

protocol and any resulting credits whether or not the protocol was followed.

(C) *Protocol Elements.* Protocols must contain methods that are credible, workable, enforceable, and replicable and must include each of the following elements:

(1) A description of the calculation methods used for determining the reductions achieved by the emissions controls as implemented;

(2) Estimates of the accuracy of the appropriate USEPA test method, if available, not to exceed some given value;

(3) A description of the recordkeeping program that permits verification of production, materials used, and use of control equipment;

(4) The USEPA test methods where available; and

(5) A requirement for complete, verifiable records on production, materials used and use of control equipment.

(D) *Emission Quantification Methods.* A protocol may contain the following:

(1) Emission quantification methods contained in an applicable Federally approved operating permit; or

(2) Emission quantification methods approved in the applicable SIP.

IX. DER Use for NSR and Conformity Purposes

(A) *General Rule.* All DER's used to meet—

(1) NSR offset requirements shall comply with the requirements of section 173 of the Act and 40 CFR 51.165(a) including the requirements of subsection (B) of this section.

(2) Conformity requirements shall comply with 40 CFR part 51, subparts T and W and part 93 subparts A and B.

(B) *Specific Requirements for NSR.*

(1) The State must approve the use of specific DER's that cover at a minimum 1 year of operation of the new or modified source in the NSR permit.

(2) The NSR permit must contain an enforceable requirement that the source obtain at least one additional year of offsets before continuing operation in each subsequent year.

(3) The NSR permit must contain an enforceable commitment that before receiving any operating permit or permit renewal, the operating permit must contain an enforceable condition that the source must obtain offsets for each subsequent year before continuing to operate in each subsequent year.

X. Program Audits

(A) Beginning no later than [insert the next ROP milestone year or date 3 years after State adoption of this rule] and at

least every 3 years thereafter (coinciding with the periodic inventory submittals required under section 182 of the Act), the [State authority] shall audit this program to evaluate at a minimum, the following program elements:

(1) Amount and timing of emission reductions (e.g., DER's used compared to DER's generated in a given year or ozone season);

(2) Compliance by generators and users;

(3) The effect of the program on temporal and spatial assumptions in the attainment demonstration, and ROP plans;

(4) The effects of remedial measures, if applicable, implemented as a result of previous audit findings.

(5) The effects on toxic emissions from operation of this rule.

(B) As determined by the [State authority], the [State authority] shall institute remedial measures to the extent necessary.

(C) The audit data and results shall be completed, submitted to USEPA, and available for public inspection within one year after the audit begins.

XI. Enforcement

(A) *Compliance Burden.*

(1) The DER user source is responsible for assuring that the generation and use of DER's comply with this rule.

(2) The DER user source (not the enforcing authority) bears the burden of proving that DER's used are valid and sufficient and that the DER use meets all applicable requirements of this rule.

The DER user source is responsible for compliance with its underlying obligations. In the event of enforcement against the user source for non-compliance, it shall not be a defense for the purpose of determining civil liability that the user source relied in good faith upon the generator source's representations.

(B) *Violation Day Definition for User Source Excess Emissions.* Section 113(b) of the Act authorizes a maximum civil penalty of \$25,000 per day for each violation. For purposes of this regulation, the number of days of violation associated with improper DER use or insufficient DER quantity shall be the number of consecutive days with insufficient DER quantity after taking into account DER's used to offset excess emissions (converted to units of mass) on a consecutive day basis. If a user is unable to document actual emissions rate on a daily basis, the number of days of violation shall include every day since the beginning of the use period during which there was insufficient DER's. Failure to keep adequate records

is equivalent to a lack of creditable DER's.

Dated: August 16, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36 and 69

[CC Docket No. 95-115; FCC 95-281]

Common Carrier Services: Increasing Subscribership and Usage of the Public Switched Network

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On July 13, 1995, the FCC adopted a Notice of Proposed Rulemaking on increasing telephone subscribership and usage. The FCC is considering proposals to help reconnect subscribers disconnected from the network when they fail to pay interstate long-distance charges, and to help new and existing low-income subscribers to avoid disconnection due to unpaid interstate long-distance charges.

DATES: Comments must be submitted on or before September 27, 1995. Reply comments are due on or before October 27, 1995.

ADDRESSES: Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Andrew Mulitz, Attorney/Advisor or George Johnson, Attorney/Advisor, Accounting and Audits, Common Carrier Bureau, (202) 418-0850.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted July 13, 1995, and released July 20, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St., N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center 1990 M Street, N.W., Suite 640, Washington, D.C. 20036.

The FCC is proposing to require carriers to adjust security deposit requirements to take into account the diminished credit risk when new or reconnected subscribers agree to accept voluntary toll restriction service. The

FCC seeks comment on ways to increase the effectiveness of the Link Up assistance program. The FCC is considering whether to require LECs to provide, at reasonable cost, interstate long-distance restriction services, allowing subscribers voluntarily to block only those interstate calls for which they would be charged. The FCC is also considering prohibiting LECs from disconnecting subscribers for failure to pay outstanding interstate long-distance charges. The FCC seeks comment on ways to modify the Lifeline program to increase subscribership and whether the program should be extended to certain multi-line entities such as schools and libraries. The FCC also requests comment on ways in which the marketplace can operate to make low-cost services, such as prepaid debit cards and voice mailboxes, available to highly-mobile, low-income persons, and whether Link Up assistance should be extended to include such services to individuals that are not already telephone subscribers. Comments are sought on ways to extend

telephone service to unserved areas, alternative methods to measure subscribership, and ways to increase consumer awareness of subscribership opportunities.

Regulatory Flexibility Analysis

We have determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b) does not apply to this rulemaking proceeding because if promulgated, it would not have a significant economic impact on a substantial number of small entities. The definition of a "small entity" in Section 3 of the Small Business Act excludes any business that is dominant in its field of operation. Although some of the local exchange carriers that will be affected are very small, local exchange companies do not qualify as small entities because they have a nationwide monopoly on ubiquitous access to the subscribers in their service area. The Commission has found all exchange carriers to be dominant in the *Competitive Carrier* proceeding. 85 FCC 2d 1, 23-24 (1980). To the extent that small telephone companies will be

affected by these rules, we hereby certify that these rules will not have a significant economic effect on a substantial number of "small entities." Although we do not find that the Regulatory Flexibility Act is applicable to this proceeding, this Commission has an ongoing concern with the effect of its rules and regulation on small business and the customers of the regulated carriers as is evidenced by this proceeding.

Ordering Clause

Accordingly, *It is ordered that*, pursuant to Sections 1, 2, 4(i), 201-205, 218-220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201-205, 218-220, and 403, notice is hereby given of the proposals in this Notice of Proposed Rulemaking.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-21148 Filed 8-24-95; 8:45 am]

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