

from Ada to Newcastle, Oklahoma, as the community's first local aural broadcast service, and modifies the license of Station KTLS accordingly. To accommodate the allotment at Newcastle, the license of Station KIMY, Watonga, Oklahoma, is modified to specify operation on Channel 230A in lieu of its present Channel 228A. See 60 FR 63669, December 12, 1995. Channel 227C1 can be allotted to Newcastle in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.5 kilometers (4.7 miles) south, at coordinates 35-10-44 NL and 97-36-03 WL, to accommodate petitioner's desired transmitter site. Channel 230A can be allotted to Watonga at Station KIMY's presently licensed transmitter site, at coordinates 35-54-17; 98-23-09. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** January 17, 1997.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 95-175, adopted November 22, 1996, and released November 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### **PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

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

#### **§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 227C1 at Ada, adding Newcastle, Channel 227C1, and adding Channel 230A and removing Channel 228A at Watonga.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 96-31931 Filed 12-16-96; 8:45 am]

**BILLING CODE 6712-01-p**

#### **47 CFR Part 73**

**[MM Docket No. 96-78; RM-8778]**

#### **Radio Broadcasting Services; Hicksville, Ohio**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Lake Cities Broadcasting Corporation, allots Channel 294A to Hicksville, Ohio, as the community's first local aural transmission service.

See 61 FR 18711, April 29, 1996. Channel 294A can be allotted to Hicksville in compliance with the Commission's mileage separation requirements with a site restriction of 5.4 kilometers (3.4 miles) northeast, at coordinates 41-19-35 North Latitude and 84-43-03 West Longitude, to avoid a short-spacing to Station WMRI, Channel 295B, Marion, Indiana. Canadian concurrence in the allotment has been received since Hicksville is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

**DATES:** Effective January 17, 1997. The window period for filing applications will open on January 17, 1997, and close on February 18, 1997.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 96-78, adopted November 22, 1996, and released November 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### **PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

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

#### **§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by adding Hicksville, Channel 294A.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 96-31932 Filed 12-16-96; 8:45 am]

**BILLING CODE 6712-01-P**

#### **DEPARTMENT OF TRANSPORTATION**

#### **Surface Transportation Board**

#### **49 CFR Part 1002**

**[STB Ex Parte No. 542]**

#### **Regulations Governing Fees For Services Performed in Connection With Licensing and Related Services—1996 Update**

**AGENCY:** Surface Transportation Board.

**ACTION:** Final rule.

**SUMMARY:** After consideration of the petition to reopen this proceeding, the Surface Transportation Board (Board) reduces the filing fee for Item (60), Labor arbitration proceedings to \$150, and establishes a new effective date for Item (61), Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d). The Board also modifies Item (56), Formal complaints to comply with Congressional directives.

**EFFECTIVE DATE:** This final rule is effective on January 16, 1997. Section 1002.2 (b)(61) is effective on January 16, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kathleen M. King, (202) 927-5249 or David T. Groves, (202) 927-6395. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The Board's regulations in 49 CFR 1002.3 require the Board to update its user fee schedule annually. At 61 FR 42190 (August 14, 1996) the Board issued final rules in this proceeding that established its 1996 user fee schedule.

On September 3, 1996, Joseph C. Szabo, the Illinois Legislative Director for the United Transportation Union (Petitioner or Mr. Szabo) filed a petition to reopen this proceeding. Petitioner

requests that the \$1,000 filing fee for Item (56), Formal complaints, and Item (58)(i), Petitions for declaratory orders, which are comparable to complaints, and the \$1,400 filing fee for Item (58)(ii), All other petitions for declaratory order, be eliminated for rail employees and their unions.

In addition, he seeks elimination of the new \$7,600 filing fee for Item (60), Labor arbitration proceedings, and the new \$150 filing fee for Item (61), Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d). Previously, at 61 FR 48639 (September 16, 1996) the effective date for those two fee items was delayed by Chairman Morgan to allow the Board sufficient time to consider the issues raised in this petition to reopen.

We find that there is no basis for granting petitioner's request that the fees for formal complaints and petitions for declaratory order be eliminated for rail employees or their unions. Based on the new evidence submitted by the labor officials who support Mr. Szabo's petition, we conclude that the \$7,600 filing fee for Item (60), Labor arbitration proceedings, should be reduced to \$150. After reviewing petitioner's arguments we conclude that the \$150 filing fee for Item (61), Appeals to Surface Transportation Board decisions and petitions to revoke exemption under 49 U.S.C. 10502(d), is appropriate.

While we had indicated that the filing fee for formal complaints should be increased, the current \$1,000 filing fee for Item (56), Formal complaints, was maintained until the on-going legislative debate regarding that filing fee was completed. That legislative debate has now been resolved by enactment of section 1219 of the Federal Aviation Authorization Act of 1996, Pub. L. 104-264, 110 Stat. 3213 (Oct. 9, 1996), which prohibits any increase in the filing fee for complaints filed by small shippers in connection with rail maximum rates complaints until after September 30, 1998. Therefore, we will maintain the filing fee for formal complaints under Item 56(ii) at \$1,000 for small shippers. For all other shippers, we will adopt the filing fee of \$23,300 for Item (56)(i), Formal complaints filed under the coal rate guidelines, and a filing fee of \$2,300 for Item 56(iii), All other formal complaints.

Additional information is contained in the Board's decision. To obtain a copy of the full decision, write, call, or pick up in person from DC News & Data, Inc., Room 2229, 1201 Constitution Ave. N.W., Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is

available through TDD services (202) 927-5721.)

The Board affirms its previous finding that the fee changes adopted here will not have a significant economic impact on a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

Decided: December 5, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commission

Vernon A. Williams, Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

**PART 1002—FEES**

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721(a).

2. The new effective date for 49 CFR 1002.2(f), fee item (61), is January 16, 1997.

3. In section 1002.2 (f) fee items (56) and (60) are revised to read as follows:

**§ 1002.2 Filing fees.**

\* \* \* \* \*  
(f) \* \* \*

Type of Proceeding	Fee
(56) A formal complaint alleging unlawful rates or practices of rail carriers, motor carriers of passengers or motor carriers of household goods:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1) except a complaint filed by a small shipper .....	\$23,300
(ii) A formal complaint involving rail maximum rates filed by a small shipper .....	1,000
(iii) All other formal complaints ....	2,300
(60) Labor arbitration proceedings .....	150

**49 CFR Part 1039**

[Ex Parte No. 346 (Sub-No. 34)]

**Rail General Exemption Authority; Exemption of Hydraulic Cement**

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

**SUMMARY:** The Board is exempting from regulation the transportation by rail of hydraulic cement (STCC No. 32-4) including shipments from the South Dakota State Cement Plant Commission ("Dacotah") facility at Rapid City, SD (herein, the "Dacotah Cement Plant"). Those shipments had been excepted when cement was exempted from regulation. The exception for the Dacotah Cement Plant is now removed. Hydraulic cement, without the Dacotah exception, is added to the list of exempt commodities as set forth below. This exemption does not embrace exemptions from the regulation of car hire and car service.

**EFFECTIVE DATE:** This final rule is effective on January 16, 1997.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The ICC Termination Act of 1995, Public Law No. 104-88, 109 Stat. 803 (the ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10701 and 10502. Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. However, because of the nature of the action in this proceeding—adoption of a class exemption with application to future transportation and related future filings—we have considered both the new and the old law in issuing our decision here. Citations are to the current sections of the statute, unless otherwise indicated.

On July 26, 1995, at 60 FR 38280, the ICC requested comments on whether the Dacotah cement facilities at Rapid City, SD, are rail captive and the effect, if any, of the ICC's decision in *Union Pacific*