

(ii) The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.

(iii) The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

[FR Doc. 96-5240 Filed 3-5-96; 8:45 am]

BILLING CODE 6560-50-F

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 61 and 64

[FCC 96-34]

#### Inmate Calling Services—Prison Payphones

**AGENCY:** Federal Communications Commission.

**ACTION:** Declaratory ruling.

**SUMMARY:** On January 30, 1996, the Commission adopted a Declaratory Ruling that inmate-only payphone instruments are customer premises equipment (CPE) that must be provided on an unregulated basis. The Commission additionally denied petitioner's request that certain inmate-only services be considered enhanced services. The intended effect is to ensure that the inmate-only payphone market remains competitive.

**EFFECTIVE DATE:** March 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Alan A. Thomas, Attorney, Network Services Division, Common Carrier Bureau, (202) 418-2338.

**SUPPLEMENTARY INFORMATION:** This report summarizes the Commission's Declaratory Ruling in the matter of Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force—Prison Payphones, (RM-8181, FCC 96-34, adopted January 30, 1996 and released February 20, 1996). The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, D.C. 20037, phone (202) 857-3800.

#### Analysis of Proceeding

1. Petitioner requested the Commission to rule that LECs must

provide inmate-only payphone instruments as detariffed CPE and must offer certain prison inmate payphone services as unregulated enhanced services. Petitioner argued that inmate-only payphone service is distinguishable from pay telephone service offered to the "transient mobile public," as defined in Tonka Tools, Inc. 58 RR 2d 903, 50 FR 24694 (June 12, 1985) and therefore not entitled to special treatment pursuant to Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980), 45 FR 24694 (May 13, 1980).

2. In this Declaratory Ruling, the Commission concluded that the decision in Tonka resulted from a concern that payphones should be available to the "transient mobile" or general public. Those concerns, the Commission concluded, are not applicable in the context of prison payphones. Thus the Commission agreed with Petitioner that inmate-only payphones are to be considered CPE for regulatory purposes.

3. Additionally, the Commission rejected Petitioner's argument that inmate phone services such as call monitoring and blocking, and restrictions on call timing and duration are enhanced services under the Commission's Computer II decisions. The Commission concluded that these services may be characterized as adjuncts to basic service under existing precedent. The Commission also concluded that the record provided insufficient detail to support a ruling that inmate Personal Identification Numbers (PINs) are an enhanced service.

4. Ordering Clauses. *It is ordered*, pursuant to Section 4 of the Communications Act as amended, 47 U.S.C. §§ 154, that the petition for declaratory ruling filed by the Inmate Calling Services Providers Task Force of the American Public Communication Council is Granted to the extent discussed and otherwise IS Denied.

5. *It is further ordered* that carriers shall notify their customers in writing for prison payphone service of the change in status of inmate-only customer premises equipment from a regulated activity to a nonregulated activity by July 1, 1996. Accordingly, by September 2, 1996, the LECs must reclassify any inmate-only pay telephone investment recorded in Account 32.2351, Public telephone terminal equipment, along with the associated depreciation and tax reserves and any related expenses, from a regulated activity to nonregulated activity pursuant to our Part 64 rules.

The LECs shall also establish whatever Part 64 cost pools are needed to accomplish this reclassification and shall file revisions to their Cost Allocation Manuals reflecting this reclassification within sixty (60) days prior to the effective date of the change. In addition, carriers must make appropriate tariff changes pursuant to Part 61 of the Commission's Rules.

6. List of Subjects in 47 CFR Parts 61 and 64

Inmate-only payphone equipment, Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 96-5187 Filed 3-5-96; 8:45 am]

BILLING CODE 6712-01-P

### 47 CFR Part 64

[CC Docket No. 91-115; FCC 96-38]

#### Tariffing Requirements for Billing Name and Address

**AGENCY:** Federal Communications Commission.

**ACTION:** Final Rule; petition for reconsideration.

**SUMMARY:** On February 1, 1996, the Commission adopted a Third Order on Reconsideration in this proceeding denying two petitions for reconsideration filed by US West Communications, Inc. (US West). In its first petition, US West sought reconsideration of the Commission's denial of its petition for stay of the Order requiring LECs to file tariffs governing the provision of billing name and address (BNA) information. The Commission denied this petition as repetitious, because the Commission had addressed all of US West's arguments in a previous Order. In the other petition, US West sought reconsideration of the prohibition against using BNA information for marketing purposes, which the Commission adopted in 1993 to protect end user privacy when local exchange carriers provide BNA information under tariff. US West also claimed that the previous Orders in this proceeding did not explain whether the BNA rules applied to all BNA information, or only to BNA information associated with calling card, third party, and collect calls. The Commission denied this petition to the extent it sought to eliminate the prohibition against using BNA information for marketing purposes, and granted it to the extent it

sought clarification of the application of the BNA requirements.

**EFFECTIVE DATE:** April 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Steven Spaeth, Tariff Division, Common Carrier Bureau, (202) 418-1530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Third Order on Reconsideration adopted February 1, 1996, and released February 9, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street NW., Washington, DC 20037.

#### Regulatory Flexibility Analysis

The Commission has determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), does not apply to these rules because they do 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 carriers do not qualify as small entities because each of them has a monopoly on ubiquitous access to the subscribers in their service area. The Commission has also found all exchange carriers to be dominant in its competitive carrier proceeding. See 85 FCC 2d 1, 23-24 (1980). To the extent that small telephone companies will be affected by these rules, the Commission hereby certifies that these rules will not have a significant effect on a substantial number of "small entities."

#### Summary of Report and Order

In the Second Report and Order in this Docket, 58 FR 36143, July 6, 1993, the Commission required local exchange carriers (LECs) to provide their customers' BNA information to interexchange carriers and other telecommunications service providers on a common carrier basis. Because widespread disclosure of BNA information could conflict with customers' reasonable expectations of privacy, the Commission also limited BNA disclosure, thus safeguarding these expectations. In particular, the Commission prohibited parties obtaining BNA information from using it for marketing purposes. In the Second Order on Reconsideration in this docket,

58 FR 65669, December 16, 1993, the Commission revised some of its privacy protections, but again expressly forbade parties from using BNA information for marketing purposes.

In its petitions for reconsideration, US West argued that the record did not adequately demonstrate the need for any privacy protections, that adopting these rules violated US West's due process rights, that these rules were inconsistent with rules we adopted in a different proceeding, and that the restriction against marketing was an unconstitutional restriction on BNA purchasers' freedom of speech. The Commission found that none of these arguments warranted revision of the BNA privacy protections.

US West also claimed that the previous Orders in this proceeding did not explain whether the rules applied to all BNA information, or only to BNA information associated with calling card, third party, and collect calls. The Commission explained which of its rules apply to all BNA information, and which apply only to BNA information associated with calling card, third party, and collect calls. The Commission also revised Section 64.1201(e)(3) of its rules, to make its application more clear.

#### Ordering Clauses

Accordingly, *It is ordered*, Pursuant to Section 1.429(i) of the Commission's Rules, 47 CFR § 1.429(i), that the petition for reconsideration of the First BNA Reconsideration Order filed by US West Communications, Inc. *is dismissed as repetitious*.

*It is further ordered*, Pursuant to Section 1.429(i) of the Commission's Rules, 47 CFR § 1.429(i), that the petition for reconsideration of the Second BNA Reconsideration Order filed by US West Communications, Inc. *is granted* to the extent indicated above, and otherwise *is denied*.

*It is further ordered*, That the policies, rules and requirements set forth herein *are adopted*.

#### List of Subjects in 47 CFR Part 64

Communications common carriers.  
Federal Communications Commission.  
William F. Caton,  
*Acting Secretary*.

Title 47 of the CFR, Part 64, is amended as follows:

#### **PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

##### Rule Changes

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted.

2. Section 64.1201(e)(3) is revised to read as follows:

#### **§ 64.1201 Restrictions on billing name and address disclosure.**

\* \* \* \* \*

(e) \* \* \*

(3) No local exchange carrier shall disclose the billing name and address information associated with any calling card call made by any subscriber who has affirmatively withheld consent for disclosure of BNA information, or for any third party or collect call charged to any subscriber who has affirmatively withheld consent for disclosure of BNA information.

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BILLING CODE 6712-01-P

#### **47 CFR Part 73**

[MM Docket No. 87-433; RM-5994 and RM-6181]

#### **Radio Broadcasting Services; Punxsutawney, PA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Chief, Policy and Rules Division denied the petition for reconsideration, filed by Renda Radio, Inc., licensee of Station WPXZ-FM, Punxsutawney, Pennsylvania, of the letter decision by the Chief, Allocations Branch, to return as procedurally defective Renda's petition for rule making. With this action, the proceeding is terminated.

**EFFECTIVE DATE:** March 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** J. Bertron Withers, Jr., Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, MM Docket No. 87-433, adopted February 16, 1996 and released February 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.