

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it adds one new location to the list of counties in the regulations concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedure, Voting rights.

U.S. Office of Personnel Management.
James B. King,
Director.

Accordingly, OPM is amending 45 CFR Part 801 as follows:

PART 801—VOTING RIGHTS PROGRAM

1. The authority citation for Part 801 continues to read as follows:

Authority: 5 U.S.C. § 1103; secs. 7, 9, 79 Stat. 440, 411 (42 U.S.C. §§ 1973e, 1973g).

2. Appendix A to Part 801 is amended under "Dates, Times, and Places for Filing" by adding alphabetically Alameda County of California to read as follows:

Appendix A to Part 801

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Dates, Times, and Places for Filing

* * * * *

California

County; Place for filing; Beginning date
Alameda; Oakland-U.S. Attorneys Office,
Oakland Branch, 1301 Clay Street, Suite
3405, Oakland, California, 94612
(510) 637-3784 and (510) 637-3748; March
23, 1996

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[FR Doc. 96-7073 Filed 3-21-96; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 96-88]

Computation of Time

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission makes three minor amendments to the Commission's computation of time rule. First, it adds an illustrative example to the rules to make more explicit that the three extra days added for service by mail where a response period is 10 days or less are calculated from the end of the filing

period regardless of whether the last day of the filing period is a business day or a holiday. Second, it provides that where any party is served by mail, and the response period is 10 days or less, the filing period for all parties (not just the ones served by mail) shall be extended the additional three days. Third, it provides that service by facsimile machine shall be treated as hand delivery, not service by mail. The intended effect of this action is to make the rule clearer and more fair.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: David S. Senzel, Office of General Counsel (202) 418-1760.

SUPPLEMENTARY INFORMATION: Adopted: March 5, 1996; Released March 15, 1996.

1. In this order we make three minor amendments to the Commission's computation of time rule, 47 CFR 1.4. First, we add an illustrative example to the rules to make more explicit that the three extra days added for service by mail where a response period is 10 days or less are calculated from the end of the filing period regardless of whether the last day of the filing period is a business day or a holiday. Second, we provide that where any party is served by mail, and the response period is 10 days or less, the filing period for all parties (not just the ones served by mail) shall be extended the additional three days. Third, we provide that service by facsimile machine shall be treated as hand delivery, not service by mail.

2. Section 1.4(h) addresses the filing period for responding to pleadings that have been served on a party by mail. The rule states:

If a document is required to be served upon other parties by statute or Commission regulation and the document is in fact served by mail * * * and the filing period¹ for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed for filing a response. * * *

3. Section 1.4(j) governs the filing date for pleadings that would otherwise be due on a holiday (when the Commission is closed for business). It provides that:

If, after making all the computations provided for in this section, the filing date²

¹ Section 1.4(e)(3) provides: The term *filing period* means the number of days allowed or prescribed by statute, rule, order, notice or other Commission action for filing any document with the Commission. It does not include any additional days allowed for filing any document pursuant to paragraphs (g), (h) and (j) of this section.

² Section 1.4(e)(4) provides: The term *filing date* means the date upon which a document must be filed after all computations of time authorized by this section have been made.

falls on a holiday, the document shall be filed on the next business day. * * *

4. Because Section 1.4(h) indicates that the three extra days for a response to a pleading served by mail where the response period is 10 days or less is based on the "filing period," not the "filing date," and because Section 1.4(j) says that the "filing date" is not calculated until after all other computations are made, the additional three days for service by mail are added without regard to whether the last day of the filing period is a holiday and would therefore not be the filing date if service were by hand. Thus, the first day to be counted for the extra three days is the first business day after the end of the filing period whether the filing period ends on a business day or a holiday. How the rule applies is demonstrated in *Summit Communications, Inc.*, 9 FCC Rcd 4833, n.1 (Cable Serv. Bur. 1994). In that case, a party filed a petition for reconsideration of a franchising authority's certification (47 CFR 76.911) on Thursday, October 28, 1993. The filing period for oppositions was 10 days (47 CFR 1.106(g)), so the filing period ended on Sunday, November 7. Service was made by mail, an additional three days were added following the end of the filing period on Sunday, November 7, and the opposition was due Wednesday, November 10. The fact that the "filing date" would have been moved forward from Sunday to Monday if there had not been mail service was irrelevant, since under the rules the filing date is not determined until after all other computations. Because a more recent staff decision interpreted the rule differently and incorrectly added the extra three days from the date the filing date would have been if service was by hand rather than from the end of the filing period, *see Falcon Cablevision*, 10 FCC Rcd 10409 n.3 (Cable Serv. Bur. 1995), we are amending the rule to be more explicit by adding an illustrative example setting out the correct interpretation of the rule.

5. We also amend Section 1.4(h) to provide that when one party is served by mail and the response period is 10 days or less, all parties should get the additional three days. This approach is most equitable because it avoids the possibility that some parties in multi-party litigation may be required to file their pleadings before others, giving others an opportunity to "preview" their arguments before filing their own pleading. We will therefore amend Section 1.4(h) to specify that if one party is served by mail and the response period is 10 days or less, all parties will be given the additional three days.

6. Finally, we amend Section 1.4(h) to treat service by facsimile machine the same as hand service. See 47 CFR 1.773(a)(4) (treating delivery by facsimile machine like hand service in the tariff context). See also *SEC v. Stratton Oakmont, Inc.*, 1995 WL 46559 (D.D.C. 1995). Because service by facsimile, like hand delivery, is essentially instantaneous, we believe that this treatment is warranted generally.

7. Because the rule amendments involve rules of agency organization, procedure, or practice, the notice and comment and effective date provisions of the Administrative Procedure Act are inapplicable. 5 U.S.C. 553(b)(A), (d).

8. Accordingly, it is ordered, That pursuant to Sections 4(i), 4(j), and 303(r) of the Communications Act, 47 U.S.C. 154(i), 154(j), and 303(r), 47 CFR part 1 is amended as set forth below, effective March 22, 1996.

9. The text of this order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington D.C. The text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., Suite 140, 2100 M Street NW., Washington, D.C. 20037.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio, Telecommunications, Television.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.4 is amended in paragraph (h), by revising the text preceding Example 11, in paragraphs (i) and (j) by redesignating Examples 12 and 13 as Examples 13 and 14, respectively, and by adding new Example 12 in paragraph (h) to read as follows:

§ 1.4 Computation of time.

* * * * *

(h) If a document is required to be served upon other parties by statute or Commission regulation and the

document is in fact served by mail (see § 1.47(f)), and the filing period for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed to all parties in the proceeding for filing a response. This paragraph (§ 1.4(h)) shall not apply to documents filed pursuant to § 1.89, § 1.120(d), § 1.315(b) or § 1.316. For purposes of this paragraph service by facsimile shall be deemed equivalent to hand delivery.

* * * * *

Example 12: Assume that oppositions to a petition in a particular proceeding are due 10 days after the petition is filed and must be served on the parties to the proceeding. If the petition is filed on October 28, 1993, the last day of the filing period for oppositions is Sunday, November 7. If service is made by mail, the opposition is due three days after November 7, or Wednesday, November 10.

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[FR Doc. 96-6658 Filed 3-21-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 76

[MM Docket No. 93-215; FCC 95-502]

Cable Television Rate Regulation; Cost of Service Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final cost rules and regulations, which were published Friday, March 8, 1996, (61 FR 9361). The regulations govern the standard cost of service showings filed by cable operators seeking to justify rates for regulated cable services.

EFFECTIVE DATE: April 18, 1996, except for new information collection requirements adopted herein, which will become effective on the date of approval by the Office of Management and Budget or on April 18, 1996, whichever date occurs later.

FOR FURTHER INFORMATION CONTACT: Tom Power, Cable Services Bureau, (202) 416-0800.

SUPPLEMENTARY INFORMATION:

Background

The Second Report and Order and First Order on Reconsideration in MM Docket 93-215 refines existing cost of service rules and creates final rules governing standard cost of service showings filed by capable operators seeking to justify rates for regulated cable services.

Need for Correction

As published, statements indicating the effective date for the requirements and regulations established in the Second Report and Order and First Order on Reconsideration in MM Docket 93-215 contained errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on March 8, 1996 of the final regulations, which were the subject of FR Doc. 96-5427, is corrected as follows:

Effective Date [Corrected]

On page 9361, in the second column, the statement of the effective date should be revised to read **EFFECTIVE DATE:** This final rule contains information collection requirements that will not become effective until approval by the Office of Management and Budget, but no sooner than April 18, 1996. The Commission will publish a document specifying the effective date of such requirements. All other requirements and regulations contained in this final rule shall become effective on April 18, 1996."

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IV. Ordering Clauses [Corrected]

Paragraph 60. On page 9367, in the second column, the paragraph should be revised to read "It is further ordered that the requirements and regulations established in this decision shall become effective on April 18, 1996, except for the new information collection requirements adopted herein, which shall become effective upon the date of approval by the Office of Management and Budget or on April 18, 1996, whichever date occurs later."

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Federal Communications Commission.

William F. Caton,
Acting Secretary.

[FR Doc. 96-6939 Filed 3-21-96; 8:45 am]

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