

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 63

[IB Docket No. 96-261, FCC 97-280]

### International Settlement Rates

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On August 7, 1997, the Federal Communications Commission adopted a Report and Order that revises the Commission's international settlement rate benchmarks. The revisions will move settlement rates closer to the underlying costs of providing international termination services. The Commission took this action in light of the significant changes that have occurred in the global telecommunications market in recent years. The decision represents one of the steps in an ongoing effort by the Commission, many foreign governments, and multilateral organizations such as the International Telecommunication Union ("ITU") and the Organization for Economic Cooperation and Development ("OECD") to lower international telephony costs by reforming the international accounting rate system.

**DATES:** Effective: January 1, 1998. The new information collection requirements adopted in this Order will become effective following OMB approval. The Commission will publish a document at a later date establishing the effective date. Written comments by the public and other agencies on the proposed information collections are due October 28, 1997.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554. For filing comments on the proposed information collections contained herein, in addition to filing comments with the Secretary, a copy of any comments should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Kathryn O'Brien, Attorney-Advisor, or John Giusti, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418-1470. For additional information concerning the information collections contained in this Order contact Judy Boley at 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

## SUPPLEMENTARY INFORMATION:

### Summary of Report and Order

1. On December 19, 1996, the Commission released a Notice of Proposed Rulemaking in the Matter of International Settlement Rates, IB Docket No. 96-261, FCC 96-484 (61 FR 68702, December 30, 1996). In the NPRM, the Commission proposed options for revising international settlement rate benchmarks that would move settlement rates closer to the underlying costs of providing international termination services. The NPRM sought comment on several alternate methods for calculating benchmark rates in the absence of reliable data on the costs foreign carriers incur to terminate international traffic.

2. On August 7, 1997, the Commission adopted a Report and Order in this proceeding that revised settlement rate benchmarks. The Commission concluded that current settlement rates are in most cases substantially above the cost that foreign carriers incur to terminate U.S.-originated traffic. These inflated settlement rates contribute to high international calling prices for U.S. consumers and create the potential for distortions in the U.S. market for international services.

3. The Commission adopted revised settlement rate benchmarks to assist U.S. international carriers in negotiating settlement rates that are more closely related to the costs incurred by foreign carriers. The benchmarks are calculated using foreign carriers' tariffed prices and information published by the International Telecommunication Union. The Commission concluded that basing benchmarks on foreign carriers' tariffed prices would more closely reflect the underlying costs of providing international termination service than most current settlement rates, although they still would result in benchmarks that are substantially above cost-based settlement rate levels. The Commission believes that basing benchmark settlement rates on the same rates that foreign carriers charge their own customers would ensure nondiscriminatory treatment for U.S. carriers. In addition, foreign carriers will be permitted to recover more than their incremental cost of terminating international service because the tariffed rates are for retail services and include costs that would not be included in cost-based settlement rates.

4. The Commission adopted four settlement rate benchmarks: \$0.15 for upper income countries; \$0.19 for upper-middle income countries and lower-middle income countries; and \$0.23 for lower income countries. The

Commission concluded that these settlement rate benchmarks will continue to exceed, usually substantially, any reasonable estimate of the level of foreign carriers' costs. Using the limited data available to the FCC for calculating benchmarks, these benchmarks will substantially reduce the above-cost excesses in current settlement rates in a manner that is reasonable and treats foreign carriers fairly. The Commission adopted its proposal in the NPRM to revise and update the benchmarks periodically as necessary.

5. The Commission also adopted a "best practices" rate that will be enforced as a safeguard when it detects distortion in the U.S. market for IMTS. The "best practices" rate is closer to a cost-based level than the settlement rate benchmarks and can be applied to prevent market distorting behavior. This rate will be applied only to the extent carriers seek authorization to provide facilities-based service from the United States to affiliated markets and to provide private line resale service. In those cases, the rate will be enforced only if the Commission detects market distortion on the route or routes in question. The rate is based on the lowest, commercially viable, settlement rate currently paid by U.S. carriers to an overseas carrier from a competitive market. The Commission selected a rate of \$.08, which is the current settlement rate between the United States and Sweden. The "best practice" rate will apply only in cases of competitive distortion, and that if an affected carrier believes such a requirement would prove unjustified it may follow established procedures to request an individualized settlement rate prescription.

6. The Commission adopted a transition schedule for compliance with the settlement rate benchmarks to balance the competing concerns of providing time for carriers to make adjustments and expeditiously reduce rates to a more cost-based level. The transition schedule is based primarily on the categorization of countries used to calculate the settlement rate benchmarks, the World Bank, and ITU's GNP per capita classifications. The Commission believes that this classification scheme provides a reasonable basis for determining a country's ability to transition to a more-cost based system or settlement rates without undue disruption to its telecommunications network. The Commission also established a separate category for the "least telecommunications developed" countries based on level of teledensity,

or lines per 100 people, rather than GNP per capita. The Commission will require that U.S. carriers negotiate settlement rates at or below the relevant benchmarks according to the following schedule:

Carriers in upper income countries—1 year from implementation of the Order

Carriers in upper-middle income countries—2 years from implementation of the Order

Carriers in lower-middle income countries—3 years from implementation of the Order

Carriers in lower income countries—4 years from implementation of the Order

Carriers in countries with teledensity (lines per 100) less than 1—5 years from implementation of the Order

7. The Commission declined to adopt the proposal to permit additional flexibility in the application of the benchmarks beyond the transition periods for U.S. carriers serving developing countries that have committed to introducing competitive reforms. The Commission believes that these transition periods adequately balance the challenges faced by developing countries in moving to more cost-based rates.

8. The Commission intends to take the appropriate enforcement measures that may be necessary to ensure that U.S. international carriers satisfy the benchmark requirements. Initially, the Commission will identify foreign carriers that are reluctant to engage in meaningful progress toward negotiating settlement rates at or below the relevant benchmark. The Commission will take steps to work with the foreign governments and carriers to achieve the goal of cost-based rates. If these efforts are unsuccessful, U.S. international carriers may file a petition with the FCC. The Commission can and will ensure compliance with its settlement rate benchmarks. Rather than adopt a set enforcement mechanism, the Commission will consider individual circumstances surrounding each carrier-initiated petition to determine the appropriate enforcement action to take. To protect smaller carriers from reprisals, the Commission emphasized that it will continue to safeguard U.S. carriers against discriminatory treatment by foreign carriers by vigorously enforcing its international settlements policy.

9. The Commission will consider, on a case-by-case basis, grandfathering settlement rate agreements that were negotiated prior to the effective date of this Order. The agreement, however,

must meet the Commission's public interest standard of serving the same goals set forth in this Order and achieving settlement rates at or below the relevant benchmark within a reasonable period of time. The Commission will reserve the right to consider alternative approaches to the settlement rate benchmarks if, in the future, it finds that meaningful progress is made in a multilateral forum to achieve its goals.

10. In the NPRM, the Commission identified two types of market distortions that could be created by above-cost settlement rates—price squeeze behavior and one-way bypass. In the Order, the Commission describes how it will detect and address these distortions. Price squeeze behavior potentially could distort competition in the U.S. market for IMTS by affecting the ability of other carriers to compete. The Commission will condition authorizations to provide international facilities-based switched or private line service from the United States to an affiliated market in order to restrain the ability of foreign-affiliated carriers to engage in anticompetitive price squeeze behavior in the U.S. market. The Commission adopted a rebuttable presumption that a carrier's service offering has distorted market performance if any of the carrier's tariffed collection rates on the affiliated route are less than the carrier's average variable costs on that route. In order to prevent one-way bypass of the accounting rate system, the Commission will condition the Section 214 authorizations of carriers to provide switched basic services over international facilities-based or resold private lines. The Commission also adopted a rebuttable presumption that one-way bypass is occurring if the percentage of outbound traffic relative to inbound traffic increases more than 10% in two successive quarterly measurement periods and it reserves the right to investigate other shifts in the inbound/outbound ratio to determine whether one-way bypass is occurring.

11. To assist in detecting market distortion, the Commission will amend § 43.61 of its rules to require certain carriers to file quarterly traffic reports pursuant to filing criteria adopted in the Order. In addition, the Commission intends to monitor closely U.S. carriers' collection rates to ensure that they reflect fully all net settlement savings. U.S. carriers with more than five percent of the outbound IMTS traffic on a route will be required to file a report every six months.

12. In the Notice, the Commission proposed a condition to carriers'

applications that would balance its desire to encourage international resale services and at the same time limit the potential for one-way bypass. In the Order, the Commission modified the proposed condition. The first modification to the condition will authorize carriers to provide switched services over resold international private lines between the United States and foreign destination countries on the condition that settlement rates for at least 50 percent of the settled U.S.-billed traffic on the route or routes are at or below the appropriate benchmark. In the event that competitive distortions result on the route in question, *i.e.*, carriers are engaging in one-way bypass, the Commission will take enforcement action. Such enforcement action may include a requirement prohibiting carriers from using their authorizations to provide switched services over private lines on that route until settlement rates for at least 50 percent of the settled U.S.-billed traffic on the route are at or below the level of the best practice rate of \$0.08, or revocation of a carrier's authorization.

13. The second modification the Commission made to the proposed condition would apply it to U.S. facilities-based carriers' use of their authorized private lines for the provision of switched, basic services. Carriers will be permitted to use their authorized facilities-based private lines to originate or terminate U.S. switched traffic on the condition that settlement rates for at least 50 percent of the settled U.S. billed traffic on the route or routes in question are at or below the appropriate benchmark. If market distortion occurs on the route, *i.e.*, carriers are using their authorized private lines to engage in one-way bypass of the accounting rate system, the Commission will take enforcement action.

14. *Final Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1990, 5 U.S.C. 601–612, the Commission's Final Regulatory Flexibility Analysis with respect to the Order is as follows:

*Reason for action:* The Commission issues this Report and Order adopting changes in the benchmark settlement rates for international message telephone service between U.S. facilities-based carriers and foreign carriers and related issues. The Commission believes that its benchmark rates should be revised to reflect recent technological improvements, their associated cost reductions, and the market structure changes occurring in the global telecommunications market. We also believe these revisions, and

related actions taken here, are necessary to move settlement rates closer to the actual costs of providing international termination services.

**Objectives:** The objective of this proceeding is to attain reform in the international accounting rate system and thereby help ensure lower international calling prices for consumers and protect competition in the U.S. IMTS market. The Commission will achieve this objective by revising its benchmark settlement rates so that they more closely resemble the underlying costs of providing international termination services.

**Legal basis:** The Report and Order is adopted pursuant to sections 1, 2, 4(i), 201, 205, 214 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201, 205, 214, 303(r).

**Description, potential impact, and number of small entities affected:** The Commission has not developed a definition of small entities applicable to international common carriers. We therefore have used as the applicable definition of small entity the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts. Based on preliminary 1995 data, at present there are 29 international facilities-based common carriers that qualify as small entities pursuant to the SBA's definition. The number of small international facilities-based common carriers has been growing significantly, and by the end of 1996 that number could increase to approximately 50. The revised benchmark rates will apply to all international facilities-based common carriers, including small entities, that enter into an operating agreement with a foreign carrier that provides for the payment of settlement rates. We note that the revised benchmark rates should result in lower settlement rates for carriers. This Report and Order also requires that a foreign carrier's settlement rates be at or below the relevant benchmark as a condition of Section 214 authorization for that carrier, or an affiliate, to provide U.S. international facilities-based services between the United States and the affiliated destination country. This condition will apply to all U.S. international facilities-based carriers, including small entities, that are affiliated with foreign carriers. The Commission has concluded that this condition is necessary to prevent

potential anticompetitive distortions in the IMTS market.

The Order also imposes an additional requirement on carriers that seek to provide switched services using resold or facilities-based private lines. Carriers must demonstrate that settlement rates for 50 percent of the settled traffic between the United States and the country at the foreign end of the private line are at or below the relevant benchmark for that country. The Commission believes that at most 635 small international carriers, both facilities-based and resale carriers, could be affected by this requirement. The Commission has concluded this requirement is necessary to prevent potential anticompetitive distortions in the IMTS market. We base our estimate of the number of small entities potentially affected on the number of toll carriers filing Telecommunications Relay Service Fund (TRS) worksheets. In 1995, 445 toll carriers filed TRS fund worksheets. We believe that between 50 and 200 carriers failed to file TRS fund worksheets. We also believe that fewer than 10 toll carriers were not small entities (based on the SBA's definition of small entity as one with fewer than 1,500 employees). Thus, at most 635 international carriers would be classified as small entities. The Secretary shall send a copy of this Report and Order to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601, *et seq.* (1981).

**Reporting, recordkeeping and other compliance requirements:** In its Initial Regulatory Flexibility Analysis the Commission did not propose any reporting requirements. The Notice, however, raised the issues of possible anticompetitive behavior and market distortions, and sought comment on how the Commission's reporting system could be modified in order to make monitoring and enforcement more effective. To address the concerns of commenters, the Report and Order contains certain mechanisms to detect potential market distortions. In this regard, the Commission amends its rules to impose an additional reporting requirement. Section 43.61 of the Commission's rules currently requires that carriers file annual reports that include actual traffic and revenue data. Common carriers subject to the existing § 43.61 requirements will be required to file traffic reports for each quarter in which their traffic meets any of the following thresholds: (i) Their aggregate U.S.-billed minutes of switched telephone traffic exceeds 1% of the total

of such minutes of international traffic for all U.S. carriers (as published in the most recent § 43.61 traffic data report); (ii) their aggregate foreign-billed minutes of switched telephone traffic exceeds 1% of the total of such minutes of international traffic for all U.S. carriers; (iii) their aggregate U.S.-billed minutes of switched telephone traffic for any country exceeds 2.5% of the total of such minutes for that country for all U.S. carriers; or (iv) their aggregate foreign-billed minutes of switched telephone traffic for any foreign country exceeds 2.5% of the total of such minutes for that country for all U.S. carriers. Limiting the quarterly filing requirement to carriers that meet these criteria will reduce the burden on small carriers, while enabling us to identify distortions in the balance of payments. The Report and Order only imposes an increase in the frequency with which the report must be filed. It will contain the same data that must be included in the current required annual report. Thus, the reporting requirement should not impose a significant economic burden, and no additional outside professional skills should be required in complying with this requirement.

**Federal rules which overlap, duplicate or conflict with the Commission's proposal:** None.

**Any significant alternatives minimizing impact on small entities and consistent with stated objectives:** The Notice solicited comments on a variety of alternative methodologies for calculating benchmark settlement rates, but these have no impact on small entities. The Notice also solicited comments on enforcement mechanisms that may be necessary to support U.S. carriers, including small entities, in their negotiations with foreign carriers and in their provision of international service. We did not receive any comments on the impact of these alternatives on small entities.

**Comments solicited:** Written comments were requested on the Initial Regulatory Flexibility Analysis in accordance with the same filing deadlines set for comments on the other issues in the Notice, but we did not receive any comments.

15. **Paperwork Reduction Act.** This Report and Order contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this order, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. Public and agency comments are due 60

days from the date of publication of this decision in the **Federal Register**.

Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060-0106.

*Title:* Section 43.61—Reports of Overseas Telecommunications Traffic.  
*Form No.:* None.

*Type of Review:* Revision of existing collection.

*Respondents:* U.S. common carriers providing international telecommunications services.

*Number of Respondents:* We estimate the number of respondents to be 5. Although the number of respondents is less than 10, the Commission is unable to identify specific respondents because the respondents will vary depending on whether they carry specified levels of U.S. international traffic during any quarterly reporting period. Only those carriers that meet the reporting criteria established in the Order will be subject to the proposed information collection.

*Estimated Time Per Response:* 160 hours.

*Total Annual Burden:* 800 hours.

*Estimated costs per respondent:* None. Respondents already maintain this data as part of their normal business practices.

*Needs and Uses:* Section 43.61 requires each common carrier that provides international facilities-based switched service between the United States and any foreign country to file an annual traffic and revenue report. The annual report includes actual traffic and revenue data for each service provided by a common carrier, divided among service billed in the United States, service billed outside the United States, and service transiting the United States. In this Order we are increasing the filing frequency in order to detect market distortion that may occur from the routing of U.S. international switched, basic traffic over private lines. Common carriers subject to the existing § 43.51 requirement will be required to file the quarterly reports, in addition to annual reports for each quarter reporting period in which their minutes of switched telephone traffic meet certain thresholds established by the Commission. However, we will require that carriers

file their traffic and revenue data only for switched facilities-based telephone services and switched facilities resale telephone services—not for their other international services.

We note that this decision imposes an additional requirement on carriers that seek to provide switched services using resold or facilities-based private lines. Carriers must demonstrate that settlement rates for at least 50 percent of the settled traffic between the United States and the country at the foreign end of the private line are at or below the relevant benchmark for that country. We do not anticipate that this requirement will impose any additional burden on carriers as any paperwork burden associated with this requirement is sufficiently covered under the currently approved information collection (OMB Control No. 3060-0686).

#### Ordering Clauses

16. Accordingly, it is ordered that, pursuant to sections 1, 2, 4(i), 201, 205, 214 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201, 205, 214, 303(r), the rules, requirements and policies discussed in this Order are adopted and parts 43 and 63 of the Commission's rules, 47 CFR parts 43 and 63, are amended.

17. *It is further ordered* that the rules, requirements and policies established in this decision shall take effect on January 1, 1998. The new information collection requirements adopted in this Order will become effective following OMB approval. The Commission will publish a document at a later date establishing the effective date.

#### List of Subjects in 47 CFR Parts 43 and 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

#### Rule Changes

Parts 43 and 63 of Title 47 of the Code of Federal Regulations are amended as follows:

#### PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for part 43 continues to read as follows:

**Authority:** Sec. 4 of the Communications Act of 1934, as amended, 47 U.S.C. 154.

2. In § 43.61, paragraphs (b) through (d) are redesignated as paragraphs (a)(1)

through (a)(3) and new paragraph (b) is added to read as follows:

#### § 43.61 Reports of international telecommunications traffic.

\* \* \* \* \*

(b) *Quarterly Traffic Reports.* (1) Each common carrier engaged in providing international telecommunications service between the area comprising the continental United States, Alaska, Hawaii, and off-shore U.S. points and any country or point outside that area shall file with the Commission, in addition to the report required by paragraph (a) of this section, actual traffic and revenue data for each calendar quarter in which the carrier's quarterly minutes exceed the corresponding minutes for all carriers by one or more of the following tests:

(i) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed in the United States are greater than 1.0 percent of the total of such minutes of international traffic for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic;

(ii) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed outside the United States are greater than 1.0 percent of the total of such minutes of international traffic for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic;

(iii) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed in the United States for any foreign country are greater than 2.5 percent of the total of such minutes of international traffic for that country for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic; or

(iv) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed outside the United States for any foreign country are greater than 2.5 percent of the total of such minutes of international traffic for that country for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic.

(2) Except as provided in this paragraph, the quarterly reports required by paragraph (b)(1) of this section shall be filed in the same format as, and in conformance with, the filing

procedures for the annual reports required by paragraph (a) of this section.

(i) Carriers filing quarterly reports shall include in those reports only their provision of switched, facilities-based telephone service and switched, facilities resale telephone service.

(ii) The quarterly reports required by paragraph (b)(1) of this section shall be filed with the Commission no later than April 30 for the prior January through March quarter; no later than July 31 for the prior April through June quarter; no later than October 31 for the prior July through September quarter; and no later than January 31 for the prior October through December period.

**PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS**

1. The authority citation for Part 63 continues to read as follows:

**Authority:** Sections 1, 4(i), 4(j), 201–205, 218 and 403 of the Communications Act of 1934, as amended, and Section 613 of the Cable Communications Policy Act of 1984, 47 U.S.C. secs. 151, 154(i), 154(j), 201–205, 218, 403 and 533 unless otherwise noted.

2. Section 63.18 is amended by revising paragraphs (e)(2)(ii)(B) through (e)(2)(ii)(C), (e)(3) introductory text, and (e)(4) to read as follows:

**§ 63.18 Contents of applications for international common carriers.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(B) The applicant may resell private line services for the provision of international switched basic services only in circumstances where the Commission has found that the country at the foreign end of the private line provides equivalent resale opportunities and that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and that country are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261. The Commission will provide public notice of its equivalency and settlement rate determinations. The applicant, however, shall not initiate such service on a particular route absent a grant of specific authority under paragraph (e)(6) of this section in circumstances where the applicant is affiliated with a facilities-based carrier in the country at the foreign end of the private line and the Commission has not determined that

the foreign carrier does not possess market power in that country.

(C) The authority granted under this paragraph shall be subject to all Commission rules and regulations, including the limitation in § 63.21 on the use of private lines for the provision of switched services, and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See Sections 63.12, 63.21.

(3) If applying for authority to provide international switched basic services over resold private lines between the United States and a country for which the Commission has not made the settlement rate and equivalency determinations specified in paragraph (e)(2)(ii)(B) of this section, applicant shall demonstrate that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and the country at the foreign end of the private line are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261 and that the country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicants shall:

\* \* \* \* \*

(ii) The procedures set forth in paragraph (e)(3) of this section are subject to Commission policies on resale of international private lines in CC Docket No. 90–337 as amended in IB Docket Nos. 95–22 and 96–261.

(4) Any carrier authorized under this section to acquire and operate international private line facilities other than through resale may use those private lines to provide switched basic services only in circumstances where the Commission has found that the country at the foreign end of the private line provides equivalent resale opportunities and that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and that country are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261. The Commission will provide public notice of its equivalency and settlement rate determinations. This provision is subject to the following exceptions and conditions:

(i) The applicant shall not initiate such service on a particular route absent a grant of specific authority under paragraph (e)(6) of this section in circumstances where the applicant is affiliated with a facilities-based carrier in the country at the foreign end of the private line and the Commission has not determined that the foreign carrier does not possess market power in that country.

(ii) The applicant is subject to all applicable Commission rules and regulations, including the limitation in § 63.21 on the use of private lines for the provision of switched services, and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See §§ 63.12, 63.21.

(A) Except as provided in paragraph (e)(4)(ii)(B) of this section, any carrier that seeks to provide international switched basic services over its authorized private line facilities between the United States and a country for which the Commission has not made the settlement rate and equivalency determinations specified in paragraph (e)(2)(ii)(B) of this section shall demonstrate that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and the country at the foreign end of the private line are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261 and that the country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall include the information required by paragraph (e)(3) of this section.

(B) No formal application is required under paragraph (e)(4) of this section in circumstances where the carrier's previously authorized private line facility is interconnected to the public switched network only on one end—either the U.S. or the foreign end—and where the carrier is not operating the facility in correspondence with a carrier that directly or indirectly owns the private line facility in the foreign country at the other end of the private line.

3. Section 63.21(a) is revised to read as follows:

**§ 63.21 Conditions applicable to international Section 214 authorizations.**

\* \* \* \* \*

(a) Carriers may not use their authorized facilities-based or resold international private lines for the provision of switched basic services unless and until the Commission has determined that the country at the foreign end of the private line provides equivalent resale opportunities and that settlement rates for 50 percent of the settled U.S.-billed traffic between the United States and that country are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261. See § 63.18 (e)(3) through (e)(4). If at any time the Commission finds, after an initial determination of compliance for a particular country, that the country no longer provides

equivalent resale opportunities or that market distortion has occurred in the routing of traffic between the United States and that country, carriers shall comply with enforcement actions taken by the Commission. This condition shall not apply to a carrier's use of its authorized facilities-based private lines to provide service as described in § 63.18 (e)(4)(ii)(B).

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BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-111; RM-9052]

#### Radio Broadcasting Services; Deerfield, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action in this document allots Channel 264C3 to Deerfield, Missouri, as that community's first local broadcast service in response to a petition filed by Deerfield FM Radio. See 62 FR 17773, April 11, 1997. The coordinates for Channel 264C3 at Deerfield are 37-43-01 and 94-36-22. There is a site restriction 16.2 kilometers (10.1 miles) southwest of the community. With this action, this proceeding is terminated.

**DATES:** Effective October 6, 1997. The window period for filing applications for Channel 264C3 at Deerfield, Missouri, will open on October 6, 1997, and close on November 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 97-111, adopted August 13, 1997, and released August 22, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

#### 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 Missouri, is amended by adding Deerfield, Channel 264C3.

Federal Communications Commission.

**John A. Karousos,**

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

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-123; RM-9062]

#### Radio Broadcasting Services; Grand Isle, LA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Grand Isle Radio, allots Channel 283A to Grand Isle, Louisiana, as the community's first local aural transmission service. See 62 FR 23427, April 30, 1997. Channel 283A can be allotted to Grand Isle in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 283A at Grand Isle are 29-13-54 NL and 89-59-54 WL. With this action, this proceeding is terminated.

**DATES:** Effective October 6, 1997. The window period for filing applications will open on October 6, 1997, and close on November 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 97-123, adopted August 13, 1997, and released August 22, 1997. 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, DC. The complete text of this decision may also be purchased from the Commission's copy contractor,

ITS, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 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 Louisiana, is amended by adding Grand Isle, Channel 283A.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 97-22997 Filed 8-28-97; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 96-161; RM-8842]

#### Radio Broadcasting Services; Carlisle, Irvine, and Morehead, KY

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the joint request of James P. Gray, Kentucky River Broadcasting Company, and Morehead Broadcasting Company, substitutes Channel 221C3 for Channel 264A at Carlisle, Kentucky, and modifies Station WCAK(FM)'s license accordingly; substitutes Channel 264C3 for Channel 291A at Irvine, Kentucky, and modifies Station WCYO(FM)'s license accordingly; and substitutes Channel 291C3 for Channel 221A at Morehead, Kentucky, and modifies Station WMOR-FM's license accordingly. See 61 FR 42229, August 14, 1996. Channel 221C3 can be allotted to Carlisle in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.1 kilometers (8.1 miles) east. The coordinates for Channel 221C3 at Carlisle are North Latitude 38-17-42 and West Longitude 83-52-32. See Supplementary Information, *infra*.

**EFFECTIVE DATE:** October 9, 1997.