DOCKET FILE COPY ORIGINAL
FCC MAIL SECTION
JUN 31 9 44 AM '99
JUL 1 9 45 AM '99

Before the Federal Communications Commission Washington, D.C. 20554

In the Matter of	)	
	)	
Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services	)	WT Docket No. 98-20
	)	
Amendment of the Amateur Service Rules to Authorize Visiting Foreign Amateur Operators to Operate Stations in the United States	)	WT Docket No. 96-188
	)	RM-8677
	)	
Amendment of Part 95 of Commission's Rules to Allow Organizational Licensing in the GMRS	)	RM-9107
	)	

MEMORANDUM OPINION AND ORDER ON RECONSIDERATION

Adopted: June 10, 1999 **Released:** June 28, 1999

By the Commission:

TABLE OF CONTENTS

I. INTRODUCTION 1

II. DISCUSSION

A. Electronic Filing Issues
1. Electronic Filing Deadlines 3
2. Internet Access to ULS 7
3. Copy Requirements for Manually Filed Forms 9
4. Transition Period for Filing of Pre-ULS Forms 11

B. Standardization of Practices and Procedures for WTB Applications and Authorizations
1. Amendments to Applications 13
2. Frequency Coordination of Minor Amendments/Modifications 15
3. Returns and Dismissals of Incomplete or Defective Applications 17
4. Discontinuation of "Reinstatement" Applications 20
5. Assignments of Authorization and Transfers of Control 23
6. Use of Taxpayer Identification Numbers 25

C. Collection of Licensing and Technical Data
1. Public Mobile Radio Service Data Requirements 33
a. Site-Based vs. Geographic-Based Licensing 34
b. Construction Notification 35
c. Phase II Applications - Ownership Information 36
d. Revised Section 22.165(e) 37
e. Mapping Requirements 38
f. Antenna Pattern Information 42
2. Service Code Classification of Private Land Mobile Services 47
3. Fixed Microwave Service Data Requirements 49
4. Amateur Radio Service Issues 51
a. Modifications to Amateur Application Form (Form 605) 52
b. Charges by Volunteer Examiner Coordinators 54
c. Issuance of License Documents 56
d. Club Station Call Sign Administrators 58
e. Other Amateur Issues 60
5. General Mobile Radio Service Issues 62
a. Channeling Plan 66
b. Use of Repeaters 68
c. GMRS Licensing by Non-Personal Licensees 71
d. Technical Issues 74

III. PROCEDURAL MATTERS

A. Supplemental Final Regulatory Flexibility Analysis 78
B. Paperwork Reduction Act 79
C. Further Information 80

IV. ORDERING CLAUSES 81

Appendix A: Revised Final Rules
Appendix B: List of Petitioners, Commenters, and Reply Commenters
Appendix C: Supplemental Final Regulatory Flexibility Analsysis

I. INTRODUCTION

1. In this *Memorandum Opinion and Order on Reconsideration*, we address petitions for reconsideration of our *Report and Order* in the Universal Licensing proceeding.[1] The *ULS Report and Order*, adopted on September 18, 1998, established consolidated and streamlined rules governing license application procedures for the Universal Licensing System (ULS), the Commission's automated licensing system and integrated database for wireless services. The *ULS Report and Order* also adopted new consolidated application forms to enable all wireless licensees and applicants to file applications electronically in ULS. In addition, we established procedures to ensure a smooth transition from our pre-existing licensing processes to the processes developed for ULS.

2. We received eight petitions for reconsideration addressing various aspects of the *ULS Report and Order*. Four parties filed comments on the petitions and four parties filed reply comments.[2] In this order, we substantially uphold the decisions made in the *ULS Report and Order*, but we make certain revisions and clarifications to our rules in response to the petitions and on our own motion.[3]

II. DISCUSSION

A. Electronic Filing Issues

1. Electronic Filing Deadlines

3. Background. In the *ULS Report and Order*, we concluded that all applicants and licensees in auctionable services and in common carrier services that are not subject to auction because they operate on shared spectrum would be required to file applications electronically as of 1) July 1, 1999, or 2) six months after the conversion of the particular service to ULS, whichever is later.[4] While no

---

[1] Amendment of Parts 0, 1, 13, 22, 24 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Service, WT Docket No. 98-20, *Report and Order*, 13 FCC Rcd. 21027 (1998) (*ULS Report and Order*).

[2] A list of petitioners, commenters, and reply commenters is contained in Appendix B. Numerous informal letters and comments were also filed, primarily by GMRS licensees. These commenters are also listed in Appendix B.

[3] We make certain non-substantive amendments to the rules on our own motion: 1) we restore our prior rule on frequency coordination with Canada (former section 1.955) to ensure that applicants are aware of these requirements (see Appendix A, section 1.928); 2) we clarify the definition of major and minor modifications in certain microwave services (Appendix A, section 1.929), and specify the types of minor modifications that require Commission notification (Appendix A, sections 1.947 and 90.693); 3) we add a rule specifying the authority conveyed by Part 13 Commercial Radio Operator licenses (Appendix A, section 13.8); and 4) we conform our Part 22 rules to eliminate certain information requirements that are not collected on ULS forms (Appendix A, sections 22.529, 22.709, 22.803 and 22.929).

[4] *ULS Report and Order* at 21042-3, ¶ 22-4.

party has sought reconsideration of this deadline, FCBA requests that the Commission add a 24 hour "grace period" to all ULS application filing deadlines for applicants who experience technical difficulties in electronic filing.[5] FCBA states that some ULS users have encountered unanticipated software or network problems when attempting to file electronically, and that there have also been periods when ULS was inaccessible.[6] FCBA argues that in the absence of a grace period, applicants may be penalized for failure to meet filing deadlines due to computer problems beyond their control.[7]

4. Discussion. We recognize that converting to electronic filing poses technical challenges for filers, and we have addressed this issue by providing a six month transition period during which filers can test their ability to file electronically in ULS before mandatory electronic filing takes effect. However, we do not believe that the blanket 24-hour grace period proposed by FCBA is in the public interest. First, as proposed, the grace period would allow late filing based on any type of technical problem, regardless of whether the problem is within the applicant's control or could have been addressed earlier so that the late filing would not have occurred. Allowing applicants to file up to 24 hours after the deadline on this basis would have the effect of disadvantaging applicants who file on time. It also would not eliminate requests for filing deadline extensions based on technical problems, but would simply establish a new *de facto* filing deadline 24 hours after the formal deadline that would reduce the incentive for applicants to address technical problems in a timely manner.

5. We also disagree with the presumption underlying the grace period proposal that most of the types of technical difficulties described in FCBA's petition are in fact beyond the applicants' control. In most cases, applicants can minimize the risk of unexpected last-minute technical difficulties with electronic filing by testing equipment and software in advance, familiarizing themselves with the electronic filing process, and preparing to file far enough in advance of the deadline to deal with technical problems that may occur. Applicants also have the ability to consult with the Commission's ULS technical support staff at 202-414-1250 at any time during normal business hours. In this respect, electronic filing is no different from manual filing, where applicants subject to a filing deadline must allow for contingencies such as malfunctioning word processors or copiers, mailing time, or traffic tie-ups that hinder messenger delivery of filings to the Secretary's office. We have consistently denied requests for extension of filing deadlines based on these types of contingencies,[8] and we see no reason to carve out a blanket exception for analogous difficulties in the electronic filing context.

---

[5] FCBA Petition at 23 - 25; Winstar comments at 6.

[6] *Id.*

[7] *Id.*

[8] "The Commission [does not] consider as unusual or compelling [waiver requests] based upon claims that copying machines, delivery services or even, in most cases, inclement weather or illness, was responsible for the tardy filing." In the Matter of First Auction of Interactive Video and Data Service (IVDS) Licenses, Request for Waiver of Applications Deadline, *Order*, 10 FCC Rcd. 5415 (1995). *See also*, *Virginia Islands Tel. Corp v. FCC*, 989 F. 2d 1231, 1237 (D.C. Cir. 1993) (Commission may not accept untimely reconsideration petitions in the absence of extremely unusual circumstances).

6. While we decline to adopt the grace period proposal, we recognize that there may be instances where an applicant exercises diligence in preparing to file electronically, but nonetheless encounters technical difficulties that are truly beyond its control. We believe that such situations are better handled on a case-by-case basis by waiver rather than by means of a blanket rule.[9] In addition, in those instances where applicants are unable to file electronically because of a technical problem with the Commission's own electronic filing system, we will extend filing deadlines as needed until the Commission staff has resolved the problem.

2. Internet Access to ULS

7. Background. Because ULS operates on the Commission's private wide area network (FCC WAN), it is accessible only by direct dial-up through an 800 number or 900 number, and is not accessible through the Internet. In their petitions, FCBA and BellSouth request that ULS be made Internet-accessible for both electronic filing and database search purposes.[10]

8. Discussion. We address these issues in a companion order adopted today.[11] In the *ULS Second Report and Order*, we authorize Internet access to the ULS database for purposes of performing read-only searches of application and licensing information. However, as discussed in the order, based on considerations of system security and integrity, we decline to allow electronic filing of ULS applications on the Internet at this time. However, we have delegated authority to the Wireless Telecommunications Bureau (Bureau) to expand Internet access to ULS to include application filing if it concludes that considerations of system reliability and security associated with Internet-based filing can be adequately addressed.[12]

3. Copy Requirements for Manually Filed Forms

9. Background. In the *ULS Report and Order*, we provided that parties filing applications electronically would not be required to submit paper, diskette, or microfiche copies of their

[9] *See, e.g.*, In Re Mountain Solutions, LTD., Inc., Request for Waiver of Deadline for Submission of Form 600 Applications, *Order*, DA 99-517 (WTB, Commercial Wireless Div., rel. March 16, 1999) (accepting an untimely electronic filing, caused by technical difficulties, where the applicant had timely contacted the Commission's technical support staff and was using the electronic filing system at 5:30 but did not complete the filing until 5:33 pm).

[10] FCBA Petition for Reconsideration (hereinafter, "FCBA Petition") at 20-23; Bell South Petition at 10-11.

[11] In the Matter of Biennial Regulatory Review--Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, WT Docket No. 98-20, *Second Report and Order*, FCC 99-140 (rel. June 15, 1999) (*ULS Second Report and Order*).

[12] *Id.* 4-5, ¶ 11. The International Bureau has developed and implemented IBFS, an Internet-based system that allows users to electronically file applications and run various reports and queries. *See* International Bureau On-Line Reports and Electronic Filing Pilot Program, *Public Notice,* IBFS-99-001 (rel. Feb. 10, 1999).

applications.[13] We also eliminated diskette and microfiche copy requirements for manual filers, because information from manually filed applications will be scanned directly into ULS. However, we required manual filers to submit one paper copy of their application along with the original.[14] BellSouth requests that the requirement of a copy for manually filed applications be eliminated so that only the original need be submitted. BellSouth contends that the copy requirement is costly, burdensome, and inconsistent with our treatment of electronic filers.[15]

10. Discussion. We decline to adopt BellSouth's proposal. We have substantially reduced the burden on manual filers in ULS by eliminating diskette and microfiche requirements.[16] However, we believe that requiring an original plus a copy of manually filed applications will minimize the risk of losing or misplacing the application before it is scanned into ULS, because the original will be on file while the copy is scanned. The burden to the applicant of filing a copy as well as an original of manually filed applications is not significant, and can be avoided altogether by filing electronically.

4. Transition Period for Filing of Pre-ULS Forms

11. Background. In order to provide a reasonable transition for wireless applicants and licensees to move from using pre-ULS application forms to the new ULS forms, we determined that use of pre-ULS forms would be allowed for six months after the effective date of the ULS rules adopted in the *ULS Report and Order*.[17] The ULS rules became effective on February 12, 1999. As a result, the six month transition period for use of pre-ULS forms expires on August 12, 1999. However, under the current ULS deployment schedule, some wireless services will not be converted from their "legacy" licensing databases to ULS until after this date. In addition, our experience with ULS deployment to date has been that it is difficult and time-consuming for Commission staff to process applications filed on ULS forms until the database for the particular service has been converted to ULS. We have therefore encouraged the use of pre-ULS forms in services that we have not converted to ULS.[18]

---

[13] *ULS Report and Order* at 21047, ¶ 35.

[14] *Id.*

[15] BellSouth Petition at 9.

[16] Manual filers may submit exhibits and attachments to applications on diskette instead of paper if it is more convenient for them to do so, but they are not required to file both on paper and diskette. If a filer chooses to use a diskette we encourage the filer to indicate that "Diskette(s) were submitted with this application."

[17] *ULS Report and Order* at 21038, ¶ 16. The effective date of the *ULS Report and Order* was February 12, 1999.

[18] The Wireless Telecommunications Bureau Announces New Universal Licensing System (ULS) Filing Procedures and Revised Application Forms Effective February 16, 1999, *Public Notice*, DA 99-314 (rel. Feb. 10, 1999).

12. Discussion. In light of these considerations, we conclude that the transition period during which applicants may continue to file pre-ULS forms should be extended for those services that have not yet been converted to ULS. Therefore, on our own motion, we amend our rules to allow the filing of pre-ULS forms until 1) August 12, 1999, or 2) six months after the service is converted to ULS, whichever is later. This will provide licensees and applicants in as-yet unconverted services with the same flexibility to make the transition to ULS that has been afforded to licensees and applicants in services that have already been converted to ULS.[19]

B. Standardization of Practices and Procedures for WTB Applications and Authorizations

1. Amendments to Applications

13. Background. BellSouth seeks clarification of section 1.927 of the Commission's rules, as amended by the *ULS Report and Order*, regarding amendments of pending applications. As amended, section 1.927 states in pertinent part that an application may be amended as a matter of right if it has not been placed on public notice as accepted for filing.[20] BellSouth states that appearance of an application on public notice should preclude subsequent amendment only if the application is for a license that is subject to random selection or competitive bidding.[21]

14. Discussion. We agree with BellSouth and will clarify the rule accordingly. As BellSouth points out, the pre-ULS rule on amendments to applications did not preclude post-Public Notice amendment of applications except for applications subject to lottery or auction.[22] It was not our intent to change this rule substantively in the *ULS Report and Order*. Therefore, we clarify that applicants can amend their applications as a matter of right as long as the application has not been listed on a public notice for a competitive bidding process, and is not subject to any of the remaining exceptions in section 1.927.[23]

2. Frequency Coordination of Minor Amendments/Modifications

15. Background. In certain Part 90 and Part 101 services, frequency coordination is required of applicants or licensees prior to filing certain applications, major amendments to pending applications, or major modifications to licenses. In the *ULS Report and Order*, we conformed our

---

[19] *Id.*

[20] 47 C.F.R. § 1.927(a). The rule places certain other restrictions on amendments not pertinent to the issue raised by BellSouth.

[21] BellSouth Petition at 11.

[22] *See former* 47 C.F.R. § 22.122.

[23] We delete the prior reference to selection of licenses by random selection because the Balanced Budget Act of 1997 eliminated our authority to use random selection in wireless services. See 47 U.S.C. § 309(i)(5), as amended by the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997), at § 3002(a)(2)(B)(3).

frequency coordination requirements in Part 90 and Part 101 so that all applicants and licensees subject to coordination will comply with the same frequency coordination requirements.[24] We also specified in Part 1 that amendments to applications or modifications to licenses that require prior coordination are defined as major changes for filing purposes.[25] National Spectrum Managers Association (NSMA) and Comsearch seek clarification or reconsideration of our rules relating to frequency coordination for certain technical changes in the fixed microwave services that are defined as minor under section 1.929.[26] NSMA and Comsearch contend that under our ULS rules, these minor changes are no longer subject to coordination requirements and could result in harmful interference in the absence of such coordination.[27]

16. Discussion. We do not believe that the concerns raised by Comsearch and NSMA require revision of our rules because the *ULS Report and Order* did not have the effect of eliminating coordination requirements in the circumstances that they cite. Section 101.103(d) of our rules sets forth coordination requirements for changes to microwave systems. As it did prior to the *ULS Report and Order*, this section continues to require all proposed usage of microwave frequencies to be "prior coordinated with existing licensees, permittees and applicants in the area, and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference on active channels, applied for channels, or channels coordinated for future growth."[28] The only change we have implemented in this procedure in the *ULS Report and Order* was to eliminate the requirement previously contained in section 101.103(d) that in the case of minor amendments, the coordination process must be completed prior to the *filing* of the amendment. However, a microwave applicant or licensee proposing a minor technical change must still coordinate as required by the rule prior to implementing the change. We believe that this process is sufficient to ensure that minor modifications and amendments will be properly coordinated to avoid harmful interference, without imposing an unnecessary filing burden on the applicant.

3. Returns and Dismissals of Incomplete or Defective Applications

17. Background. In the *ULS Report and Order*, we adopted a single consolidated rule concerning dismissal of applications and established a uniform policy regarding return of applications for correction and refiling by the applicant.[29] Under section 1.934, the Commission may dismiss any

---

[24] *ULS Report and Order* at 21065, ¶ 84.

[25] *See* 47 C.F.R. § 1.929(a)(5).

[26] 47 C.F.R. § 1.929(d).

[27] NSMA Petition at 7; Comsearch Petition at 4-6. The minor changes that Comsearch identifies as requiring coordination are location changes of 5 seconds or less in latitude or longitude, antenna changes that do not increase beamwidth, azimuth changes of 1 degree or less, and reductions in bandwidth.

[28] 47 C.F.R. § 101.103(d)(1).

[29] *ULS Report and Order* at 21068, ¶ 90.

defective application,[30] but we also retain the discretion to return an application for correction if circumstances warrant. In the *ULS Report and Order*, we stated that applicants receiving returned applications would have 30 days from the date of the Commission's return letter to correct the defect and refile the application, unless the return letter specified a shorter period.[31] PCIA seeks reconsideration of the 30 day standard, arguing that in the case of applications that require frequency coordination, 30 days does not allow sufficient time for the corrected application to be submitted to and reviewed by the coordinator before it is refiled.[32] PCIA requests that for coordinated services, we allow 60 days for correction and refiling of returned applications.

18. Discussion. We believe PCIA has raised a valid concern that in coordinated services, more than 30 days may be required for returns. In these services, the time period for returns must be sufficient to accommodate mailing of the return notice to the applicant, review and correction of the application by the applicant, resubmission to the coordinator, review by the coordinator, and refiling of the application with the Commission. We agree with PCIA that 30 days may not be sufficient to complete this process, and conclude that a 60 day period is more reasonable. In the interest of maintaining uniform procedures for all wireless services, we will also apply this policy to returns in all wireless services, including non-coordinated services.

19. While we grant PCIA's petition, several aspects of our dismissal and return policy bear emphasis. First, in conjunction with the deployment of ULS, the Bureau has announced uniform standards for dismissal of defective applications that will reduce the number of applications that are returned rather than dismissed without prejudice.[33] Second, in those instances where we return applications for correction, we retain the discretion to require refiling in less than 60 days, provided that the return notice specifies the shorter period. Finally, if a corrected application includes changes that constitute major amendments, it will be governed by our major amendment rule and treated as a new application with a new filing date.[34]

4. Discontinuation of "Reinstatement" Applications

20. Background. In the *ULS Report and Order*, we eliminated reinstatement procedures in those wireless services that allowed licensees who failed to file a timely renewal application to request reinstatement of the expired license.[35] FCBA seeks reconsideration of this decision, and proposes that

---

[30] 47 C.F.R. § 1.934(a).

[31] *ULS Report and Order* at 21069, ¶ 92.

[32] PCIA Petition at 3.

[33] *See* "Wireless Telecommunications Bureau Announces Unified Policies for Dismissing and Returning Applications and Dismissing Pleadings Associated with Applications," *Public Notice*, DA 99-385 (rel. Feb. 24, 1999); *see also* "Wireless Telecommunications Bureau Postpones Effective Date of Unified Dismissal Policy for Applications in the Wireless Services," *Public Notice*, DA 99-811 (rel. April 29, 1999).

[34] *See* 47 C.F.R. § 1.929.

[35] *ULS Report and Order* at 21071, ¶ 96; 47 C.F.R. § 1.949.

we apply a 30-day reinstatement window to all wireless licenses. FCBA contends that eliminating reinstatement procedures will penalize licensees for what is often merely an inadvertent failure to file a timely renewal application.[36] FCBA also asserts that our decision will result in an increase, rather than a decrease, in the filing of pleadings and petitions for waiver to allow late-filed renewal applications.[37] Other commenters support FCBA's view.[38]

21. Discussion. FCBA suggests that there are many "Murphy's Law"-type reasons why a licensee might inadvertently fail to file a renewal application, such as turnover in recordkeeping personnel, failure to check computer records, or simple forgetfulness.[39] As a threshold matter, we reject the view that any of these are valid excuses, in and of themselves, for failure to file a timely renewal application. We emphasize that the licensee is fully responsible for knowing the term of its license and filing a timely renewal application. In addition, as we stated in the *ULS Report and Order*, ULS will send out reminder letters to licensees 90 days prior to the renewal deadline.[40] We have not issued such reminder letters previously, but we expect them to substantially reduce the number of licensees who inadvertently fail to file timely renewals. FCBA expresses concern that such letters could be sent to the wrong address if the ULS database does not contain the licensee's correct address information.[41] Providing correct information, however, is also the responsibility of the licensee. Moreover, ULS enables licensees to update their addresses and other contact information instantaneously in the ULS database by electronic notification.[42]

22. We agree with FCBA, however, that our treatment of late-filed renewal applications should take into consideration the complete facts and circumstances involved, including the length of the delay in filing, the performance record of the licensee, the reasons for the failure to timely file, and the potential consequences to the public if the license were to terminate. We further agree with FCBA that in instances where a renewal application is late-filed up to 30 days after the expiration date of the license, denial of the renewal application and termination of the licensee's operations would be too harsh a result in proportion to the nature of the violation. At the same time, we believe that some sanction is warranted for late filing of renewal applications, even if the late filing is inadvertent and the length of delay is not significant. Therefore, we will handle late-filed renewal applications as follows: If a renewal application is late-filed up to 30 days after the license expiration date in any wireless service, and the application is otherwise sufficient under our rules, we will grant the renewal *nunc pro tunc*. The Wireless Bureau, after reviewing all facts and circumstances concerning the late filing of the renewal application, may, in its discretion, also initiate enforcement action against the

[36] FCBA Petition at 39-40.

[37] *Id.*

[38] FCBA Reply Comments at 4-5; Winstar Comments at 8.

[39] FCBA Petition at 14.

[40] *ULS Report and Order* at 21071, ¶ 96.

[41] FCBA Petition at 14.

[42] *See* "Wireless Telecommunications Bureau Announces Availability of the 'Administrative Update' Function in the Universal Licensing System," *Public Notice*, DA 99-396 (rel. Feb. 25, 1999).

licensee for untimely filing and unauthorized operation between the expiration of the license and the late renewal filing, including, if appropriate, the imposition of fines or forfeitures for these rule violations. Applicants who file renewal applications more than 30 days after license expiration may also request renewal *nunc pro tunc*, but such requests will not be routinely granted, will be subject to stricter review, and may be accompanied by enforcement action, including more significant fines or forfeitures.

5. Assignments of Authorization and Transfers of Control

23. Background. BellSouth argues that the Commission should eliminate the need for wireless licensees to file public interest statements as exhibits to applications for assignment of license or transfer of control.[43] As precedent, BellSouth cites our 1996 decision not to require public interest statements in connection with common carrier microwave initial applications.[44]

24. Discussion. We find no basis to grant the relief requested by BellSouth in this proceeding, because our ULS rules do not require a public interest statement to be attached to assignment or transfer applications, nor is there such a requirement on the Form 603. In some instances, such as transfers or assignments that have competitive implications or involve designated entities, we have required applicants to provide a public interest statement because additional information is needed for the Commission to make a determination under section 310(d) of the Act that the proposed transfer or assignment is in the public interest.[45] However, whether and under what circumstances such a public interest statement should be required is a policy matter that is beyond the scope of this proceeding.

6. Use of Taxpayer Identification Numbers

25. Background. In the *ULS Report & Order*, we required all ULS applicants and licensees to register their Taxpayer Identification Numbers (TINs) with the Commission through ULS. In the case of auctionable services, we also required applicants and licensees to provide TIN information for attributable interestholders as defined in section 1.2112(a) of the rules.[46] Attributable interestholders are defined as any person or entity who holds a direct or indirect interest in the applicant/licensee of 10 percent or greater, or any other person or entity who exercises actual control of the applicant/licensee.[47]

---

[43] BellSouth Petition at 9.

[44] *See* Reorganization and Revision of Parts 1, 2, 21, and 94 of the Commission's Rules to Establish a New Part 101, WT Docket No. 94-148, *Report & Order*, 11 FCC Rcd. 13449 (1996).

[45] *See* Form 603, Item 6 instructions.

[46] *ULS Report and Order* at 21089-90, ¶ 139. The FCC Form 602 collects this information. *See also* "Wireless Telecommunications Bureau Answers Frequently Asked Questions about FCC Form 602," *Public Notice*, DA 99-1001 (rel. May 25, 1999).

[47] *See* 47 C.F.R. § 1.2112(a).

26. FCBA and BellSouth seek reconsideration of our requirement to disclose the TINs of attributable interestholders. FCBA agrees with the Commission that applicants and licensees are required by the Debt Collection Improvement Act (DCIA)[48] to submit their TINs to the Commission, but contends that any collection of TIN information from persons or entities other than the licensee or applicant itself is beyond the scope of the DCIA.[49] BellSouth contends that the TIN collection requirement is overbroad because it will require officers and directors of a licensee to submit their individual Social Security numbers (SSNs).[50] Similarly, Popkin seeks reconsideration of the requirement that Amateur Radio applicants and licensees provide their SSNs to the Commission.[51]

27. Discussion. We disagree with FCBA's contention that the DCIA authorizes the collection of only applicant and licensee TINs. In the *ULS Report and Order*, we stated that Congress had enacted DCIA as part of an effort to increase the government's effectiveness in collecting debt from private entities.[52] The DCIA requires all persons "doing business" before a Federal agency to provide a TIN as a condition to receiving governmental benefits, regardless of whether fees are collected.[53] The DCIA defines a person "doing business with a Federal Agency" as "an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency. . ."[54] In the *ULS Report and Order*, we concluded that this definition extended to 10 percent or greater interestholders in the applicant because these parties are treated as akin to the applicant for purposes of our ownership disclosure requirements.[55]

28. FCBA and supporting commenters have failed to raise any new arguments demonstrating that our initial decision with respect to TINs of attributable owners was incorrect. We continue to believe that both the letter and the spirit of the DCIA require collection of TIN information beyond the applicant/licensee level. For example, in many instances, the licensee or applicant entity is a subsidiary or "shell" corporation over which a parent corporation, partnership, or individual exercises *de facto* control. Under the interpretation of petitioners, only the shell corporation would be required to provide its TIN to comply with the DCIA, while the party exercising actual control would not be required to provide any TIN information. We believe that this is too narrow an interpretation of which entity is "doing business" before the Commission. Indeed, such an interpretation could lead to circumvention of the goals of the DCIA. Reading the statute in this manner could enable a person or

---

[48] *See* the Debt Collection Improvement Act of 1996, PL 104-134, 110 Stat. 1321 (1996) (codified at 31 U.S.C. § 3701 *et seq.*).

[49] FCBA Petition at 8-9.

[50] BellSouth Petition at 7. For individuals, the SSN serves as the TIN.

[51] Popkin Petition at 1-2.

[52] *ULS Report and Order* at 21088-89, ¶ 138.

[53] *See* 31 U.S.C. § 7701(c)(1).

[54] *Id.*

[55] *ULS Report and Order* at 21089-90, ¶ 139.

entity with delinquent debts to the government to avoid disclosure of its own TIN information by establishing a shell corporation to hold the license and providing the TIN of that entity.

29. We also affirm our decision to extend the TIN reporting requirement for auctionable services to all 10 percent or greater interestholders in the applicant or licensee, as defined in section 1.2112(a). FCBA and others contend that this requirement is overbroad because some interestholders considered attributable under the 10 percent threshold do not actually exercise control over the licensee or applicant. While it is true that in some instances, a 10 percent or greater interestholder may lack actual control (*e.g.*, if it is a minority shareholder in an entity controlled by a majority shareholder with more than a 50 percent interest), we do not consider the presence or absence of control to be only consideration in whether a person or entity is "doing business" before the Commission. With or without control, persons or entities with a 10 percent or greater interest in an applicant or licensee have a significant stake in the venture and reap substantial benefits from the award of the license. Therefore, we believe it is reasonable for DCIA purposes to regard persons and entities that hold an attributable interest in an applicant or licensee as "doing business" with the Commission. Moreover, we require this level of interest to be reported because it is directly relevant to the qualifications of the applicant for a wide variety of purposes, including spectrum cap and cross-ownership rules, eligibility for small business status, and foreign ownership. Moreover, we do not agree with FCBA's contention that our interpretation is inconsistent with the Department of Treasury's explanatory note regarding the DCIA found on its Internet website.[56] The note merely states that any federal agency is required to obtain TINs "in any case . . . where the individual or entity is considered to be doing business with the Government." Contrary to FCBA's stated opinion, this note does not explicitly or implicitly limit the definition of what classes of persons or entities are considered to be doing business with the Commission.

30. While we generally affirm the TIN disclosure requirements established in the *ULS Report and Order*, we also clarify certain elements of this requirement in response to comments received in reconsideration petitions. For example, BellSouth argues that officers and directors of a corporation should not be required to provide SSNs, because they are not personally liable for corporate debts and fall outside the scope of the DCIA.[57] As a threshold matter, we disagree with BellSouth's contention that disclosure of individual officer or director SSNs is necessarily beyond the scope of the DCIA. In circumstances where a director or officer is an attributable interestholder in the licensee (by virtue of holding a 10 percent or greater ownership interest) or otherwise personally exercises control over the licensee, the officer or director must be identified under section 1.2112(a) of the rules. We conclude that it meets the DCIA definition of a person "doing business" before the agency. We clarify, however, that the TIN disclosure requirement does not extend to officers or directors that hold no attributable ownership interest and do not otherwise exercise personal control over the licensee. In the absence of one or both of these factors, we do not believe that status as an officer or director *per se* brings the individual within the scope of the DCIA, just as it is not a sufficient interest to require disclosure under section 1.2112(a). Therefore, in many instances, applicants and licensees reporting ownership and TIN information on Form 602 will not be required either to identify individual corporate officers or directors or to provide their SSNs.

---

[56] FCBA Petition at 9 (citing *ULS Report and Order* at 21089-90, ¶ 139, n.306).

[57] BellSouth Petition at 7.

31. FCBA also seeks relief from the TIN disclosure requirement with respect to attributable interestholders that are beyond the control of the applicant or licensee.[58] For example, FCBA contends that minority interestholders who are controlled by third parties may be unwilling to provide their TIN information to an applicant or licensee seeking to provide the information required by Form 602. We decline to carve out a formal exception from the TIN disclosure requirement for this situation. It is the applicant or licensee's responsibility to collect the required TIN information from all attributable interestholders as called for by the rule. However, we recognize that there may be practical difficulties obtaining TIN information from some third parties beyond the applicant or licensee's control. We believe that requests for relief from this rule are better handled on a case-by-case basis under our waiver rules.[59]

32. Finally, we deny Popkin's request for reconsideration of the requirement that Amateur Radio applicants and licensees provide their SSNs to the Commission. Popkin does not raise any new issues in his Petition, but simply restates his previous argument that Amateurs should not be required to disclose their TINs because they do not make fee payments to the Commission for applications.[60] We have previously determined that the DCIA does not distinguish between applicants who pay fees and those who do not in terms of who is "doing business" with a Federal agency. As a result, we have determined that Amateur applicants and licensees are not exempt from the TIN disclosure requirement.[61] We reaffirm that decision here. We also reaffirm that we will maintain the confidentiality of SSN/TIN information provided by Amateurs, as well as by licensees and applicants in other services, and that such information will not be disclosed to the public.[62]

C. Collection of Licensing and Technical Data

1. Public Mobile Radio Service Data Requirements

33. In the *ULS Report and Order,* we streamlined many of our rules to reduce the burden on applicants and licensees providing licensing and technical data for commercial services. FCBA and BellSouth have petitioned for reconsideration or clarification of certain of these rules as they apply to cellular applicants and licensees. In addition, we address issues raised in a petition for judicial review filed by Timothy E. Welch dba Hill & Welch.

---

[58] FCBA Petition at 11.

[59] 47 C.F.R. § 1.925.

[60] Popkin Petition at 2-3.

[61] *ULS Report and Order* at 21088-9, ¶ 138.

[62] ARRL questions how the TIN requirement applies to amateur operators who are not U.S. citizens and are not legally entitled to social security numbers. ARRL Petition at 8-9. There are limited instances in which persons doing business before the FCC are not required by applicable law to have a TIN because they are foreign nationals and are not subject to United States jurisdiction for tax purposes. In those cases, the DCIA does not apply, and we have established procedures in ULS to assign such parties a ULS-generated identification number for system identification purposes.

a. Site-based vs. Geographic-based Licensing

34. Background/Discussion. FCBA contends that the *ULS Report and Order* is ambiguous as to whether cellular is to be classified in ULS as a site-specific service, a geographically licensed service, or a "hybrid" of the two.[63] Although FCBA does not object to any of the revised ULS rules applicable to cellular, it seeks clarification that to the extent the classification of cellular is unclear, we did not intend to place any additional requirements on cellular other than those enunciated in the rules. We agree that no such additional requirements were intended, and that cellular applicants and licensees are only subject to the specific requirements set forth in the rules.

b. Construction Notification

35. Background\Discussion. BellSouth notes that the revised section 1.946(d) requires a licensee to notify the Commission of the completion of construction within 15 days of the "expiration of the applicable construction or coverage period."[64] However, BellSouth observes that section 22.946, applicable to cellular licensees, requires notification within 15 days "after the requirements of this section are met."[65] Thus, the notification deadline for cellular licensees is triggered by actual construction, while the Part 1 deadline is triggered by the construction deadline, regardless of when the construction actually occurs (so long as it is prior to the deadline). BellSouth requests that the rule for cellular be changed so that it conforms with the requirement set forth in our new Part 1 rule.[66] We agree with BellSouth that our rules should be consistent for all services. We amend our Part 22 rules to clarify that the construction notification requirements are governed by section 1.946 of our rules.

c. Phase II Applications - Ownership Information

36. Background\Discussion. BellSouth also seeks elimination of section 22.953(a)(5) of the Commission's rules, which requires that cellular unserved area applicants provide ownership information.[67] BellSouth argues that the requirement is duplicative of section 1.919, which sets forth requirements for provision of ownership information by all applicants in auctionable services, including cellular. We agree with BellSouth that the Part 22 service-specific rule is unnecessary in light of our adoption of a consolidated ownership reporting requirement for all auctionable services. We therefore delete section 22.953(a)(5) as requested.

[63] FCBA Petition at 16-17.

[64] *See* 47 C.F.R. § 1.946(d).

[65] *See* 47 C.F.R. § 22.946.

[66] BellSouth Petition at 5-6.

[67] *Id.* at 8.

d. Revised Section 22.165(e)

37. Background\Discussion. BellSouth asserts that we revised section 22.165(e) in such a way as to make a substantive rule change limiting the circumstances in which a cellular licensee may enter into a contract extension with a neighboring licensee to add transmitters with contours that extend beyond the licensee's CGSA.[68] However, the only change made to section 22.165(e) in the *ULS Report and Order* was to update references to new forms or new rule sections. Thus, we made no substantive changes to the rule, which still permits contract extensions as it did prior to the *ULS Report and Order*.

e. Mapping Requirements

38. Background. BellSouth seeks reconsideration of our decision to retain the requirement for filing maps until the mapping utility programming is available electronically in ULS. BellSouth argues that we should stop requiring maps immediately.[69] BellSouth argues that maps contain non-essential, duplicative information and the vast majority of cellular markets have been available for Phase I unserved area license applications for quite sometime, while maps depicting Cellular Geographic Service Areas (CGSAs) of existing systems are currently on file at the Commission.[70] If the Commission does not eliminate the map filing requirements at this time, BellSouth states that we should clarify how cellular licensees are to submit system information update filings.[71] FCBA believes that we should phase-out paper maps as soon as the ULS mapping utility is available. FCBA urges the Commission to establish a date certain by which the ULS mapping utility will be available and operational.[72] Finally, FCBA requests that we use technical information contained in the cellular database correction letters filed by licensees in 1998 when designing the map program.[73]

39. Discussion. We disagree with Bell South's proposal to eliminate the filing of maps immediately. The primary purpose of maintaining a file of up to date CGSA maps is to provide a quick and easy way for interested parties and the public to determine the availability of unserved areas in a particular cellular market. Determining an existing licensee's CGSA by examining the technical data available in the Commission's database, without the currently required maps, would be a very difficult and time consuming task.

40. The only time full size paper maps must be filed with the Commission is when there is a change to a licensee's CGSA in connection with the licensee's system information update (SIU) at the

---

[68] *Id.* at 4.

[69] *Id.* at 2-3.

[70] *Id.*

[71] *Id.*

[72] *Id.* at 18-19.

[73] FCBA Petition at 18.

conclusion of its five-year initial build-out of an MSA or RSA, or a Phase II application.[74] The number of such applications filed with the Commission is relatively small. However, many licensees submit full size maps with minor modification applications where their CGSA is not changed. While we do not prohibit the filing of paper maps with minor modification applications, we emphasize that maps are only required when there is a change to the CGSA.

41. BellSouth and FCBA also raise concerns that we will use the SIU filings to design the ULS mapping program.[75] The ULS mapping program will not rely on SIU filings, but ULS will use the most current technical data in the ULS database, whether from the database correction letters filed in 1998 or subsequent application filings, to determine a CGSA in the ULS mapping program. At this time, the Commission is not prepared to set a date certain as to the availability of the ULS mapping program. The Bureau will issue a Public Notice when the new ULS mapping utility is online and cellular licensees and applicants no longer need to file maps.

f. Antenna Pattern Information

42. Background. In the *ULS Report and Order* we eliminated the requirement that Part 22 paging licensees submit data concerning antenna type, model, and manufacturer to the Commission.[76] We stated that we would amend our rules to require Part 22 licensees to maintain this information in their station records and to produce it to other licensees or applicants upon request.[77] On February 12, 1999, Timothy E. Welch dba Hill & Welch (Welch) filed a petition for review of the *ULS Report and Order* in the United States Court of Appeals for the District of Columbia Circuit.[78] Welch seeks judicial review of our decision to eliminate this requirement. Welch contends that it is essential for applicants and licensees to be able to obtain this information from the Commission, and that applicants and licensees will instead have to resort to time-consuming litigation to resolve interference problems.[79]

---

[74] 47 C.F.R. § 22.953.

[75] *See* 47 C.F.R. §§ 22.947(c), 22.953. For those few cellular licensees whose five year build-out period has not yet expired, they should mail their maps and SIU information directly to the Licensing and Technical Analysis Branch of the Commercial Wireless Division located at the Commission's headquarters in Washington, D.C. Until the paper map filing requirements are eliminated, applicants must file maps together with an applicants Form 159 fee payment form. We encourage applicants to indicate the ULS file number of the application on their maps and indicate in an attachment to their FCC Form 601 that "Maps were submitted with this application." When a fee payment or an FCC Form 159 is not required, the paper maps should also be mailed directly to the Licensing and Technical Analysis Branch.

[76] *ULS Report and Order* at 21097, ¶ 159.

[77] *Id.*

[78] Timothy E. Welch dba Hill & Welch v. FCC, No. 99-1050 (D.C. Cir. filed Feb. 12, 1999). Hill & Welch is a law firm that represents various paging licensees before the Commission.

[79] Welch Petition at 1-2.

43. Discussion. Although Welch did not file a petition for reconsideration on this issue, we address his petition for review on our own motion. Welch asserts that paging licensees must have access to technical information regarding the type, model, and manufacturer of transmitting antennas used by co-channel systems in order to determine the boundary of the co-channel stations' protected service areas.[80] Welch expresses concern that if the Commission does not require licensees to file this information publicly, the only alternative procedure for obtaining such information from a licensee will be to file a motion to compel under Section 308 of the Act.[81]

44. We disagree with Welch's view. First, Welch overstates the relevance of antenna type, model, and manufacturer information to the determination of paging licensee service contours. Under our paging rules adopted in the *Part 22 Rewrite Order* in 1994, service contours are calculated based on a formula that utilizes the transmitting antenna's effective radiated power (ERP) and height above average terrain (HAAT).[82] Prior to 1994, the Commission used a different methodology to calculate service area contours that required licensees to provide more detailed information regarding each transmitter, including technical antenna information concerning antenna type and model. However, when the Commission replaced this approach with the formula-based approach of the *Part 22 Rewrite Order*, antenna type and model information became irrelevant to the determination of service contours under the rules. Thus, our decision to eliminate these technical filing requirements in the *ULS Report and Order* simply recognized the fact that the Commission no longer required this information as part of the paging licensing process, and that the rules could therefore be streamlined.[83]

45. We also disagree with Welch's contention that parties will be unable to anticipate interference issues at the application stage if paging applicants do not file antenna make and model information with the Commission. Under the revised rules, site-based paging applicants must still file other technical information regarding their facilities, including ERP, antenna height, and other information specified in Section 22.529.[84] In the vast majority of cases, this information is sufficient to alert co-channel licensees to the possibility of co-channel interference if the subject license is granted. We conclude that requiring all applicants to submit the additional technical antenna data proposed by Welch would have little additional benefit, and that any such benefit that would occur in isolated cases is outweighed by the administrative burden of retaining the requirement for all applicants.

---

[80] *Id.* at 2 n.1.

[81] *Id.* at 2.

[82] 47 CFR § 22.537. *See* Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, *Report and Order*, CC Docket No. 92-115, 9 FCC Rcd. 6513, 6563 (1994) (*Part 22 Rewrite Order*)(see 47 C.F.R. § 22.537). These criteria are used slightly differently depending on whether the station is a VHF station or a 931 MHz station. Interference contours for VHF stations are based on ERP and HAAT measured along eight cardinal radials from the transmitting antenna, while 931 MHz contours are circles defined by a single ERP/HAAT calculation for service area radius.

[83] *See* 47 CFR § 22.529(b). The rule continues to require applicants to file ERP and HAAT information upon which service area contour calculations are based.

[84] *See* FCC Form 601, Schedule D, Technical Information for Part 22 Licenses in the Paging and Radiotelephone Service; *see also* 47 C.F.R. § 22.537.

46. Finally, we conclude that in the few cases where antenna make and model information may be required to resolve an interference dispute, the procedures adopted in the *ULS Report and Order* adequately protect the interests of parties who may require this information. These procedures require Part 22 licensees to retain technical antenna information in their station records and to produce it to other parties within ten days of a request.[85] We believe that this action provides a reasonable alternative to our prior filing requirements that will ensure provision of the necessary information in the vast majority of cases without the need for parties to resort to Section 308 proceedings.

2. Service Code Classification of Private Land Mobile Services

47. Background. UTC petitions the Commission to establish a new Public Service Pool and corresponding service codes for power and petroleum and railroad services and other critical infrastructure or public service entities.[86]

48. Discussion. As noted in UTC's petition, our elimination of certain radio service codes in the private land mobile services and the establishment of the Public Safety and Industrial/Business Pools were the result of the *Refarming Second Report and Order*.[87] To the extent UTC's petition requests retention of service codes eliminated in the *Refarming Second Report and Order* or the creation of a new Public Service Pool, these requests are beyond the scope of this proceeding.[88]

3. Fixed Microwave Service Data Requirements

49. Background. In the *ULS Report and Order*, the Commission eliminated the requirement that point-to-point applicants and licensees include type, acceptance number, line loss, channel capacity, and baseband signal type for each application.[89] This elimination reduced the burden on applicants and licensees by eliminating the collection of unnecessary information.[90] BellSouth requests clarification that point-to-point microwave applicants do not need to specify a geographic area of

---

[85] *ULS Report and Order* at 21097, ¶ 159. In the *ULS Report and Order*, we inadvertently did not amend our Part 22 rules to reflect this requirement. We now amend sections 22.529, 22.709, 22.803, and 22.929 in accordance with our prior decision.

[86] UTC Petition at 6.

[87] UTC Petition at 4. *See* Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Second Report and Order*, PR Docket No. 92-235, 12 FCC Rcd. 14307, 14313-19, ¶¶ 11-21 (1997)(*Refarming Second Report and Order*). *See also* Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, *Second Memorandum Opinion and Order*, PR Docket No. 92-235, FCC 99-68 (released April 13, 1999).

[88] UTC Petition at 6, 9.

[89] *ULS Report and Order* at 21098-9, ¶ 162.

[90] *Id.*

operation on Form 601.[91] BellSouth asserts that this concept of a geographic area of service is not applicable to point-to-point operations.

50. Discussion. Although Form 601 requires identification of the geographic area of operation for certain services, we clarify that this requirement does not apply to point-to-point microwave services. Moreover, if an applicant electronically files an application for point-to-point microwave channels, the field requesting identification of geographic area of operation will be blocked automatically, preventing the applicant from incorrectly entering information in the field.

4. Amateur Radio Service Issues

51. In the *ULS Report and Order*, we adopted various changes to our rules and procedures for Amateur licensees to facilitate the inclusion of the Amateur Radio service in ULS and the use of the new FCC Form 605 for Amateur applications and other filings. We also made certain substantive changes to the Amateur rules, including the authorization of alien amateur radio operation by rule. We found that authorization by rule reduced many burdensome regulations and eliminated an unnecessary database from the Commission's records. In addition, the Commission amended the Amateur service rules to implement two international agreements to aid United States amateur operators traveling abroad in certain European and South American countries.[92] We have received two petitions for reconsideration of various aspects of our revised Amateur rules, which we address below.

a. Modifications to Amateur Application Form (Form 605)

52. Background. Petitioner David B. Popkin (Popkin) requests various changes to Form 605. These include that: (1) we provide a short-form specifically for Amateur Radio rather than requiring Amateur applicants to use Form 605; (2) Amateur applicants should not be required to provide telephone numbers and e-mail addresses; (3) Amateurs not be required to certify compliance with section 5301 of the Anti-Drug Abuse Act of 1988[93] because Amateur Radio is exempted from this requirement; and (4) certain questions and instructions on Form 605, Schedule D should be clarified or modified.[94] The American Radio Relay League (ARRL) also requests that Form 605 be modified to allow for inclusion of (1) additional information regarding certifications by Volunteer Examiner Coordinators (VECs) that the applicant is qualified to receive an amateur license and the class of license for which he/she is eligible, and (2) information concerning where and when an examination for a new or upgraded license was administered.[95]

[91] BellSouth Petition at 11-12.

[92] *ULS Report and Order* at ¶¶ 172-182.

[93] 21 U.S.C. § 862.

[94] Popkin Petition at 4. The petition erroneously refers to Form 605, Schedule C, which does not apply to Amateurs.

[95] ARRL Petition at 10. Popkin and ARRL also seek reconsideration of issues relating to the disclosure of SSNs/TINs on Amateur Radio applications. These issues are addressed in section II.B.6 above.

53. Discussion. In the *ULS Report and Order*, we declined to adopt applications designed solely for use in a single service.[96] Petitioners have raised no new arguments to justify reconsideration of that decision with respect to Amateur operators. We believe the Form 605 will provide for fast and easy filing by Amateur applicants, particularly if they file electronically. We also believe it is reasonable to request that Amateur applicants provide a telephone number and e-mail address. We clarify, however, that the provision of telephone and e-mail information by Amateur Radio applicants is optional as long as they provide a valid U.S. mailing address. We will also modify the Form 605 certification pertaining to the Anti-Drug Abuse Act to clarify that it does not apply to services, including Amateur Radio, that are exempted from this requirement under section 1.2002(c) of the rules.[97] With respect to the other Form 605 changes requested by Popkin and ARRL, we conclude that Form 605 satisfactorily collects the information required by our rules. Consequently, no need exists for burdening applicants with additional information requirements. We do not need to address the remaining clarifications to the Form 605 and instructions requested by Popkin. The Bureau has discretion to make appropriate clarifications to forms, provided that it complies with OMB procedures with respect to approval of any information collection requirements.

b. Charges by Volunteer Examiner Coordinators

54. Background. David Popkin filed a Petition for Reconsideration and Request for Rule Making (Petition and Request) in reference to the *Electronic Filing Order* released by the Bureau on July 17, 1996.[98] In that petition, Popkin requested that Volunteer Examiner Coordinators (VECs) not be allowed to charge fees for renewals or modification of amateur licenses. With respect to fees for renewals and modifications, Popkin maintains that VECs may only be reimbursed for out-of-pocket expenses incurred in the examination procedure.[99]

55. Discussion. Popkin is correct in that section 97.527(a) of the Rules allows VECs to be reimbursed for "out-of-pocket expenses incurred in preparing, processing, administering or coordinating an examination for an Amateur operator license."[100] However, renewing or modifying an Amateur license is not part of the actual testing process. Rather, it is a non-mandated service performed by VECs for applicants that is procedural in nature. Therefore, modifications and renewals performed by VECs do not fall within the provisions governing VEC reimbursement that apply to activities related to conducting examinations for amateur operator license applicants. We reiterate that the compensation, if any, the VEC organization receives as a result of assisting with renewals and modifications is a matter that is between the Amateur operator choosing to use the organization's

[96] *ULS Report and Order* at 21036-8, ¶ 11-14.

[97] 47 C.F.R. § 1.2002(c). Amateur and other applicants exempted under section 1.2002(c) who use earlier versions of the form will not be deemed to have made this certification.

[98] Electronic Filing of License Renewal and Modification Applications in the Amateur Radio Service, *Order*, 11 FCC Rcd. 8616 (1996)(*Electronic Filing Order*).

[99] Popkin Petition at 1-2.

[100] *See* 47 C.F.R. § 97.527(a).

services and the organization.[101] Moreover, Amateur applicants who prefer not to pay charges imposed by the VEC may, if they so choose, renew or modify their licenses themselves manually or electronically.

c. Issuance of License Documents

56. Background. In the *ULS Report and Order*, we responded to comments from ARRL regarding whether Amateur operators require a paper license issued by the Commission in order to operate. We affirmed a prior decision that Amateur operators are authorized to operate as soon as their licensing data is entered in the Commission's database, and are not required to wait until they receive the license itself, which may not be issued for several weeks.[102] In its petition for reconsideration, ARRL states that it agrees with our decision, but that a legal and practical necessity still exists for Amateur operators to receive a license document issued by the Commission.[103]

57. Discussion. AARL's petition is premised on the assumption that we plan to discontinue issuance of license documents to Amateur operators when Amateur is converted to ULS. This is not the case. Amateur operators will continue to receive a printed license generated by ULS shortly after their licensing data has been entered into the ULS database. Therefore, we need not address this issue further.

d. Club Station Call Sign Administrators

58. Background. Popkin requests several new rules concerning Club Station Call Sign Administrators (CSCSAs), including: (1) requiring CSCSAs to provide services in a non-discriminatory manner; (2) requiring CSCSAs either to submit applications to the Commission or to retain them 2 years after license expiration, and (3) assigning call signs to club stations from the sequential call sign system used by other Amateur licensees.

59. Discussion. Popkin provides no evidence that CSCSAs have acted in a discriminatory manner that would warrant an explicit non-discrimination requirement. We believe any such instances, if they occur, can be addressed through the Commission's complaint process. We will also retain our current requirement that CSCSAs retain application information for 15 months, which is the same requirement applicable to retention of such information by VECs. Popkin has failed to demonstrate that there is a need for CSCSAs to retain this information for a longer period that would justify the additional administrative burden. Of course, this does not preclude CSCSAs from retaining this information for a longer period voluntarily. Finally, we confirm that assignment of call signs to club stations will be based on the sequential call sign system used by all Amateur operators.

---

[101] *Electronic Filing Order*, 11 FCC Rcd. 8616, ¶ 3.

[102] *ULS Report and Order* at 21105, ¶ 180.

[103] ARRL Petition at 3-4.

e. Other Amateur Issues

60. Background. Popkin also requests that (1) United States citizens who are also citizens of other countries should not receive reciprocal authorization and that a reciprocal licensee must be a citizen of the country which issued the basic amateur radio license; (2) clarification of various operating privileges; and (3) that all requirements pertaining to Amateur Radio should appear in only one rule part and not appear in Part 1, even though the requirements are general in nature.

61. Discussion. We conclude that these issues have been fully addressed in the *ULS Report and Order*, and that Popkin has failed to present any basis for their reconsideration. On our own motion, however, we make certain non-substantive amendments and corrections to our Amateur rules to eliminate duplicative rules and conform them with our consolidated ULS rules. Specifically, we revise section 97.15 to conform it with Part 17 of the rules and to restore a rule section that was inadvertently removed by the *ULS Report and Order*.[104] We also delete language in sections 97.17 and 97.21 regarding administering Volunteer Examiner requirements that duplicates other rule sections.[105]

5. General Mobile Radio Service Issues

62. Background. In the *ULS Report and Order*, we adopted numerous changes to the General Mobile Radio Service (GMRS) to eliminate rules that had become duplicative or otherwise unnecessary to our regulatory responsibilities, as well as to ensure that our streamlined licensing process collects the minimum information needed of GMRS licensees and applicants.[106] More than sixty parties filed informal petitions and *ex parte* comments concerning portions of the new GMRS rules.[107]

63. On January 13, 1999, the Personal Radio Steering Group (PRSG) filed a Petition for Stay of the effective date of the rules pertaining to GMRS until the issues raised in its petition for reconsideration were addressed.[108] Several other parties filed similar pleadings in support of the PRSG

---

[104] *See* Letter, to D. Terry, Chief, Public Safety and Private Wireless Division, from C. Imlay (Feb. 2, 1999).

[105] The text we remove from §§ 97.17 and 97.21 is as follows: "Upon completion of the examination, the administering VEs will immediately grade the test papers and will then issue a certificate for successful completion of an amateur radio operator examination (CSCE) if the applicant is successful. The VEs will send all necessary information regarding the candidate to the Volunteer-Examiner Coordinator (VEC) coordinating the examination session. Applications filed with the Commission by VECs must be filed in an electronic batch file." This language mirrors the provisions of 47 C.F.R. §§ 97.509(h), (l), (m), and 97.519(b) and is redundant.

[106] *ULS Report and Order* at 21106-7, ¶ 183-84.

[107] *See* Appendix B.

[108] PRSG Petition for Stay, filed January 13, 1999.

Petition.[109] On June 1, 1999, we adopted a partial stay order in which we determined that PRSG had demonstrated that it was in the public interest to stay the effectiveness of our new rule, section 95.29(e)[110] -- which restricts the use of the 462.675 MHz/467.675 MHz channel pair to traveler's assistance and emergency use -- pending resolution of the petitions.[111] However, we declined to issue a broad stay of all of the new GMRS rules.

64. Discussion. Petitioners express support for our goals of simplifying licensing procedures and eliminating unnecessary rules.[112] However, some commentors continue to question whether adequate notice was given for those changes as well as the basis in the record for modifying the GMRS rules. As we stated in the *ULS Report and Order*, we undertook these rule changes as part of a broad review of the wireless services. We thoroughly described both the subject matter and proposed details and rules for the GMRS service in our *Notice of Proposed Rulemaking*. In accordance with the Administrative Procedures Act[113] we both described the subject matter of the rule making and provided a comprehensive list of proposed GMRS rule changes in our *Notice of Proposed Rulemaking*. We reject Coyle's suggestion that our notice of these changes in the *Federal Register* did not provide GMRS licensees with sufficient notice of our proposed rule changes.[114] The fact that the public notice generated numerous comments and petitions from GMRS licensees and other commenters supports our conclusion that ample notice was given.

65. We also disagree with Alwin's claim that our final rules contained provisions -- specifically, the definition of a "repeater" -- that were adopted without the opportunity for public comment.[115] Because our "repeater" definition describes the usage characteristics outlined in the now-removed rule section describing mobile relay station communication points (§ 95.57) and limited by our rule describing available channels (§ 95.29), our definition is consistent with both our former rules and current practice. We also note that before the adoption of the *ULS Report and Order*, many

---

[109] *Ex parte* comments of Cochran, Chew, Reichel, Wiel, and Blackberry. *See also* ex parte comments of SW REACT (informally requesting a stay of the GMRS rules until May 12, 1999).

[110] 47 C.F.R. § 95.29(e).

[111] Amendment of Parts 0, 1, 13, 22, 24 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Service, WT Docket No. 98-20, *Memorandum Opinion and Order*, FCC 99-129 (rel. June 9, 1999)(*PRSG Stay Order*).

[112] *See*, Collier, *ex parte* comments at 1, which states: "The current FCC license application structure, with its multitude of forms and excessive paperwork, was confusing and burdensome. By creating the Universal Licensing System (ULS) the Commission has made great strides in simplifying the licensing process for a great many radio services. Likewise, the Commission had the best interests of the public at large, and especially the interest of spectrum users, when it undertook its biennial review to eliminate unneeded rules in these radio services."

[113] 5 U.S.C. §§ 551 *et seq.*

[114] Coyle, *ex parte* comments at 1.

[115] *Ex parte* comments of Alwin at 1.

commenters addressed permissible repeater use, and that our definition of a "repeater" reflects the GMRS community's common usage of the term as reflected in their comments.

a. Channeling Plan

66. In the *ULS Report and Order*, we adopted an "all-channel" usage plan, which authorized stations to transmit on any authorized channel from any geographic location where the FCC regulates communication, but restricted use of the 462.675 MHz/467.675 MHz channel pair to emergency and traveler's assistance use. PRSG and others argue that restricting the 462.675 MHz/467.675 MHz channel pair to emergency and traveler's assistance use will hinder the provision of these services.[116] PRSG states that many licensees who operate repeaters on the 462.675 MHz/467.676 MHz channel pair conduct their routine personal (*i.e.*, non-emergency and non-traveler's assistance) communications through those facilities. PRSG argues that many licensees would permanently re-tune their repeaters to other channel pairs because the revised rules would require those licensees to use other channels for their routine personal communications. Similarly, Collier notes that if personal users re-tune their repeaters to other channels, the 462.675 MHz/467.675 MHz channel pair is likely to become unmonitored.[117] Other petitioners claim the revised rule would result in inefficient use of the GMRS spectrum,[118] and that we have not shown that an exclusive channel is necessary to serve emergency and traveler's assistance needs.[119]

67. For the reasons stated in our *PRSG Stay Order*,[120] we agree with PRSG and others that we should allow unrestricted use of the of the 462.675 MHz/467.675 MHz channel pair by all eligible GMRS licensees. Furthermore, we note that a large portion of the GMRS community previously self-selected use of the 462.675 MHz/467.675 MHz channel pair without apparent detriment to emergency and traveler's assistance communications,[121] and that the "all-channel" usage plan will allow GMRS users to select the channel that provides the best operational environment for any communication need,

---

[116] PRSG Petition at pt. IV. *See also, e.g., ex parte* comments by Pomeroy, Collier, Smith, and Corona Norco.

[117] Collier, *ex parte* comments at 1. *See also* Smith, *ex parte* comments at 3.

[118] Smith, *ex parte* comments at 3.

[119] Pomeroy, *ex parte* comments at 1.

[120] *See supra* n.110.

[121] *See* PRSG reply comments at 2. Under our prior rules, an individual GMRS applicant could specify one or two of the seven available GMRS channel pairs (including the 462.675 MHz/467.675 MHz channel pair) for authorization on its license. The Commission routinely granted these channel pair requests. *ULS Report and Order* at 21111, ¶193. GMRS licensees who specified the 462.675 MHz/467.675 MHz channel pair were able to use this channel pair for all permissible GMRS communications. All other individual GMRS licensees were authorized by rule to use the 462.675 MHz/467.675 MHz channel pair from their mobile station units only for the purpose of communicating in an emergency pertaining to the immediate safety of life or the immediate protection of property. Former § 95.29(e) (47 C.F.R. § 95.29(e))

including traveler's assistance.[122] We conclude that allowing use of the 462.675 MHz/467.675 MHz channel pair in the same way that GMRS users may use any other channel pair will not hinder emergency and traveler's assistance communications. We therefore remove the restriction on use of the 462.675 MHz/467.675 MHz channel pair.

b. Use of Repeaters

68. In the *ULS Report and Order*, we also determined that the points of communication rules should be eliminated.[123] Many commenters continue to express concern that these changes will make it difficult for repeater operators to maintain control over their stations, and ask that we require users to have permission before using others' repeaters.[124] We decline to adopt such a rule because it would interject the Commission into a GMRS licensee's private management of its GMRS system -- including its repeaters. Such a rule also would be inconsistent with our efforts to eliminate unnecessary regulations and burdens for GMRS licensees and applicants. We emphasize that users are currently free to take steps to prevent unauthorized use of their facilities -- including turning the repeater off as necessary, limiting or disabling receiver sites, and using tone-operated squelch or digital access codes. Moreover, the rule suggested by petitioners would do nothing to change access to a repeater: even with the rule, an unauthorized user could cause a repeater to transmit, absent some engineering solution to limit access to the repeater input.[125]

69. We are concerned, however, that the GMRS community has the mistaken impression that repeater operators must allow unlimited use of their facilities by third parties. Accordingly, we will include in our rules a statement that limiting the use of a repeater to certain user stations is permissible. Repeater owners, as part of management of their GMRS systems, are free to decide what means of control, if any, are necessary.

70. Our clarification also addresses the concerns raised by Region-20 Public Safety (Region-20). In its filing, Region-20 claims that the removal of the points-of-communication rules pertaining to repeater use "results in the Commission sanctioning of unauthorized use and 'theft of service' of Public-Safety GMRS systems."[126] Region-20 claims the revised GMRS rules "are now in judicial noncompliance" with 18 U.S.C. §1029(a)(5), a provision of the U.S. Criminal Code that relates to

---

[122] *ULS Report and Order* at 21110, ¶ 192.

[123] *ULS Report and Order* at 21,113, ¶ 199. *See*, former §§ 95.53-95.61 (47 C.F.R. §§ 95.53-95.61). These rules described permissible communications for each station type.

[124] Klocke, *ex parte* comments at 1. This sentiment, with slight variations, was expressed by more than fifty commenters.

[125] Similarly, we are not convinced that the "regulatory support" provided by our former points-of-communication gave repeater owners the power to control use of their stations, as suggested by Leef. Leef, petition for reconsideration at 1.

[126] Region-20 petition for reconsideration at pt. II. As a threshold matter, we note that the term "Public-Safety GMRS systems," is undefined and does not appear in our rules, although many GMRS licensees use their systems in conjunction with public safety activities, such in conjunction with REACT teams.

fraudulent activity.[127] We find Region-20's argument insufficient because it has not attempted to describe how the unauthorized use of a GMRS repeater satisfies the elements of the crime described in the statue. Additionally, it has not described how the statute places such a restriction on the Commission. Even if unauthorized use of GMRS repeaters encompassed the activities described in the statute, which has not been shown, we do not sanction the unauthorized use of these repeaters. We re-emphasize that repeater owners must decide how to control their repeaters as part of their overall management of a GMRS system.

c. GMRS Licensing by Non-Personal Licensees

71. Under our GMRS rules, non-individual licensees (who would be ineligible to obtain a license for a new GMRS system under our current rules) are allowed to maintain existing systems under "grandfathering" provisions, but are prohibited from modifying or expanding their operations beyond their current authorization.[128] PRSG claims that, in removing and consolidating our GMRS licensing rules to Part 1, we failed to retain these prohibitions.[129] As we noted in the *ULS Report and Order* (as well as the *Stay Order*), our treatment of, and procedures with respect to, "grandfathered" GMRS licensees have not changed.[130] In fact, section 95.5 expressly prohibits grandfathered non-individual GMRS licensees from making major modifications to an existing system license. To remove any possible ambiguity, however, we add a cross-reference in section 95.5 to section 1.929. This should clarify the point that the major modifications listed in the Part 1 rules apply to GMRS. We also amend section 1.929 to refer specifically to GMRS.

72. We have evaluated the eligibility to hold a GMRS license as part of the biennial review aspect of this proceeding, and have consolidated our GMRS licensing rules to support the ULS. Since we have not changed the eligibility standards, we take this opportunity to resolve a pending petition for rulemaking filed by Kenneth J. Collier.[131] Collier had requested organizational licensing eligibility under GMRS in order to support disaster service organizations. In comments filed in response to Collier's petition, representatives of volunteer service groups, such as REACT units, generally supported the proposal.[132] PRSG and others opposed the petition on the basis that organizational

[127] Section 1029(a)(5) states that "[w]hoever knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000" is subject to criminal penalties. *See* 18 U.S.C. § 1029(a)(5).

[128] 47 C.F.R. § 95.5

[129] PRSG Petition at pt. III.

[130] *ULS Report and Order* at 21109, ¶ 190.

[131] Collier, Petition for Rulemaking, RM-9107 (filed Dec. 3, 1996).

[132] *See, e.g.,* Riechel, comments (RM 9107)(filed July 7, 1997) at 2. "Allowing such changes to an existing non-individual 501(c)3 [tax-exempt] entity license would allow the local community to benefit from the ever expanding and improving GMRS radio communication capabilities." *Id.*

licensing had already been rejected in a 1988 restructuring of GMRS[133] and the petition offered no additional basis for reconsidering that decision.[134]
We agree with PRSG. In the *ULS Report and Order*, we reiterated our support of prior Commission actions designed to orient GMRS to the needs of individual licensees.[135] By reinstating non-individual licensing for new GMRS systems, we would frustrate that goal; further, we have done nothing to prevent licensed individuals and "grandfathered" REACT units from continuing to provide public safety support and other community service functions. Additionally, we find the proposed definition of an eligible organization -- as based on non-profit status -- troublingly broad; even if we could adopt a workable narrow definition and screen for the type of disaster service organizations Collier describes, allowing non-individuals to be GMRS licensees once again would fundamentally alter the nature of the GMRS and would, in effect, reverse our 1988 restructuring of the service. For these reasons, we dismiss the Collier petition and decline to alter the eligibility rules as adopted in the *ULS Report and Order*.[136]

73. Finally, PRSG suggests that FCC Form 605 is inappropriate for non-individual licensees, as they will continue to need to specify certain technical data.[137] We disagree. While these "grandfathered" licensees will be required to operate in accordance with certain technical specifications no longer required of individual licensees,[138] they are also prohibited from making major modifications to their systems. Thus, we have no need for these licensees to specify technical data above and beyond that already reflected in our licensing records.

d. Technical Issues

74. PRSG requests that we update our rules to define a "channel pair."[139] This is necessary, PRSG claims, because we no longer authorize specific channel pairs on a GMRS license.[140] We agree that under our "all-channel" usage plan, we should clarify that a channel pair consists of one 462 MHz frequency and one 467 MHz frequency. We will revise sections 95.29(a) and (b) to reflect this concept. We do not agree that a channel pair must consist of two channels exactly 5.000 MHz apart. Although we recognize that in GMRS, the common practice is to associate channels with a 5.000 MHz differential to form channel pairs, we see no regulatory basis for limiting channel usage in this way

---

[133] Amendment of Subparts A and E of Part 95 to Improve the General Mobile Radio Service (GMRS), PR Docket No. 87-265, *Report and Order*, 3 FCC Rcd. 6554 (1988). (*GMRS Order*).

[134] PRSG comments (RM-9107)(filed July 18, 1997) at pt. X.

[135] *ULS Report and Order* at 21113, ¶ 198 (citing *GMRS Order*).

[136] *ULS Report and Order* at 21106-16, ¶ 183-207.

[137] PRSG Petition at pt. III.

[138] For example, while a "grandfathered" licensee must still operate only on those channels specifically authorized on its license, other GMRS licensees may select any of the channels specified in the GMRS rules.

[139] PRSG Petition at pt. V.

[140] *Id.*

under our "all-channel" usage plan. The rules presently require GMRS users to structure systems that both suit their needs but also that make the best use of shared GMRS spectrum.[141] The "all-channel" plan provides GMRS users with more flexibility to do this.[142] We note that, as a practical matter, the possible channel pairs will be determined by the capabilities manufacturers design into the equipment the GMRS user selects. Although PRSG predicts that our failure to mandate a rigid channel pair structure would "create extreme difficulty for licensed GMRS users,"[143] it does not provide any persuasive evidence to support its claim.

75. PRSG also claims that our new rule listing available GMRS channels, section 95.29, "suggests" that a station could use multiple channels simultaneously.[144] This would result, PRSG says, in wasted spectrum and would run contrary to the concept of GMRS as a shared-use service.[145] We note that GMRS users continue to have a responsibility under section 95.7(a) of our rules to "cooperate in the selection and use of channels to reduce interference and to make the most effective use of the facilities,"[146] Our new rules under section 95.29 support this policy by allowing GMRS users the flexibility to select the best channel at any given time or place, and this flexibility is not intended to allow GMRS users to introduce practices that create additional interference or result in inefficient use of spectrum to the detriment of other GMRS users. Moreover, we envision times such as emergencies when it would be desirable for a message to be broadcast over a number of channels.

76. The *ULS Report and Order* retained the restriction on use of the 467 MHz channels for transmissions through repeaters.[147] In response to the extensive comments that prompted us to retain that rule, we defined "repeater" to clarify its meaning for GMRS licensees and users with commonly accepted GMRS terminology.[148] PRSG claims that our use of the term "simultaneously" excludes many repeaters from our technical definition, as nearly all units introduce some degree of delay between receipt and retransmission.[149] We disagree with this conclusion. By "simultaneously," we mean that the repeater initiates the retransmission of a communication at the same time it is still receiving that communication. We distinguish this from "instantaneous," by which we mean receipt

---

[141] 47 C.F.R. § 95.7(a)

[142] *ULS Report and Order* at 21110, ¶ 192. We do not see how pre-transmission monitoring, a PRSG concern, is affected by the particular channel a repeater is tuned to. PRSG Petition at pt. VII. This would appear to affect the issue of repeater use, which we have already addressed in section (C)(5)(b), *supra*.

[143] PRSG Petition at pt. VII.

[144] *Id.*

[145] *Id.*

[146] 47 C.F.R. § 95.7(a).

[147] *ULS Report and Order* at 21111-2, ¶ 195.

[148] A "repeater" is defined as "a GMRS station that simultaneously retransmits the transmission of another GMRS station on a different channel or channels." 47 C.F.R. § 95.29(a).

[149] PRSG Petition at pt. VIII.

and retransmission without delay. Thus, the equipment PRSG describes falls within our definition of a "repeater." We note that while stations that cannot engage in simultaneous receipt and retransmission of communications do not fall within the definition of a "repeater" and thus may not use the channels designated for repeater use, the operation of stations in this configuration is no different than the operation of any two other GMRS stations transmitting on the same channel.[150] Additionally, we note that operators of such stations are still bound to use GMRS frequencies cooperatively and reduce interference. We also disagree with PRSG's assertion that our rules fail to restrict the radio service from or through which a repeater receives a communication.[151] A repeater "simultaneously retransmits the transmissions *of another GMRS station* ...."[152] Moreover, our rules sharply restrict GMRS communications from any station, prohibiting, *inter alia*, communications intended for mass media broadcast[153] and messages to amateur stations.[154]

77. Finally, PRSG again asks that we remove section 95.179(d) of our Rules. PRSG claims that section 95.179(d), which allows the operator of a GMRS system licensed to an individual to be a station operator in any other GMRS system so long as the other system's licensee has given permission, contradicts section 95.179(a), which permits an individual GMRS licensee's immediate family members to be station operators within that individual's GMRS system. PRSG also contends that section 95.179(d) violates the concept that only immediate family members should be eligible to operate under an individual GMRS license.[155] In the *ULS Report and Order*, we modified section 95.179(a) to remove the requirement that eligible immediate family members must live in the same household as the individual GMRS licensees, as we do not collect that information and that distinction is largely unenforceable. We did not modify section 95.179(d). Accordingly, we disagree with PRSG and conclude that sections 95.179(a) and 95.179(d) are not contradictory, as they are subsections of a general rule describing who may be station operators. Furthermore, there is no general concept that limits GMRS use to immediate family members in all cases, and we note that no commenter has described how this section 95.179(d) (which predates the *ULS Report and Order*) has had a detrimental effect on GMRS operation and use. We also note that GMRS licensees are free to withhold such permission if they so desire.

[150] This configuration is commonly referred to as a "store and forward system" or a "simpatch" system.

[151] PRSG Petition at pt. VII.

[152] 47 C.F.R. § 95.29(a) (emphasis added).

[153] 47 C.F.R. § 95.183(a)(11).

[154] 47 C.F.R. § 95.183(a)(13). An exception exists for emergency messages. *Id.*

[155] PRSG Petition at pt. IX.

III. PROCEDURAL MATTERS

A. Supplementary Regulatory Flexibility Analysis

78. The Supplemental Final Regulatory Flexibility Analysis, pursuant to the Regulatory Flexibility Act, *see* 5 U.S.C. § 604, is contained in Appendix C.

B. Paperwork Reduction Act of 1995 Analysis

79. This *Memorandum Opinion and Order on Reconsideration* contains a modified information collection, which has been submitted to the Office of Management and Budget for approval. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collection contained in this *Memorandum Opinion and Order on Reconsideration*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public comments should be submitted to OMB and the Commission, and are due thirty days from date of publication of this *Memorandum Opinion and Order on Reconsideration* 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.

C. Further Information

80. For further information concerning this *Memorandum Opinion and Order on Reconsideration*, contact Chris Gacek or Donald E. Johnson, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, (202) 418-7240 (voice), (202) 418-7238 (TTY), or Karen Franklin, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-7706 (voice), (202) 418-7238 (TTY).

IV. ORDERING CLAUSES

81. Accordingly IT IS ORDERED that the Petitions for Reconsideration listed in Appendix A are GRANTED to the extent stated herein, and are otherwise DENIED.

82. IT IS FURTHER ORDERED that, pursuant to the authority of sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 161, 303(g), 303(r), 332(c)(7), 47 C.F.R. Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97 and 101 of the Commission's Rules are AMENDED as set forth in Appendix A, effective sixty days after publication in the *Federal Register*.

83. IT IS FURTHER ORDERED that the Petition for Rulemaking filed by Kenneth J. Collier, RM-9107, is hereby DISMISSED and this proceeding is hereby TERMINATED.

84. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Memorandum Opinion and Order on Reconsideration*, including the Supplemental Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary