstanding other EEO provisions within § 1.815 of this chapter, an entity that uses an owned or leased fixed satellite service facility (operating under this part) to provide more than one channel of video programming directly to the public must comply with the equal employment opportunity requirements set forth in part 76, subpart E of this chapter, if such entity exercises control (as defined in part 76, subpart E of this chapter) over the video programming it distributes.

PART 73—RADIO BROADCAST SERVICES

8. The Authority Citation for part 73 is revised to read as follows:

Authority: 47 U.S.C. 154, 303, 334.

9. Paragraph (d) is added to § 73.2080 to read as follows:

§ 73.2080 Equal employment opportunities.

* * * * *

(d) *Mid-term review for television broadcast stations.* The Commission will conduct a mid-term review of the employment practices of each broadcast television station at two and one half years following the station's most recent license expiration date as specified in § 73.1020. The Commission will use the employment profile information provided on the first two Form 395-B reports submitted following such license expiration date to determine whether television station's employment profiles as compared to the applicable labor force data, are in compliance with the Commission's processing criteria. Television broadcast stations which employment profiles fall

below the processing criteria will receive a letter noting any necessary improvements identified as a result of the review.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

10. The Authority Citation for part 74 is revised to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, 554.

11. Section 74.996 is added to subpart I to read as follows:

§ 74.996 Applicability of cable EEO requirements to ITFS facilities.

Notwithstanding other EEO provisions within §§ 1.815 and 21.307 of this chapter, an entity that uses an owned or leased MDS, MMDS and/or ITFS facility to provide more than one channel of video programming directly to the public must comply with the equal employment opportunity requirements set forth in part 76, subpart E of this chapter, if such entity exercises control (as defined in part 76, subpart E of this chapter) over the video programming it distributes. With respect to the use of an ITFS facility, the EEO provisions set forth in part 76, subpart E do not apply to an accredited institution or government organization engaged in the formal education of enrolled students or to a nonprofit organization whose purposes are educational and include providing educational and instructional television material to such accredited institutions and governmental organizations.

PART 76—CABLE TELEVISION SERVICE

12. The authority citation for part 76 is revised to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1101; 47 U.S.C. Secs. 152, 153, 154, 301, 303, 307, 308, 309; 532; 533; 535; 542; 543; 552; 554, as amended, 106 Stat. 1460.

13. Paragraph (a) of § 76.71 is revised to read as follows:

§ 76.71 Scope of application.

(a) The provisions of this subpart shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system. Cable entities subject to these provisions include those systems defined in § 76.5(a), all satellite master antenna television systems serving 50 or more subscribers, and any multichannel

video programming distributor. For purposes of the provisions of this subpart, a multichannel video programming distributor is an entity such as, but not limited to, a cable operator, a multipoint distribution service, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, or a video dialtone program service provider, who makes available for purchase, by subscribers or customers, multiple channels of video programming, whether or not a licensee. Multichannel video programming distributors do not include any entity which lacks control over the video programming distributed. For purposes of this subpart, an entity has control over the video programming it distributes, if it selects video programming channels or programs and determines how they are presented for sale to consumers. Notwithstanding the foregoing, the regulations in this subpart are not applicable to the owners or originators (of programs or channels of programming) that distribute six or fewer channels of commonly-owned video programming over a leased transport facility. For purposes of this subpart, programming services are "commonly-owned" if the same entity holds a majority of the stock (or is a general partner) of each program service.

* * * * *

14. Paragraph (d) is added to § 76.77 to read as follows:

§ 76.77 Reporting requirements.

* * * * *

(d) *Job category definitions.* The following job category definitions are to be used when classifying employees for purposes of this section:

(1) *Corporate officers.* An employee who is responsible for setting broad policies for the overall operation of the company and who holds a corporate office as designated by the company's governing regulations (e.g., Articles of Incorporation, Articles of Partnership, By-Laws). Examples of positions which may fall within this category include, Chairman of the Board, President and Vice President.

Note: Employees who perform responsibilities falling within the "Corporate Officers" and another of the job categories in paragraphs (d) (2) through (6), should normally be classified in only one of the categories in paragraphs (d) (2) through (6). Specific job titles for categories in paragraphs (d) (1) through (6) are merely illustrative. The proper categorization of any employee depends on the kind and level of the employee's responsibilities and not merely

the employee's title. Employees who are appropriately classified into one of the categories in paragraphs (d) (1) through (6) also should fall within the category of paragraph (d)(7).

(2) *General manager.* An employee who exercises overall responsibility for a cable unit or system. Related title may include "systems manager."

(3) *Chief technician.* An employee who has overall responsibility for the system's technical operations. The incumbent ordinarily oversees technical budgets and expenditures, inventory control and fleet management. Individual ordinarily supervises technical personnel in the installation, service, maintenance and construction departments and/or studio. Category includes related titles such as "Technical Operations Manager," "Technical Manager," "Plant Manager," or "Chief Engineer."

(4) *Comptroller.* An employee who manages the activities of the accounting department in the maintenance of the accounting book and other such records.

(5) *General sales manager.* A senior sales or marketing employee who oversees the marketing functions of the system which may include telemarketing in addition to direct sales.

(6) *Production manager.* A senior employee responsible for advertising and/or production of local community programming.

Note: An employee whose responsibilities fall within more than one of the job categories in paragraphs (d) (2) through (6), (i.e., General Manager/Comptroller), should be listed in the one job category which represents the most frequently performed task by that person.

(7) *Managers.* Occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases or segments of a firm's operation or subdepartments of a major department. Incumbents within this category ordinarily exercise authority to hire and terminate employees. This category would include systems managers and assistant managers, program directors and assistant directors, office managers, budget officers, promotions managers, public affairs directors, chief engineers and those holding equivalent positions. Employees appropriately falling within categories in paragraphs (d) (1) through (6) also should fall within this category.

(8) *Professionals.* Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, editors, engineers, lawyers and labor

relations specialists. This category would include persons engaged in the writing, preparation and reproduction of programming, writers or editors, producers and directors of programs, floor directors, announcers, singers, actors, music librarians and those in similar positions.

(9) *Technicians*. Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers and operators, engineering aides, junior engineers and electronic technicians. This category also would include strand mappers, audio and video engineers, camera technicians (live or film), film processors, light technicians, drafters and design personnel, electronic converter repair technicians (technicians who perform more than clear and recycle functions) and advertising sales production personnel.

(10) *Sales*. Occupations engaging wholly or primarily in direct selling. This category would include advertising agents, cable service sales personnel (sales representatives), and individuals engaged in direct customer contact for the purposes of product and service promotion. This category includes employees who ordinarily are paid by commissions.

(11) *Office and clerical*. Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: Bookkeepers, cashiers, collectors of bills and accounts, messengers and clerks, office machine operators, stenographers, typists and secretaries, telephone operators, kindred workers and customer service representatives.

(12) *Craft workers (skilled)*. Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: Hourly paid supervisors who are not members of management, mechanics, and repair workers, electricians, motion picture projectionists, and splicers.

(13) *Operatives (semi-skilled)*. Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training

Includes: Apprentices, operatives, truck and tractor drivers, welders, installers, line workers, and trenching machine workers.

Note: Apprentices—Persons employed in a program including work training and related instruction to learn a trade or craft which is traditionally considered an apprenticeship regardless of whether the program is registered with a Federal or State agency.

(14) *Laborers (unskilled)*. Workers in manual occupations which generally require no special training. Perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: gardeners and groundskeepers, laborers performing lifting or digging, stage hands and kindred workers.

(15) *Service workers*. Workers in both protective and nonprotective service occupations. Includes: Char workers and cleaners, elevator operators, guards and watch workers, janitors, and kindred workers.

NOTE: A person who does a job falling within more than one of the job categories listed in paragraphs (d) (7) through (15) is to be listed in the job category which represents the most frequently performed task by that person; a person is to be listed only once. Specific job titles listed in the categories above are merely illustrative. The proper categorization of any employee depends on the kind and level of the employee's responsibilities.

PART 100—DIRECT BROADCAST SATELLITE SERVICE

15. The authority citation for part 100 is revised to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 554.

16. Paragraph (e) is added to) § 100.51 to read as follows:

§ 100.51 Equal employment opportunities.

(e) Notwithstanding other EEO provisions within these rules, an entity that uses an owned or leased DBS facility operating under this part to provide more than one channel of video programming directly to the public must comply with the equal employment opportunity requirements set forth in part 76, subpart E of this chapter, if such entity exercises control (as defined in part 76, subpart E of this chapter) over the video programming it distributes.

[FR Doc. 93-18775 Filed 8-6-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 61

[CC Docket No. 90-132 FCC 93-355]

Competition in the Interstate Interexchange Marketplace—Petitions for Modification of Fresh Look Policy

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for modification of "fresh look" policy.

SUMMARY: This Memorandum Opinion and Order ("the order") denies petitions by the Ad Hoc Telecommunications Users Committee and Sprint Communications Company LP seeking extension and expansion of the Commission's "fresh look" policy adopted in the August 1, 1991, Report and Order in this proceeding. The order finds that petitioners' arguments were not sufficiently compelling to warrant the extension of "fresh look" and noted that many of petitioners' arguments had been considered and rejected in earlier proceedings. The order rejected Sprint's request to expand "fresh look" to AT&T's 800 service term plans, finding the request procedurally improper and its arguments unconvincing. The order is intended to allow the "fresh look" period to close, as scheduled, after 90 days and to bring stability to the 800 services market.

EFFECTIVE DATE: September 8, 1993.

FOR FURTHER INFORMATION CONTACT: Andy Lachance, Common Carrier Bureau, Policy and Program Planning Division, (202) 632-1305.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order in CC Docket No. 90-132, adopted on July 15, 1993, and released on July 26, 1993.

The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's contractor, International Transcription Service, Inc., at 1919 M Street, NW., room 246, Washington, DC 20554, (202) 857-3800.

Synopsis of Memorandum Opinion and Order

1. On November 6, 1992, the Ad Hoc Telecommunications Users Committee (Ad Hoc) petitioned the Commission requesting extension of the "fresh look" policy that was adopted in the Commission's August 1, 1991 Report and Order in this proceeding, 6 FCC Rcd 5880 (1991), 56 FR 55235 (October 25, 1991). Ad Hoc asks that the "fresh look"

period be extended until ninety days after implementation of an automated notice-and-acceptance functionality in the 800 database system. On December 2, 1992, Sprint Communications Company LP (Sprint) filed an emergency petition for declaratory ruling asking the Commission to revise its "fresh look" policy by extending it from 90 to 180 days and expanding it to include all of AT&T's 800 term plans.

2. In the Report and Order, we found that AT&T maintained a market advantage in the provision of 800 and inbound services due to the lack of 800 number portability. (Prior to May 1, 1993, customers could not change 800 service providers without also having to change their 800 numbers.) We found further that AT&T had a unique ability to leverage its market power in 800 and inbound services by bundling these services with other services. We found that through bundling, AT&T could use its market power over certain 800 service customers to gain an advantage in other markets. Thus, we prohibited AT&T from future bundling of 800 services in integrated services packages until 800 numbers became portable. However, we allowed Tariff 12 options on file as of August 1, 1991, to remain in effect, even if they included inbound service. In addition, we provided that AT&T must permit customers with Tariff 12 packages that include inbound service to terminate these packages within ninety days of the time 800 numbers became portable without the imposition of any termination liabilities—the so-called "fresh look" requirement.

3. On April 17, 1992, in the Memorandum Opinion and Order on Reconsideration, 7 FCC Rcd 2677 (1992), 57 FR 20206 (May 12, 1992), we modified the bundling restrictions to prohibit AT&T from offering bundled service arrangements that included "old" 800 numbers (numbers in use by the customer prior to April 17, 1992), and to apply to Tariff 16s and other tariffed service offerings that included 800 service. Likewise, we modified the grandfathering provision to allow the customers of Tariff 12s, Tariff 16s, or other tariffed offerings with bundled 800 service, to continue to take service under those arrangements, provided that the customer had signed a final contract for service or begun taking service on or before April 16, 1992. Finally, we reaffirmed the fresh look requirement and applied it to all grandfathered Tariff 12, Tariff 16, and other bundled service customers.

4. Fresh look rights were triggered by the implementation on May 1, 1993, of a new 800 data base system of 800

access which permits 800 number portability. Under the 800 data base system, all 800 customer service records are loaded into a central data base known as the service management system (SMS). The only entity authorized to input a new 800 customer service record or change an existing record in the SMS is the "responsible organization" or "RESPORG" designated by the customer. In the event that multiple carriers provide service for a particular 800 number, the RESPORG for that record may not add traffic to another carrier's network without first notifying that carrier and obtaining its acceptance of the service order. Initially, the industry will use manual notice-and-acceptance procedures. It is expected that automated procedures will replace these manual procedures in May 1994.

5. The order denies the Ad Hoc and Sprint petitions. It finds that none of the reasons given by the petitioners warrant an extension of the ninety-day "fresh look" period. Sprint argues that many customers will adopt a "wait and see attitude" and hold off on a change in 800 service provider until they are comfortable with the 800 data base and related systems. This argument is not convincing. Commission staff have closely monitored the progress of 800 data base implementation to ensure that the necessary network-related work was complete before the system was implemented. Moreover, our monitoring efforts have included monthly meetings attended by representatives of the large users that are subject to the "fresh look" policy. As a result, we do not believe that users harbor the grave concerns Sprint identifies or that these types of concerns would still be justified.

6. The order also rejects Ad Hoc's argument that customers seeking multiple carrier routing arrangements may be reluctant to change carriers without automated notice-and-acceptance procedures. In the 800 Data Base Proceeding, we rejected assertions that customers would be unwilling to use multiple carrier routing without automated notice-and-acceptance. No party presents any evidence here that would cause us to change our view. In particular, no one demonstrates why manual procedures will not suffice as an interim approach.

7. Sprint claims, further, that "[t]here are a number of as-yet unresolved issues relating to the administration and operation of the SMS/800 database which directly affect how easy it will be for customers to subscribe to multiple 800 service providers." Among the issues Sprint identifies, virtually all were resolved prior to the

implementation of number portability. The only previously unresolved "area of uncertainty," claimed by Sprint concerns the availability of a view-only functionality (which enables carriers, other than the RESPORG, serving a particular 800 number to view, without changing, the record for that number). While this functionality has been scheduled for implementation in October 1993, Sprint has not demonstrated that its unavailability until then will affect the ability to customers to subscribe to multiple 800 service providers.

8. Sprint and MCI also raise the possibility that AT&T may be able to dissuade customers from exercising their "fresh look" rights by refusing to provide only part of the service for a particular 800 number. There is no evidence in the record to support this allegation. Moreover, we have previously held that basic 800 access service includes area-of-service routing, which allows customers to divide their 800 traffic among different carriers based on the local access transport area (LATA) in which the call originates. This should ensure that users will be able to split their traffic between AT&T and other carriers if they so choose. Finally, with the advent of 800 number portability, any customer eligible for "fresh look" may now take all of its 800 business to an AT&T competitor if AT&T does not offer the service the customer seeks.

9. Finally, Sprint, TRA and United/Covia ask the Commission to extend the "fresh look" period in order to allow customers adequate time to complete the carrier selection process and migrate traffic to new carriers. Customers and carriers have known about "fresh look" since August of 1991. There is no valid reason why customers should not have begun the process of soliciting bids and considering their various service options in time for them to exercise "fresh look" during the ninety-day period. United/Covia claims that migration of its traffic to a new carrier will take longer than ninety days. This is not a reason, we believe, to extend "fresh look" as United/Covia requests. It is not our intention, in setting the "fresh look" period at ninety days, to ensure that each and every customer with "fresh look" rights is able to migrate all of its traffic off AT&T's network in the allotted time.

10. We also deny Sprint's request to expand "fresh look" to apply to customers of AT&T's 800 term plans. We note at the outset that Sprint filed its petition as a prayer for an emergency declaratory ruling, an inappropriate vehicle for Sprint to raise this issue.

Section 1.2 of our Rules states that "[t]he Commission may, * * * issue a declaratory ruling terminating a controversy or removing uncertainty."¹ In adopting the 800 and inbound service bundling restrictions, we stated unequivocally that these restrictions applied only to certain of AT&T's bundled offerings. Sprint does not allege, and we do not find, any language in either the Report and Order or the Reconsideration Order that might lend itself to an interpretation that the 800 and inbound bundling restrictions might apply to AT&T's 800 term plans. Sprint should have pursued the relief it seeks in a petition for reconsideration of the Report and Order or a petition for rulemaking, not a petition for declaratory ruling.

11. We find further that Sprint's petition fails on the merits. Sprint contends that 800 term plan customers should get a "fresh look" because they are less sophisticated than other users and may have been unaware that numbers would soon be portable when they signed their long-term contracts. However, 800 term plan customers are not necessarily smaller or less sophisticated than customers with bundled packages of services. Moreover, the 800 data base proceeding has been ongoing since 1986. Thus we are not convinced by arguments that term plan customers were generally unaware of the imminence of number portability.

12. In any event, Sprint's argument misconstrues the purpose of "fresh look." "Fresh look" is part of a package of remedies designed to address a specific practice—bundling by AT&T of 800 or inbound service with other services. "Fresh look" was never intended to apply in every instance in which some carrier might have had a competitive advantage with respect to a particular customer as a result of the lack of 800 number portability. In particular, "fresh look" was never intended to apply to 800 term plans offered by AT&T or other carriers, and we do not find it appropriate to extend fresh look to these situations now.

Ordering Clause

13. Accordingly, pursuant to authority contained in sections 1, 4, and 201-205 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201-205, and § 1.2 of the Commission's Rules, 47 CFR 1.2, it is ordered that the petition of the Ad Hoc Telecommunications Users Committee for expedited modification of fresh look policy and Sprint Communications Company's

emergency petition for declaratory ruling are denied.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-18884 Filed 8-6-93; 8:45 am]

BILLING CODE 4712-01-M

47 CFR Parts 61, 64 and 69

[CC Docket No. 91-115; FCC 93-383]

Tariffing Requirements for Billing Name and Address

AGENCY: Federal Communications Commission.

ACTION: Final Rule; suspension of effective date.

SUMMARY: On May 13, 1993, the Commission adopted a Second Report and Order establishing rules requiring local exchange carriers to provide billing name and address information on a common carrier basis to telecommunications service providers for billing purposes. The Commission also established rules requiring local exchange carriers to notify their customers that their billing name and address information may be provided to telecommunications service providers for billing purposes, and to obtain authorization from customers with unlisted or nonpublished telephone numbers prior to disclosing their billing name and address information. On August 4, 1993, the Commission on its own motion stayed the effective date of several of these requirements to give carriers sufficient time to provide notification and obtain authorization from their customers, and give end users an adequate opportunity to weigh their options regarding disclosure of their billing name and address information. Because the Commission revises on its own motion the deadlines for several of these requirements, we dismiss as moot several petitions for stay of the Second Report and Order pending before us.

EFFECTIVE DATE: August 5, 1993.

FOR FURTHER INFORMATION CONTACT: Steven Spaeth, Tariff Division, Common Carrier Bureau, (202) 632-6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order adopted August 4, 1993, and released August 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M St., NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor,

International Transcription Service, suite 140, 2100 M Street, NW., Washington, DC 20037.

Regulatory Flexibility Analysis

We have determined that section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), does not apply to these rules because they do not have a significant economic impact on a substantial number of small entities. The definition of a "small entity" in Section 3 of the Small Business Act excludes any business that is dominant in its field of operation. Although some of the local exchange carriers that will be affected are very small, local exchange carriers do not qualify as small entities because they have a monopoly on ubiquitous access to the subscribers in their service area. The Commission has also found all exchange carriers to be dominant in its competitive carrier proceeding. See 85 FCC 2d 1, 23-24 (1980). To the extent that small telephone companies will be affected by these rules, we hereby certify that these rules will not have a significant effect on a substantial number of "small entities."

Summary of Report and Order

On June 9, 1993, the Commission adopted the Second Report and Order in this docket 58 FR 36143, July 6, 1993, requiring local exchange carriers (LECs) to provide their customers' billing name and address (BNA) information to interexchange carriers and other telecommunications service providers on a common carrier basis for this purpose. LECs were required to file tariffs for BNA provision within 90 days of the release date of the Second Report and Order, or September 8, 1993. The Commission also required LECs to notify their subscribers that when they use a LEC use card or accept a collect or third party call, their BNA may be disclosed to the serving interexchange carriers and other telecommunications service providers to facilitate billing. As a further precaution, LECs were prohibited from releasing the BNA information associated with unlisted and nonpublished telephone numbers without the customer's consent, and were required to obtain a one-time written authorization for BNA disclosure from existing and future LEC cardholders having nonpublished or unlisted numbers. LECs were given 60 days from the release date of the Order, or August 9, 1993, to provide this notification and obtain this authorization.

LECs will now be given until February 9, 1994, to provide notification and obtain authorization from their

¹ 47 CFR 1.2.