

Commodity	Parts per million	Expiration/revocation date
Sheep, fat	0.002	12/31/02
Sheep, meat	0.002	12/31/02
Sheep, meat byproduct	0.002	12/31/02

* * * * *

§ 180.509 [Amended]

21. In § 180.509, in the table to paragraph (b), amend the entries for barley, bran; barley, flour; barley, grain; barley, hay; barley, pearled; barley, straw; wheat grain; wheat straw by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.516 [Amended]

22. In § 180.516, in the table to paragraph (b), amend the entries for apricots, nectarines, peaches, and plums by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.532 [Amended]

23. In § 180.532, in the table to paragraph (b), amend the entry for caneberries by revising the expiration date "12/31/01" to read "12/31/03."

[FR Doc. 01-30916 Filed 12-13-01; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION
47 CFR Part 54

[CC Docket No. 96-45; FCC 01-268]

Federal-State Joint Board on Universal Service; Petition of Federal Transtel, Inc. for Waiver of Universal Service Fund Contribution Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of waiver request.

SUMMARY: In this document, the Commission denies the request of Federal Transtel, Inc. (Federal Transtel) to waive or reconsider the Commission's rules and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order and

Order on Reconsideration in CC Docket No. 96-45 released on September 20, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this Order, the Commission denies the request of Federal Transtel to waive or reconsider the Commission's rules in 47 CFR 54.703, 54.709, and 54.711 and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver. Furthermore, to the extent that Federal Transtel's petition seeks reconsideration of Commission rules that required carriers to base federal universal service contributions on prior year revenues, the Commission denies such request as untimely. In so doing, we also note that the Commission has recently amended its contribution methodology and these changes may address many of the substantive concerns raised in Federal Transtel's petition.

II. Discussion

2. The Commission concludes that Federal Transtel has failed to demonstrate that good cause exists to grant its request to waive the Commission's rules and thereby permit the recalculation of its 1998 and 1999 contributions to the federal universal service mechanisms. Consistent with the Commission's prior decisions, we conclude that granting such a request would be contrary to the principle of competitive neutrality and Congress' mandate that all carriers contribute to the federal universal service mechanisms on an equitable and nondiscriminatory basis. To the extent that Federal Transtel seeks reconsideration of the requirement to base federal universal service contributions on prior year revenues, the Commission concludes that such request is untimely. In addition, many of Federal Transtel's concerns have been addressed in a recent Commission proceeding.

A. Federal Transtel's Waiver Petition

3. Generally, the Commission's rules may be waived for good cause shown. As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

4. We are not persuaded that Federal Transtel's alleged inability to recover contributions in 1998 and 1999 from its current customers is a special circumstance warranting waiver of the prior year revenue contribution methodology. The Commission does not require carriers to recover their universal service contributions from customers. Rather, the Commission has given carriers the flexibility to decide whether and how they should recover their contributions, as markets become increasingly competitive. Although the Commission permits carriers to pass through all or part of their universal service contributions to their customers, the requirement to contribute remains whether or not a carrier passes such costs through to its customers. In addition, carriers are not precluded from anticipating the possible effects of declining revenues in the following year and reserving a portion of their current revenues to meet the contribution obligations that arise in the following year. Contrary to Federal Transtel's contention, the obligation to contribute to the universal service mechanisms based upon prior year revenues was not retroactively imposed on carriers. Carriers were given notice in July 1997 that contributions to the federal universal service mechanisms in 1998 would be based on prior year revenues. Therefore, the Commission concludes that carriers were provided with sufficient notice to develop business plans in anticipation of the implementation of the universal service contribution methodology beginning January 1, 1998.

5. Furthermore, The Commission concludes that such a waiver would not serve the public interest. We note that section 254(d) requires that the Commission establish a universal service contribution mechanism that is "specific, predictable and sufficient" to preserve and advance universal service. As discussed, in implementing section 254, the Commission adopted rules setting forth the specific method of computation for universal service contributions. To grant retroactively a waiver or reconsideration of those rules to individual carriers from one year to the next creates the potential for continuing uncertainty and confusion in the administration of the fund. The Commission notes in particular that Federal Transtel has not suggested how its contributions should be calculated if it were granted a waiver of the Commission's rules. The Commission finds that it cannot reconcile granting the waiver with the Act's mandate that the universal service mechanisms be specific and predictable, and that all telecommunications providers of interstate telecommunications service contribute on an equitable and nondiscriminatory basis. This mandate is essential to the preservation and advancement of universal service to ensure that consumers who rely upon universal service funding, including low-income consumers and those residing in rural and high-cost areas, may continue to receive telecommunications at affordable rates.

B. Federal Transtel's Petition for Reconsideration

6. To the extent that Federal Transtel seeks reconsideration of the universal service contribution methodology, we dismiss that request as untimely. The Commission's rules require that petitions for reconsideration be filed within 30 days after public notice of the Commission action. Federal Transtel's petition was filed on July 20, 1999, nearly two years after the deadline to file petitions for reconsideration of the *Second Order on Reconsideration*, 62 FR 56120, October 29, 1997, in which the Commission adopted the contribution methodology based on prior year revenues. Accordingly, the Commission dismisses Federal Transtel's petition for reconsideration as untimely filed. Moreover, even if this petition were timely filed, the Commission would not grant such a request. The Commission has recently provided substantive reasoning for denying similar requests. The Commission does note, however, that based on a newly developed industry-wide record, the Commission recently

took action to reduce the interval between the accrual of revenues by carriers and the assessment for universal service contributions. We believe this action alleviates many of the concerns raised in Federal Transtel's petition. In addition, the Commission has recently sought further comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. Although the Commission dismisses Federal Transtel's petition, we will incorporate a copy of its petition into the record relating to the *Contribution Methodology NPRM*, 66 FR 28718, May 24, 2001.

III. Ordering Clause

7. It is ordered, pursuant to sections 1, 4(i), 254, and 405 of the Communications Act of 1934, as amended, and §§ 1.3 and 1.429 of the Commission's rules, that the Petition for Waiver or Reconsideration filed July 20, 1999 by Federal Transtel, Inc. is denied. Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 01-30793 Filed 12-13-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-2782; MM Docket No. 00-129; RM-9909 & RM-10017]

Radio Broadcasting Services; Moberly, Malta Bend, Chillicothe, Lee's Summit, La Monte, Warsaw, Nevada, Maryville & Madison, MO, Topeka, Junction City, Humboldt, Marysville & Burlington, KS, & Auburn, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by Best Broadcasting, Inc., the Commission issued a Notice of Proposed Rule Making proposing the substitution of Channel 247C2 for Channel 247C3 at Moberly, Missouri, and modification of the license for Station KCSX accordingly, with additional substitutions at Malta Bend, MO and Chillicothe, MO. See 65 FR 45745, July 25, 2000. In response to a counterproposal filed by Best Broadcasting, Inc. and First Broadcasting Company, this document substitutes Channel 247C1 for Channel

247C3 at Moberly, Missouri, reallots Channel 247C1 from Moberly to Lee's Summit, MO and modifies the authorization for Station KCSX to specify operation at Lee's Summit on Channel 247C1. The coordinates for Channel 247C1 at Lee's Summit are 39-04-20 and 94-35-45. To accommodate the allotment at Lee's Summit, we shall make the following changes: substitute Channel 233C for Channel 247C, Topeka, Kansas (39-00-19 & 96-02-58), substitute Channel 248C1 for Channel 233C1 at Junction City, Kansas (39-00-53 & 96-52-15), substitute Channel 237C3 for Channel 232C3 at Humboldt, Kansas (37-43-21 & 95-33-41), substitute Channel 249A for Channel 237A at Burlington, Kansas (39-10-08 & 95-39-07), substitute Channel 276C3 for Channel 234C3 at Auburn, Nebraska (40-27-57 & 95-45-38),¹ substitute Channel 238C3 for Channel 276C3 at Marysville, Kansas (39-56-06 & 94-47-33), substitute Channel 280C3 for Channel 243C3 at Malta Bend, Missouri (39-21-59 & 93-24-12), substitute Channel 253A for Channel 280C3 at Chillicothe, Missouri (39-43-40 & 93-35-43), substitute Channel 249C2 for Channel 246C3 at La Monte, Missouri (38-48-23 & 93-09-08), substitute Channel 246A for Channel 249A at Warsaw, Missouri (38-20-41 & 93-23-10), substitute Channel 248A for Channel 249A at Nevada, Missouri (37-52-06 & 94-20-01). We shall also allot Channel 247C3 at Madison, Missouri, as a first local service at coordinates 39-24-37 and 92-10-58. The issue of opening the allotment at Madison for auction will be addressed by the Commission in a subsequent order.

DATES: Effective January 14, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00-129, adopted November 21, 2001, and released November 30, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, (202) 863-2893,

¹ The authorization for Station KNCY-FM was amended to specify operation on Channel 234C3 in lieu of Channel 288A in a one-step application (BPH-199908161E). We will take this opportunity to correct the FM Table of Allotments.