

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418-2918 or via the Internet at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0407.

*Title:* Section 73.3598, Period of Construction.

*Form Number:* Not applicable.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities; Not-for-profit institutions.

*Number of Respondents:* 120.

*Estimated Time per Response:* 15 minutes-3 hours.

*Frequency of Response:*

Recordkeeping requirement; On occasion reporting requirement.

*Total Annual Burden:* 240 hours.

*Total Annual Cost:* \$18,000.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* When a permit is subject to tolling construction is encumbered due to an act of God, or when a construction permit is the subject of administrative or judicial review, 47 CFR Section 73.3 598(c) requires a permittee to notify the Commission as promptly as possible and, in any event, within 30 days, and to provide supporting documentation. All notifications must also be filed in the station's local public file. On March 17, 2005, the Commission released a *Second Order on Reconsideration and Further Notice of Proposed Rulemaking (FNPRM)*, the Matter of the Creation of a Low Power Radio Service, MM Docket No. 99-25, FCC 05-75. The *Second Order on Reconsideration* established an interim waiver policy to increase the likelihood that permittees will complete construction and commence operation. Therefore, the Commission delegated to the Media Bureau the authority to consider requests for waivers of the construction period as specified in 47 CFR Section 73.3598(a) even if the requirements under the tolling rules are not met. An Low Power FM (LPFM) permittee may request a waiver and the waiver may be granted if the permittee demonstrates that construction of its broadcast facilities cannot be completed within the allotted 18 months for reasons beyond its control, that the permittee expects to be able to complete construction within the additional 18 months that the construction extension would provide, and that the public interest would be served by the extension.

*OMB Control Number:* 3060-0920.

*Title:* Application for Construction Permit for a Low Power FM Broadcast

Station; Report and Order in MM Docket No. 99-25 Creation of Low Power Radio Service.

*Form Number:* FCC Form 318.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Not-for-profit institutions; State, local or tribal government.

*Number of Respondents:* 16,422.

*Estimated Time per Response:* 15 minutes-12 hours.

*Frequency of Response:* Recordkeeping requirement; On occasion reporting requirement; Third party disclosure requirement.

*Total Annual Burden:* 33,866 hours.

*Total Annual Cost:* \$23,850.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* On March 17, 2005, the FCC released a *Second Order on Reconsideration and Further Notice of Proposed Rulemaking (FNPRM)*, In the Matter of Creation of a Low Power Radio Service, MM Docket No. 99-25, FCC 05-75. The *Second Order on Reconsideration* amended 47 CFR 73.870 and 73.871 to allow licensees and permittees to file minor change applications and minor amendments to pending FCC Form 318 applications by requesting authority for transmitter site location of up to 5.6 kilometers for LP 100 facilities and up to 3.2 kilometers for LP 10 facilities.

FCC Form 318 is required: (1) To apply for a construction permit for a new Low Power FM (LPFM) station; (2) to make changes in the existing facilities of such a station; or (3) to amend a pending FCC Form 318 application. The Commission authorizes the licensing of two classes of Low Power FM (LPFM) radio stations: a Low Power (LP) 100 Class which is used for stations operating at 50-100 watts effective radiated power at an antenna height above average terrain (HAAT) of 30 meters; and a Low Power (LP) 10 Class which is used for stations operating at 1-10 watts ERP and an antenna height of 30 meters HAAT.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-13036 Filed 7-5-05; 8:45 am]

**BILLING CODE 6712-10-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[WT Docket No. 05-193; DA 05-1390]

**Petition for Declaratory Ruling Filed by SunCom Wireless Operating Company, L.L.C. and Opposition and Cross-Petition for Declaratory Ruling Filed by Debra Edwards**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document seeks comment on two petitions. The first is a petition for declaratory ruling by SunCom Wireless Operating Company, L.L.C., f/k/a Triton PCS Operating Company, L.L.C., that requests that the Federal Communications Commission declare that early termination fees charged to commercial mobile radio service (CMRS) customers are "rates charged" under the Communications Act. The second is an opposition to petition for declaratory ruling and cross-petition for declaratory rulings filed by Debra Edwards that opposes the SunCom Petition and requests a declaratory ruling that the state-law claims concerning contractual early termination fees do not amount to regulation of cellular telephone service rates proscribed by the Communications Act.

**DATES:** Comments are due August 5, 2005, and Reply comments are due August 25, 2005.

**ADDRESSES:** You may submit comments, identified by WT Docket No. 05-193, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Christina Clearwater, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 202-418-1893.

**SUPPLEMENTARY INFORMATION:** On May 18, 2005 the Wireless Telecommunications Bureau released a public notice establishing the comment and reply comment dates associated with a petition for declaratory ruling filed by SunCom Wireless Operating Company, L.L.C. and an opposition and cross-petition for declaratory ruling filed by Debra Edwards, seeking determination of whether state law claims regarding early termination fees are subject to preemption under section 332(c)(3)(A) of the Communications Act.

### Background

On February 22, 2005, SunCom Wireless Operating Company, L.L.C., f/k/a Triton PCS Operating Company, L.L.C. (SunCom) filed a petition for a declaratory ruling (SunCom Petition). See Petition for Declaratory Ruling filed by SunCom Operating Company L.L.C., WT Docket No. 05-193, on February 22, 2005. In its petition, SunCom requests that the Federal Communications Commission (Commission) declare that early termination fees charged to commercial mobile radio service (CMRS) customers are "rates charged" under section 332(c)(3)(A) of the Communications Act. This petition is filed pursuant to a court order in *Edwards v. SunCom*, a class action lawsuit brought in South Carolina state court that asserts certain state law claims regarding contractual early termination fees charged by SunCom. SunCom filed the petition at the direction of the court, which has stayed the litigation pending final resolution of the petition by the Commission. See Supplemental Order Requiring Defendant to File Petition for Declaratory Ruling at the Federal Communications Commission and Staying Case until Such Ruling is Issued dated January 18, 2005 (court order), *Edwards v. SunCom*, State of South Carolina, County of Horry, No. 02-CP-26-3359 (Ct. of Com. Pleas. May 25, 2004) (*Edwards v. SunCom*).

On March 4, 2005, Debra Edwards (Edwards), plaintiff in *Edwards v. SunCom*, filed an Opposition to Petition for Declaratory Ruling and Cross-Petition for Declaratory Rulings (Edwards Petition). See Opposition to Petition for Declaratory Ruling and Cross-Petition for Declaratory Rulings filed by Debra Edwards, WT Docket No. 05-193, on March 4, 2005. In the Edwards Petition, Edwards opposes the SunCom Petition and requests a declaratory ruling that the state-law claims concerning contractual early termination fees asserted in *Edwards v. SunCom* do not amount to regulation of cellular telephone service rates

proscribed by section 332(c)(3)(A) of the Communications Act. The SunCom and Edwards Petitions raise important issues, and in the Public Notice, the Wireless Telecommunications Bureau seeks comment on these petitions. The Wireless Telecommunications Bureau notes that it is contemporaneously releasing a separate public notice seeking comment on another petition for declaratory ruling that raises preemption-related issues regarding early termination fees. See *Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling Filed by CTIA Regarding Whether Early Termination Fees Are "Rates" Within 47 U.S.C. 332(c)(3)(A)*, Public Notice, WT Docket No. 05-194, DA 05-1389 (rel. May 18, 2005).

### Electronic Access and Filing

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments in this proceeding on or before August 5, 2005, and reply comments may be filed on or before August 25, 2005. When filing comments, please reference WT Docket No. 05-193. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554.

Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S.

Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

This proceeding shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of the petitions and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, (202) 418-0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: <http://www.bcpweb.com> or by calling 1-800-378-3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

Federal Communications Commission.  
**Catherine Seidel**,  
*Acting Chief, Wireless Telecommunications Bureau.*  
 [FR Doc. 05-13273 Filed 7-5-05; 8:45 am]  
**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### Technological Advisory Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons of the second meeting of the Technological Advisory Council ("Council") under its charter renewed as of November 19, 2004.

**DATES:** July 28, 2005 at 10 a.m. to 3 p.m.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Commission Meeting Room (TW-C305), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jeffery Goldthorp, (202) 418-1096 (voice), (202) 418-2989 (TTY), or email: [Jeffery.Goldthorp@fcc.gov](mailto:Jeffery.Goldthorp@fcc.gov).

**SUPPLEMENTARY INFORMATION:** Increasing innovation and rapid advances in technology have accelerated changes in the ways that telecommunications services are provided to, and accessed by, users of communications services. The Federal Communications Commission must remain abreast of new developments in technologies and related communications to fulfill its responsibilities under the Communications Act. At this second meeting under the Council's new charter, the Council will consider various topics related to advanced wireless technologies.

The Federal Communications Commission will attempt to accommodate as many persons as possible. Admittance, however, will be limited to the seating available. Unless so requested by the Council's Chair, there will be no public oral participation, but the public may submit written comments to Jeffery Goldthorp, the Federal Communications Commission's Designated Federal Officer for the Technological Advisory Council, before the meeting. Mr. Goldthorp's e-mail address is [Jeffery.Goldthorp@fcc.gov](mailto:Jeffery.Goldthorp@fcc.gov). Mail delivery address is: Federal Communications Commission, 445 12th Street, SW., Room 7-A325, Washington, DC 20554.

Federal Communications Commission.  
**Marlene H. Dortch**,  
*Secretary.*  
 [FR Doc. 05-13031 Filed 7-5-05; 8:45 am]  
**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 05-194; DA 05-1389]

### Petition for Declaratory Ruling Filed by CTIA

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document seeks comment on a petition for expedited declaratory rulemaking filed by the Cellular Telecommunications & Internet Association, seeking a declaratory ruling that early termination fees in wireless carriers' service contracts are "rates charged" for CMRS within the meaning of the Communications Act.

**DATES:** Submit comment on or before August 5, 2005, and reply comment on or before August 25, 2005.

**ADDRESSES:** You may submit comments, identified by WT Docket No. 05-194, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Christina Clearwater, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 202-418-1893.

### SUPPLEMENTARY INFORMATION:

#### Background

On March 15, 2005, the Cellular Telecommunications & Internet Association (CTIA) filed a Petition for Expedited Declaratory Ruling (CTIA Petition), seeking a declaratory ruling by the Commission that early termination fees in wireless carriers' service

contracts are "rates charged" for CMRS within the meaning of section 332(c)(3)(A) of the Communications Act and Commission precedent. *See* Petition of the Cellular Telecommunications & Internet Association for an Expedited Declaratory Ruling, WT Docket No. 194, filed March 15, 2005.

CTIA also seeks a declaration from the Commission that any application of state law by a court or other tribunal to invalidate, modify, or condition the use or enforcement of early termination fees based, in whole or in part, upon an assessment of reasonableness, fairness, or cost-basis of the early termination fee, or to prohibit the use of early termination fees as unlawful liquidated damages or penalties, constitutes prohibited rate regulation preempted by section 332(c)(3)(A) of the Communications Act. The CTIA Petition raises important issues, and in the Public Notice, the Wireless Telecommunications Bureau seeks comment on the Petition. The Wireless Telecommunications Bureau notes that it is contemporaneously releasing a separate public notice seeking comment on earlier-filed petitions for declaratory ruling that raise preemption-related issues regarding early termination fees. *See Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling Filed by Suncom, and Opposition and Cross-Petition for Declaratory Ruling Filed by Debra Edwards, Seeking Determination of Whether State Law Claims Regarding Early Termination Fees Are Subject to Preemption Under 47 U.S.C. Section 332(c)(3)(A)*, Public Notice, WT Docket No. 05-193, DA 05-1390 (rel. May 18, 2005).

### Electronic Access and Filing

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments in this proceeding on or before August 5, 2005, and reply comments may be filed on or before August 25, 2005. When filing comments, please reference WT Docket No. 05-194. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or