

# FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Parts 0, 73, and 76

[MM Docket Nos. 98-204 and 96-16, DA 99-529]

## Revision of Broadcast and Cable EEO Rules and Policies

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of reply comment period.

**SUMMARY:** In *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, the Commission partially grants a motion for extension of time and grants a request that comments be considered *nunc pro tunc*. The Minority Media and Telecommunications Council and 29 other organizations (MMTC *et al.*) request that comments that they filed March 5, 1999, and March 19, 1999, be considered *nunc pro tunc*. The NAB and broadcast associations representing the 50 states, Puerto Rico and the District of Columbia (NAB *et al.*) request an extension of time to file reply comments. The Commission believes that grant of MMTC *et al.*'s request is in the public interest and that partial grant of NAB *et al.*'s request will give commenters ample time to prepare and submit reply comments in this proceeding.

**DATES:** Reply comments due April 15, 1999.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Hope G. Cooper, Mass Media Bureau, Enforcement Division. (202) 418-1450.

### SUPPLEMENTARY INFORMATION:

1. On November 20, 1998, the Commission released a *Notice of Proposed Rule Making*, MM Docket No. 98-204, 13 FCC Rcd 23004, 63 FR 66104, December 1, 1998, (*NPRM*), requesting comment on various proposals concerning the Commission's broadcast and cable EEO rules and policies. Comment and Reply Comment deadlines were established for January 19, 1999, and February 18, 1999, respectively.

2. On December 17, 1998, the National Association of Broadcasters (NAB) filed a "Motion for Extension of Time of Comment and Reply Comment Deadlines" (Motion). See National Association of Broadcasters' Motion for Extension of Time of Comment and Reply Comment Deadlines, MM Docket

Nos. 98-204 and 96-16 at page 1. Therein, the NAB requested that we extend the due dates for the submission of comments and reply comments in response to the *NPRM* to February 18, 1999, and March 23, 1999, respectively. On January 4, 1999, the Minority Media and Telecommunications Council (MMTC) sent a letter to the Commission expressing support for the NAB's Motion.

3. Because we believed that the public interest would be served by an extension of the comment period in this proceeding, we granted the NAB's Motion and extended the date for filing comments to February 18, 1999, and extended the date for filing reply comments to March 23, 1999, in an *Order* released January 5, 1999, DA 99-105, 64 FR 2461, January 14, 1999.

4. On February 10, 1999, the MMTC filed a "Motion for Extension of Time." See Minority Media and Telecommunications Council's Motion for Extension of Time, MM Docket Nos. 98-204 and 96-16. Therein, the MMTC requested that we extend the due date for the submission of comments in response to the *NPRM* for three weeks, until March 11, 1999.

5. Because we believed that the public interest would be served by an extension of the comment period in this proceeding, we granted the MMTC's Motion in part and extended the date for filing comments to March 1, 1999, and, on our own motion, extended the date for filing reply comments to March 31, 1999, in an *Order* released February 12, 1999, DA 99-326, 64 FR 8779, February 23, 1999.

6. On March 1, 1999, MMTC and over 20 national civil rights organizations (MMTC *et al.*) filed a letter (MMTC letter) with the Commission in which they stated that they were unable to file their comments by the comment deadline due to "[t]he magnitude of the task and the illnesses of many of the fifteen people involved in this project" and in which they stated that they would move for consideration of their comments *nunc pro tunc*. See Letter from David Honig, Counsel for EEO Supporters (MMTC *et al.*), to Hon. Magalie Roman Salas, Secretary, Federal Communications Commission, MM Docket Nos. 98-204 and 96-16. In the letter, the MMTC *et al.* also stated that they planned to file four volumes of comments, with Volume I being 183 pages in length. On March 5, 1999, MMTC *et al.* filed Volume I of their comments, with a cover letter requesting consideration of these comments *nunc pro tunc*. See Comments filed by MMTC and 29 other organizations, MM Docket

Nos. 98-204 and 96-16. MMTC *et al.* also stated that they would shortly file Volumes II (the Operation of an FCC Regulatory Program), Volume III (Statements of Witnesses), and Volume IV (Discussion of Witnesses' Statements) of their comments.

7. On March 10, 1999, the NAB and broadcast associations representing all 50 states, the District of Columbia and Puerto Rico (NAB *et al.*) filed a "Motion For Extension of Time of Reply Comment Deadline". Therein, NAB *et al.* requested that the Commission extend the due date for submission of reply comments. In support of their request, the NAB *et al.* stated that an important part of the comments for the record are not yet available. They cited to the MMTC letter and noted that, while MMTC *et al.* filed Volume I of their comments on March 5, 1999, they have yet to file the remaining volumes, whose length is unknown. The NAB *et al.* argued that, given the circumstances described above, if the Commission decides to consider MMTC *et al.*'s comments, it would be impossible for commenters to reply to all of the materials submitted in this proceeding by March 31, 1999. The NAB *et al.* further contended that, because the MMTC *et al.* has indicated that their future comments will include factual studies, sufficient time must be allowed for those studies to be evaluated and any additional research suggested by those studies to be conducted. Therefore, the NAB *et al.* contended that the Commission should extend the due date for filing comments to 60 days after the date that the MMTC's final volume, Volume IV, is filed with the Commission.

8. On March 19, 1999, MMTC *et al.* filed the remainder of their comments, Volumes II, III, and IV, with a cover letter requesting consideration of these comments *nunc pro tunc*. We believe that it is in the public interest to grant MMTC *et al.*'s request to consider their comments, even though their comments were filed after the due date for comments in this proceeding. MMTC *et al.* include a large number of organizations whose voices we feel should be heard in this proceeding and they provided sufficient explanation for the lateness of the filing. Therefore, we hereby grant MMTC's request to have their comments be considered *nunc pro tunc* in this proceeding.

9. We have considered the extension request filed by the NAB *et al.* and hereby extend the date for filing reply comments to April 15, 1999. This extension affords interested parties sufficient time from the date of MMTC

*et al.*'s last comment submission and a total of 45 days from the March 1 filing of all but one of the other comments. We believe that this is ample time to prepare and submit reply comments in this proceeding.

10. Accordingly, it is ordered that the MMTC *et al.*'s request for consideration of their comments *nunc pro tunc* is granted.

11. It is further ordered that the Motion for Extension of Time filed by the NAB *et al.* is granted in part and denied in part.

12. It is therefore ordered that the date for filing reply comments in this proceeding is extended to April 15, 1999.

13. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 USC 154(i) and 303(r), and 0.204(b), 0.283 and 1.46 of the Commission's rules, 47 CFR 0.204(b), 0.283 and 1.46.

#### List of Subjects

##### 47 CFR Part 0

Organization and functions (Government agencies).

##### 47 CFR Part 73

Radio, Equal employment opportunity, Reporting and recordkeeping requirements, Television.

##### 47 CFR Part 76

Cable television, Equal employment opportunity, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Roy J. Stewart,**

Chief, Mass Media Bureau.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 69

[CC Docket No. 97-181; FCC 99-28]

#### Defining Primary Lines

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Communications Commission has adopted a location-based definition of "primary residential line." Under this definition, one residential line that a price cap local exchange carrier (LEC) provides to a particular location will be considered

primary. Any other residential lines the price cap LEC provides to the same location shall be deemed non-primary residential lines. This definition will facilitate implementation of the Commission's access charge rules, which set higher caps for the subscriber line charges (SLCs) and presubscribed interexchange carrier charges (PICCs) that price cap LECs may assess on non-primary residential lines and multi-line business lines than on primary residential lines and single line business lines. The Commission issues a Further Notice of Proposed Rulemaking in which we tentatively conclude that individuals with speech or hearing disabilities should have access at primary-line rates to one residential line per location for use with a TTY, regardless of whether another line at the location is also treated as primary for residents without such disabilities. We seek comment on this tentative conclusion, and several proposals for implementing it.

**DATES:** Comments are due on or before April 9, 1999, and reply comments are due on or before April 26, 1999.

**ADDRESSES:** The entire file is available for inspection and copying weekdays from 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, 445 Twelfth Street SW, Washington, DC 20554. Copies may be purchased from the Commission's duplicating contractor, ITS Inc., 1231 Twentieth St., NW, Washington, DC 20036, (202) 857-3800.

**FOR FURTHER INFORMATION CONTACT:** Neil Fried, Common Carrier Bureau, (202) 418-1520; TTY: (202) 418-0484.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

1. To provide interstate telecommunications services, interexchange carriers (IXCs) usually rely on some of the telephone infrastructure that incumbent LECs use to provide local telephone service. The incumbent LEC's local loop, for example, connects a customer to the LEC network so that the customer can make and receive intrastate calls. The incumbent LEC's local loop also connects the customer to the networks of IXCs so that the customer can make and receive interstate calls. Consequently, a portion of the costs an incumbent LEC incurs in providing this common infrastructure is allocated to intrastate service and recovered pursuant to state regulation, and a portion is allocated to interstate service and recovered pursuant to regulations of the Federal Communications Commission.

2. The Commission adopted uniform access charge rules in 1983 to govern the way incumbent LECs recover that portion of the costs of the common infrastructure allocated to interstate service. Under these rules, the Commission allows incumbent LECs to recover some of the interstate costs of providing the local loop through a flat, monthly end-user common line charge (EUCL)—sometimes called a SLC—that they assess on end users. The Commission limited the amount of the SLC, however, because of concerns that an excessively high SLC might cause end users to disconnect their telephone service. The Commission allowed the incumbent LECs to recover the remainder of their interstate costs attributable to the local loop through a per-minute carrier common line charge (CCLC) that they assess on IXCs.

3. Under principles of cost-causation, it is most economically efficient for incumbent LECs to recover the costs of providing interstate access in the same way that they incur them. Under such principles, incumbent LECs should recover their traffic-sensitive costs of interstate access through per-minute charges, and should recover their non-traffic-sensitive costs through flat charges. The incumbent LECs' costs of providing the local loop do not change with the number, length, or type of telephone calls customers make, and so are non-traffic sensitive. Because of the cap on SLCs, however, incumbent LECs recover some of these non-traffic-sensitive loop costs through the traffic sensitive CCLC. In its May 1997 *Access Charge Reform Order*, the Commission decided to phase out the CCLC for price cap LECs on the grounds that recovering the non-traffic-sensitive loop costs through traffic-sensitive charges is economically inefficient.

4. To provide price cap LECs with a means to recover some of the loop costs they previously recovered in the CCLC, the Commission raised the price cap LECs' SLC caps for non-primary residential lines and multi-line business lines, but chose not to raise the price cap LECs' SLC caps for primary residential lines and single line business lines. For 1999, the SLC cap for price cap LECs is \$3.50 per month for each primary residential and single line business line, \$6.07 per month for each non-primary residential line, and \$9.20 per month for each multi-line business line. To address concerns that charging a higher SLC for non-primary residential lines sold by price cap LECs might encourage subscribers to obtain their additional residential lines from resellers, the Commission decided in