

**RECORD SOURCE CATEGORIES:**

Individual subjects and research staff.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 97-2996 Filed 2-5-97; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5685-6]

**Notice of Proposed Assessment of Clean Water Act Class I Administrative Penalty to Black Mesa Pipeline, Inc. and Opportunity To Comment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed administrative penalty and opportunity to comment.

**SUMMARY:** EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Pursuant to 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(a).

Class I proceedings under section 309(g) are conducted in accordance with the proposed "Consolidated Rules of Practice Governing the Administrative Assessment of Class I Civil Penalties Under the Clean Water Act" ("Part 28"), published at 56 FR 29,996 (July 1, 1991). The procedures through which the public may submit written comment on a proposed Class I order or participate in a Class I proceeding, and the procedures by which a Respondent may request a hearing, are set forth in the proposed Consolidated Rules. The deadline for submitting public comment on a proposed Class I order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class I proceeding for the assessment of penalties:

In the Matter of Black Mesa Pipeline, Inc., Tulsa, OK, Docket No. CWA-309-IX-FY96-16; filed on January 24, 1996 with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1389; proposed penalty of \$11,600, for discharges of pollutants from the Black Mesa Coal Slurry Pipeline to waters of the U.S. in Mohave County, Arizona without authorization of a valid NPDES permit. EPA and Black Mesa

Pipeline, Inc. have agreed to a proposed Consent Agreement in which Black Mesa Pipeline, Inc. shall pay the civil penalty of \$11,600.

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of EPA's proposed Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon the proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: January 28, 1997.

Karen Schwinn,

*Acting Director, Water Division.*

[FR Doc. 97-2997 Filed 2-5-97; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**Network Reliability and Interoperability Council Meeting**

January 31, 1997.

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons of a meeting of the Network Reliability and Interoperability Council ("Council") to be held at the Federal Communications Commission in Washington, D.C.

**DATES:** Tuesday, February 25, 1997 at 1:30 p.m.

**ADDRESSES:** Federal Communications Commission, Room 856, 1919 M Street, N.W., Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Jim Keegan, Federal Officer, at (202) 418-2323.

**SUPPLEMENTARY INFORMATION:** The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from

consumer and other organizations to explore and recommend measures that will assure optimal reliability and interoperability of, and accessibility and interconnectivity to, the public telecommunications networks.

The agenda for the meeting is as follows: the Council will hear reports of focus groups 1 and 2 on their progress to date in addressing the issues assigned to them by the Council at the Council's last meeting. The Council also will hear a report on network reliability from the Network Reliability Steering Committee, and will hear the status of implementation of the Network Reliability Council's recommendations for interoperability testing. The Council may discuss other matters brought to its attention.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. Members of the public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission

William F. Caton,

*Acting Secretary.*

[FR Doc. 97-2921 Filed 2-5-97; 8:45 am]

BILLING CODE 6712-01-M

[CS Docket No. 96-133, FCC 96-496]

**Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; Third annual report to Congress.

**SUMMARY:** Section 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. 548(g), requires the Commission to report annually to Congress on the status of competition in markets for the delivery of video programming. On January 2, 1997, the Commission released its third such annual report ("1996 Report"). The 1996 Report contains data and information that summarize the status of competition in markets for the delivery of video programming and updates the Commission's two prior reports. The 1996 Report is based on publicly available data, filings in various Commission rulemaking proceedings, and information submitted by commenters in response to a *Notice of Inquiry* in this docket, summarized at 61 FR 34409 (July 2, 1996).

**FOR FURTHER INFORMATION CONTACT:**

Marcia A. Glauberman, Cable Services Bureau (202) 416-1184 or Rebecca Dorch, Office of General Counsel (202) 418-1868.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *1996 Report* in CS Docket No. 96-133, FCC 96-496, adopted December 26, 1996, and released January 2, 1997. The complete text of the *1996 Report* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service ("ITS, Inc."), (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. In addition, the complete text of the *1996 Report* is available on the Internet at <http://www.fcc.gov/Bureaus/Cable/WWW/csb.html> or at <http://www.fcc.gov/ogc/articles.html>

**Synopsis of the 1996 Report**

1. In the *1996 Report* the Commission reviews provisions of the Telecommunications Act of 1996 ("1996 Act") that affect competition in markets for the delivery of video programming. The Commission reports on information about cable industry performance and the status of competitive entry by other multichannel video programming distributors ("MVPDs"). The Commission also provides information about structural issues affecting competition, such as horizontal concentration, vertical integration and technological advances. It further examines potential obstacles to the emergence of competition and reports on competitive responses by industry players that are beginning to face competition from other MVPDs.

2. In the *1996 Report* the Commission notes that the 1996 Act embodies Congress' intent to promote a "pro-competitive national policy framework" and eventual deregulation of markets for the delivery of video programming. Several of the 1996 Act's provisions are intended to remove barriers to competitive entry in video programming markets and establish market conditions that promote the process of competitive rivalry. Many provisions of the 1996 Act, and the Commission's actions to implement them, have the potential for fostering increased competition in markets for the delivery of video programming.

3. At present, however, incumbent franchised cable systems are still the primary distributors of multichannel video programming. Although other MVPDs continue to increase their share

of subscribers in many local markets for the delivery of video programming, these markets generally remain highly concentrated, and structural conditions are still in place that could permit the exercise of market power by incumbent cable systems. Nationwide, non-cable MVPDs now serve 11% of total MVPD subscribers, with cable operators retaining a share of 89%, down from 91% last year. Notwithstanding this decrease in cable systems' share of total MVPD subscribers, the actual number of cable subscribers continues to increase.

**4. Key Findings:**

- **Status of competition.** It remains difficult to predict the extent to which competition from MVPDs using non-cable delivery technologies will constrain cable systems' ability to exercise market power in the future. In a growing but still very limited number of instances, incumbent cable system operators face competition from wired MVPDs offering similar services. In addition there has been a substantial increase in subscribership to direct broadcast satellite (DBS) providers offering differentiated services. However, it remains difficult to determine the extent to which markets for the delivery of video programming will be characterized by vigorous rivalry among many MVPDs offering closely substitutable services, or instead will be dominated by a few providers facing less vigorous rivalry from other MVPDs offering highly-differentiated or niche programming services.

- **Industry growth.** The cable industry has continued to grow in terms of the number of subscribers, penetration, average system channel capacity, the number of programming services available, revenues, audience ratings and expenditures on programming since the Commission's previous report in 1995.

- **Horizontal concentration.** Nationally, horizontal concentration among the top cable multiple system operators (MSOs) has continued to increase, but still remains within the moderately concentrated range according to standard measures of industry concentration. If all MVPDs are included for consideration, national concentration falls just above the threshold of the moderately concentrated range. In addition, cable MSOs, through acquisitions and trades, continue to increase regional clustering, which now accounts for service to approximately 50% of all cable subscribers.

- **Promotion of entry and competition.** Several of the 1996 Act's provisions are intended to remove barriers to entry and to promote

competition in markets for the delivery of video programming. The Commission has adopted rules implementing the provision creating open video systems and the provision preempting certain local restrictions on reception devices, including antennas and dishes for reception of over-the-air broadcast, wireless cable and DBS signals.

- **Vertical integration.** Vertical integration of national programming services between cable operators and programmers declined from last year's total of 51% to just 44% this year, due largely to the sale of Viacom's cable system assets. In addition, of the 16 programming services that were launched since the Commission's previous report, 10 are not vertically integrated. Access to programming remains one of the critical factors for successful development of competitive MVPDs.

- **Technological advances.** Technological advances are occurring that will permit MVPDs to increase both quantity of service (i.e., an increased number of channels using the same amount of bandwidth or spectrum space) and types of offerings (e.g., interactive services). MVPDs continue to pursue new system architectures, upgraded facilities, use of increased bandwidth and deployment of digital technology.

**Ordering Clauses**

5. This *1996 Report* is issued pursuant to authority contained in Sections 4(i), 4(j), 403 and 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 403 and 548(g).

It is Ordered that the Secretary shall send copies of this *1996 Report* to the appropriate committees and subcommittees of the United States House of Representatives and the United States Senate.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97-2907 Filed 2-5-97; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL ELECTION COMMISSION****Sunshine Act Meeting**

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FEDERAL REGISTER NUMBER: 97-02490.

PREVIOUSLY ANNOUNCED DATE & TIME:  
Thursday, February 6, 1997, 10:00 a.m.,  
meeting open to the public.

*This Meeting Will Not Convene Until 12:00 Noon*

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