inspection during normal business hours at the following locations: Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, Washington, and Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: July 9, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 98–19835 Filed 7–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CA–189–0078(b); FRL–6127–2]

Proposed Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve an attainment and maintenance plan and grant a request submitted by the California Air Resources Board (CARB) to redesignate the South Coast Air Basin (South Coast) from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO_2). Under the Clean Air Act (CAA), designations can be revised if sufficient data are available to warrant such revisions. In this action, EPA is proposing to approve the attainment and maintenance plans as revisions to the California State Implementation Plan (SIP), and EPA is also proposing to grant the State's request to redesignate the South Coast to attainment because the plans and request meet the requirements set forth in the CAA.

DATES: Written comments must be received by August 24, 1998.

ADDRESSES: Comments should be addressed to the EPA contact below. The rulemaking docket for this notice may be inspected and copied at the following location during normal business hours. A reasonable fee may be charged for copying parts of the docket. Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, Sacramento, CA 92123–1095
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 744–1288

SUPPLEMENTARY INFORMATION: In this action, EPA is proposing to approve the South Coast NO_2 attainment and maintenance plans and grant California's request to redesignate the South Coast to attainment for NO_2, because the plans and redesignation request meet the requirements set forth in the CAA.

In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision and granting the redesignation request as a direct final rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no relevant adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. However, if EPA receives relevant adverse comments, then EPA will publish a document that withdraws the rule and informs the public that the rule will not take effect. EPA will then address those comments in a final action based upon this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Intergovernmental relations, Oxides of nitrogen, Reporting and recordkeeping requirements.

Dated: July 8, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 98–19839 Filed 7–23–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 43, and 63

[IB Docket No. 98–118, FCC 98–149]

Biennial Review of International Common Carrier Regulations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On July 9, 1998, the Federal Communications Commission adopted a Notice of Proposed Rulemaking (NPRM) to further streamline the rules governing international common carriers. The Commission proposes to eliminate review of many international applications, reduce the scope of information that must be provided in applications, and clarify its rules so that carriers can more easily understand their obligations. The proposals will benefit U.S. consumers because they will eliminate unnecessary regulatory delay and will facilitate entrance into the international telecommunications market. The Commission believes that the proposed rules will lessen the regulatory burdens on applicants, authorized carriers, and the Commission by allowing carriers to operate more efficiently.

DATES: Comments are due on or before August 10, 1998; and reply comments are due on or before August 25. Written comments by the public on the proposed information collections are due September 22, 1998.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, DC 20554. A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20554, or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Douglas Klein, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470. For additional information concerning the information collections contained in this NPRM contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 98–149, adopted on July 9, 1998. The full text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center

(Room 239) of the Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. The complete text of this NPRM also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800.

The Commission initiated this proceeding in response to the Telecommunications Act of 1996, which requires the Commission to review all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest.

This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Summary of Notice

1. The Commission adopted a Notice of Proposed Rulemaking (FCC 98–149) to further streamline the international Section 214 authorization process and tariff requirements. This proceeding was initiated pursuant to the Telecommunications Act of 1996, which directs the FCC to undertake, on every even-numbered year, a review of all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest. Accordingly, the Commission has begun a comprehensive 1998 biennial review of telecommunications and other regulations that are overly burdensome or no longer serve the public interest. We seek comment on the proposals contained in this Notice.

2. In this proceeding, the Commission proposes to streamline and, where appropriate, eliminate many of the rules for seeking authorization pursuant to Section 214. The Commission proposes a blanket Section 214 authorization for international service to unaffiliated points. The blanket authorization would certify that it would serve the pubic interest, convenience, and necessity to allow any entity that would be a non-dominant carrier to provide facilities-based service, or to resell the international services of other carriers, to any international points except a market in which an affiliated carrier operates. Carriers providing service pursuant to this blanket authorization would continue to be subject to all of the Commission's rules and regulations governing international service. Furthermore, the authorization of any particular carrier could be revoked or conditioned as necessary.

3. We seek comment on the scope of the proposed blanket Section 214 authorization. In particular, we seek comment on whether there is a smaller or larger class of carriers or services for which a blanket authorization would be appropriate. For example, should the blanket authorization be limited to the resale of other carriers' services instead of also authorizing the provision of facilities-based services? Comments should address whether there remain any public interest considerations that might warrant denying an authorization to provide facilities-based service to a foreign market where the applicant has no affiliate. Furthermore, we seek comment on ways to identify affiliations that are equally unlikely to raise public interest concerns that therefore should not require prior Commission review. Commenters should address whether there is a way to include within the blanket authorization a carrier's provision of facilities-based or resold service on routes where it has an affiliation with a carrier that, for example: we have previously found (in some other context) to lack market power in the foreign destination market; has no telecommunications facilities in that market; and/or has only mobile wireless facilities in that market. We tentatively conclude that we must maintain a requirement that carriers notify the Commission that they are providing international service pursuant to the blanket authorization, and that we must be able to condition or revoke an authorization if necessary to prevent anticompetitive effects. We seek comment on the applicability of our tentative conclusions to commercial mobile radio services (CMRS) licenses.

4. We propose to add a new rule section to define *pro forma* and to allow carriers to undertake *pro forma* assignments and transfers of control of international Section 214 authorizations without Commission approval. We tentatively conclude that given the mechanisms in place, many *pro forma* transfers and assignments meet the forbearance standard as defined by Section 10 of the Communications Act. So that the Commission can maintain accurate records of the entities holding Section 214 authorization, we propose to require that authorized carriers that undertake a *pro forma* assignment notify the Commission by letter within 30 days after consummation of the transaction. We tentatively conclude that we need not require that carriers notify us of *pro forma* transfers of control. The proposed rule would apply to all authorized international carriers.

5. We seek comment on a proposal to amend § 63.21 of the rules to provide that an international Section 214 authorization effectively authorizes the carrier to provide services through its wholly owned subsidiaries. Although this proposal promotes flexibility, it must not be used by carriers to circumvent any structural-separation provision in the Commission's rules. We seek comment on whether the proposed rule would defeat any of the Commission's structural-separation requirements.

6. The Commission's rules currently provide that a carrier with a global facilities-based authorization may not use non-U.S-licensed facilities unless and until it has received specific prior approval or the Commission generally approves their use and so indicates on an exclusion list maintained by the International Bureau. We propose to amend the rules and the exclusion list to allow any carrier with a global facilities-based authorization to use any non-U.S.-licensed submarine cable system without prior Commission approval of each cable system. The exclusion list would then provide that carriers with global Section 214 authorizations to provide facilities-based service would be authorized to serve any unaffiliated market except Cuba and would be permitted to use any facilities except non-U.S.-licensed satellite systems that are not specifically identified. This proposed rule change would not affect the rules for use of non-U.S.-licensed satellite systems, which continues to be governed by the policies adopted in the Commission's *DISCO II Order* (62 FR 64167, December 4, 1997).

7. We also seek comment on our proposal to eliminate the need to apply for separate Section 214 authority to build a new common carrier cable system by including the authorization to construct new lines in the global facilities-based Section 214 authorization. We tentatively conclude that we must limit this provision by stating that it does not authorize the construction or extension of lines that may have a significant effect on the environment as defined in our rules. We propose to eliminate the requirement currently in the rules that requires the applicant to include a statement whether an authorization of the facilities is categorically excluded from environmental processing. We

tentatively conclude that the construction of new submarine cable systems will not have a significant effect on the human environment and therefore should be categorically excluded from our environmental processing requirements. This proposal is subject to a change in the application fees for cable landing licenses and Section 214 authorizations, which are set by statute.

8. We also propose to reorganize and simplify some of our existing rules. We tentatively conclude that we should reorganize § 63.18, which describes the contents of international Section 214 applications, and list the obligations of each category of carrier in a separate rule section. We propose to include in the rules a provision codifying the benchmark settlement rate condition that we adopted in the *Benchmarks Order* (62 FR 45758, August 29, 1997). We also propose to create new sections for definitions and for our policy on the provision of switched services over international private lines.

9. We also propose to modify our rules so that applicants will be required to list only the direct and indirect shareholders with interests greater than 25 percent.

Currently, applicants must report every 10-percent-or-greater direct and indirect shareholder. We seek comment on whether it remains necessary to scrutinize direct and indirect investments in applicants at a greater level of detail than we require after the carrier is authorized.

10. In the *Foreign Participation Order*, 62 FR 64741. December 9, 1997, we removed the prior-approval requirement for dominant carriers but neglected to amend the rules to provide that dominant resellers of international private lines are nevertheless subject to the annual reporting requirement. We propose to strike the word *non-dominant* from that provision and move that provision to the new rule section containing obligations generally applicable to resellers.

11. We propose to require that carriers authorized to undertake an assignment notify the Commission by letter within 30 days after either consummation of the assignment or a decision not to go forward with the assignment. We also propose to clarify that a carrier that changes its name need only notify the Commission by letter within 30 days after the name change.

12. We propose to create a new Section 63.16 containing the Commission's policy on the provision of switched services over international private lines interconnected to the public switched network. This section would provide that carriers could seek a Commission finding authorizing such service by filing a petition for declaratory ruling, rather than a Section 214 application. This change would not modify the requirement that carriers have the necessary underlying Section 214 authority to provide facilities-based or resold service between the United States and the country at the foreign end of the private line.

13. No substantive changes are intended other than those discussed in the NPRM. We seek comment on whether any inadvertent substantive changes would result from the proposed reorganization of our rules.

Initial Regulatory Flexibility Analysis

14. The Regulatory Flexibility Act of 1990, 5 U.S.C. 601–612, (RFA) as amended by the Contract with America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847, requires an initial regulatory flexibility analysis in notice-and-comment rulemaking proceedings, unless we certify that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The purposes of this proceeding are to eliminate some regulatory requirements and to simplify and clarify other existing rules. The proposals do not impose any additional compliance burden on small entities dealing with the Commission. In fact, we anticipate that the rule changes we propose will reduce regulatory and procedural burdens on small entities. Accordingly, we certify, pursuant to Section 605(b) of the RFA, that the rules, if promulgated, would not have a significant economic impact on a substantial number of small business entities, as defined by the RFA. The Office of Public Affairs, Reference Operations Division, will send a copy of this NPRM to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act. We will analyze the information submitted during the comment period, and if it is determined at the final rule stage that the rule changes will have a significant economic impact on a substantial number of small entities, a final regulatory flexibility analysis will be prepared.

Initial Paperwork Reduction Act of 1995 Analysis

15. This Notice of Proposed Rulemaking contains both proposed and modified information collections. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due September 22, 1998. Comments should address the following: (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.

OMB Approval Number: 3060–0686.

Title: Streamlining the International 214 Process and Tariff Requirements.

Form No.: N/A.

Type of Review: Revision of existing collection.

Respondents: Business or other For-Profit.

Number of Respondents: 105.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 105.

Estimated costs per respondent: $150.00.

Frequency of Response: Annually; Semi-Annually; Quarterly: and On occasion reporting requirements.

Needs and Uses: The information collections are necessary largely to determine the qualifications of applicants to provide common carrier international telecommunications services, or to construct and operate submarine cables, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The information collections are necessary for the Commission to maintain effective oversight of U.S. carriers that are affiliated with, or involved in certain co-marketing or similar arrangements with, foreign carriers that have sufficient market power to affect competition adversely in the U.S. market. The information collected is necessary for the Commission to ensure that rates, terms and conditions for international service are just and reasonable, as required by the Communications Act of 1934.

Comment Filing Procedures

16. Comments and reply comments should be captioned in IB Docket No. 98–118. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR

1.415, 1.419, interested parties may file comments on or before August 10, 1998, and reply comments on or before August 25, 1998. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, with a copy to Douglas Klein of the International Bureau, 2000 M Street, NW., Suite 800, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW., Room 239, Washington, DC. Parties are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in WordPerfect 5.1 format.

17. For purposes of this proceeding, we hereby waive those provisions of our rules that require formal comments to be filed on paper, and we encourage parties to file comments electronically. Electronically filed comments that conform to the following guidelines will be considered part of the record in this proceeding and accorded the same treatment as comments filed on paper pursuant to our rules. To file electronic comments in this proceeding, you must use the electronic filing interface available on the FCC's World Wide Web site at http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts. Further information on the process of submitting comments electronically is available at that location and at http://www.fcc.gov/e-file/.

18. Written comments by the public on the proposed information collections are due on or before September 22, 1998. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to jboley@fcc.gov.

Ordering Clauses

19. Accordingly, it is ordered that, pursuant to Sections 1, 4(i), 10, 11, 201(b), 214, 303(r), 307, 309(a), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 160, 161, 201(b), 214, 303(r), 307, 309(a), 310, this notice of proposed rulemaking is hereby adopted.

20. *It is further ordered* that the Office of Public Affairs, Reference Operations Division, shall send a copy of this notice of proposed rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

21. *It is further ordered* that the Office of Public Affairs, Reference Operations Division, shall send a copy of this notice of proposed rulemaking to the Council on Environmental Quality.

List of Subjects in 47 CFR Parts 1, 43, and 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 1, 43, and 63 of title 47 of the Code of Federal Regulations are amended as follows:

Part 1—Practice and Procedure

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r).

2. Section 1.767 is amended by revising paragraphs (a)(6) and (a)(7) and adding new paragraphs (a)(8) and (a)(9) to read as follows:

§ 1.767 Cable landing licenses.

(a) * * *

(6) A statement as to whether the cable will be operated on a common carrier or non-common carrier basis;

(7) A list of the proposed owners of the cable system, their voting interests, and their ownership interests by segment in the cable;

(8) For each proposed owner of the cable system, a certification as to whether the proposed owner is, or has an affiliation with, a foreign carrier. Include the information and certifications required in § 63.18(h)(1) and (2) of this chapter; and

(9) Any other information that may be necessary to enable the Commission to act on the application.

* * * * *

3. Section 1.1306 is amended by adding the following sentence to the end of Note 1:

§ 1.1306 Actions which are categorically excluded from environmental processing.

* * * * *

Note 1: * * * The provisions of § 1.1307(a) and (b) of this part do not encompass the construction of new submarine cable systems.

Part 43—Reports of Communication Common Carriers and Certain Affiliates

4. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154.

5. Section 43.61 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 43.61 Reports of international telecommunications traffic.

* * * * *

(c) * * * For purposes of this paragraph, *affiliation* and *foreign carrier* are defined in § 63.09 of this chapter

PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

6. The authority citation for part 63 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 403, 533 unless otherwise noted.

7. New § 63.09 is added to read as follows:

§ 63.09 Definitions applicable to international Section 214 authorizations.

The following definitions shall apply to §§ 63.09–63.24 of this part, unless the context indicates otherwise:

(a) *Facilities-based carrier* means a carrier that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in the U.S. end of an international facility, regardless of whether the underlying facility is a common carrier or non-common carrier submarine cable or an INTELSAT or separate satellite system.

(b) *Control* includes actual working control in whatever manner exercised and is not limited to majority stock ownership.

(c) *Special concession* is defined as in § 63.14(b).

(d) *Foreign carrier* is defined as any entity that is authorized within a foreign country to engage in the provision of international telecommunications services offered to the public in that country within the meaning of the International Telecommunication Regulations, see Final Acts of the World

Administrative Telegraph and Telephone Conference, Melbourne, 1988 (WATTC–88), Art. 1, which includes entities authorized to engage in the provision of domestic telecommunications services if such carriers have the ability to originate or terminate telecommunications services to or from points outside their country.

(e) An *affiliation with a foreign carrier* includes the following:

(1) A greater than 25 percent ownership of capital stock, or controlling interest at any level, by the carrier, or by any entity that directly or indirectly controls or is controlled by it, or that is under direct or indirect common control with it, in a foreign carrier or in any entity that directly or indirectly controls a foreign carrier; or

(2) A greater than 25 percent ownership of capital stock, or controlling interest at any level, in the carrier by a foreign carrier, or by any entity that directly or indirectly controls or is controlled by a foreign carrier, or that is under direct or indirect common control with a foreign carrier; or by two or more foreign carriers investing in the carrier in the same manner in circumstances where the foreign carriers are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of basic international telecommunications services in the United States. A U.S. carrier also will be considered to be affiliated with a foreign carrier where the foreign carrier controls, is controlled by, or is under common control with a second foreign carrier that is affiliated with that U.S. carrier under this section.

(f) An *affiliation with a U.S. facilities-based international carrier* is defined as in paragraph (e), except that the phrase ''U.S. facilities-based international carrier'' shall be substituted for the phrase ''foreign carrier.''

Note 1: The assessment of ''capital stock'' ownership will be made under the standards developed in Commission case law for determining such ownership. See, e.g., Fox Television Stations, Inc., 10 FCC Rcd 8452 (1995). ''Capital stock'' includes all forms of equity ownership, including partnership interests.

Note 2: Ownership and other interests in U.S. and foreign carriers will be attributed to their holders and deemed cognizable pursuant to the following criteria: Attribution of ownership interests in a carrier that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50 percent, it shall not be included for purposes of this multiplication. For example, if A owns 30 percent of company X, which owns 60 percent of company Y, which owns 26 percent of ''carrier,'' then X's interest in ''carrier'' would be 26 percent (the same as Y's interest because X's interest in Y exceeds 50 percent), and A's interest in ''carrier'' would be 7.8 percent (0.30×0.26). Under the 25 percent attribution benchmark, X's interest in ''carrier'' would be cognizable, while A's interest would not be cognizable.

8. Section 63.10 is amended by removing the third sentence of paragraph (a) introductory text, the last sentence of paragraph (a)(4), and the last sentence of paragraph (c)(5).

9. Section 63.11 is amended by revising paragraphs (a)(1) and (a)(2) and by removing the last sentence of paragraph (c)(1) to read as follows:

§ 63.11 Notification by and prior approval for U.S. international carriers that have or propose to acquire an affiliation with a foreign carrier.

(a) * * *

(1) acquisition of a direct or indirect controlling interest in a foreign carrier by the authorized carrier, or by any entity that directly or indirectly controls the authorized carrier, or that directly or indirectly owns more than 25 percent of the capital stock of the authorized carrier; or

(2) acquisition of a direct or indirect interest in the capital stock of the authorized carrier by a foreign carrier or by an entity that directly or indirectly controls a foreign carrier where the interest would create an affiliation within the meaning of § 63.09(e)(2).

* * * * *

10. Section 63.14 is amended by removing the last sentence of paragraph (a).

11. Section 63.15 is removed.

§ 63.15 [Removed]

12. New § 63.16 is added to read as follows:

§ 63.16 Switched services over private lines.

(a) Except as provided in § 63.22(g)(2), a carrier may provide switched basic services over its authorized private lines if and only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines.

(b) An authorized carrier seeking to add a foreign market to the list of markets to which carriers may provide switched services over private lines must make the following showing in a Section 214 application filed pursuant to § 63.18 or in a petition for declaratory ruling:

(i) If seeking a Commission ruling to permit the provision of international switched basic services over private lines between the United States and a WTO Member country, the applicant shall demonstrate either that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and the country at the foreign end of the private line are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261 *or* that the country affords resale opportunities equivalent to those available under U.S. law.

(ii) If seeking a Commission ruling to permit the provision of international switched basic services over private lines between the United States and a non-WTO Member country, the applicant shall demonstrate that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and the country at the foreign end of the private line are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261 *and* that the country affords resale opportunities equivalent to those available under U.S. law.

(c) With regard to showing under paragraph (b) of this section that a destination country affords resale opportunities equivalent to those available under U.S. law, an applicant shall include evidence demonstrating that equivalent resale opportunities exist between the United States and the subject country, including any relevant bilateral or multilateral agreements between the administrations involved. The applicant must demonstrate that the foreign country at the other end of the private line provides U.S.-based carriers with:

(i) The legal right to resell international private lines, interconnected at both ends, for the provision of switched services;

(ii) Reasonable and nondiscriminatory charges, terms and conditions for interconnection to foreign domestic carrier facilities for termination and origination of international services, with adequate means of enforcement;

(iii) Competitive safeguards to protect against anticompetitive and discriminatory practices affecting private line resale; and

(iv) Fair and transparent regulatory procedures, including separation between the regulator and operator of international facilities-based services.

Note 1 to § 63.16: The Commission's benchmark settlement rates are available in International Settlement Rates, *Report and*

Order, 12 FCC Rcd 19,806, 62 FR 45758 (August 29, 1997).

13. Section 63.17 is amended by changing ''(e)(6)'' to ''(e)(4)'' at the end of paragraph (b)(4).

14. Section 63.18 is amended by revising paragraphs (e), (g), (h), and (i) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(e) One or more of the following statements, as pertinent:

(1) *Global Facilities-Based Authority.* If applying for authority to become a facilities-based international common carrier subject to § 63.22, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to § 63.18(e)(1) of the Commission's rules

(ii) List any countries for which the applicant does not request authorization under this paragraph (see § 63.22(a)); and

(iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.22.

(2) *Global Resale Authority.* If applying for authority to resell the international services of authorized U.S. common carriers subject to § 63.23, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a resale carrier pursuant to § 63.18(e)(2) of the Commission's rules;

(ii) List any countries for which the applicant does not request authorization under this paragraph (see § 63.23(a)); and

(iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.23.

(3) *Transfer of Control or Assignment.* If applying for authority to acquire facilities through the transfer of control of a common carrier holding international Section 214 authorization, or through the assignment of another carrier's existing authorization, the applicant shall complete paragraphs (a) through (d) of this section for both the transferor/assignor and the transferee/assignee. Only the transferee/assignee needs to complete paragraphs (h) through (k) of this section. At the beginning of the application, the applicant should also include a narrative of the means by which the transfer or assignment will take place. The Commission reserves the right to request additional information as to the particulars of the transaction to aid it in making its public interest determination. An assignee shall notify the Commission no later than 30 days after either consummation of the assignment or a decision not to consummate the assignment. The notification may be by letter and shall identify the file numbers under which the initial authorization and the authorization of the assignment were granted. See also § 63.24 (*pro forma assignments and transfers of control).*

(4) *Other Authorizations.* If applying for authority to acquire facilities or to provide services not covered by paragraphs (e)(1) through (e)(3), the applicant shall provide a description of the facilities and services for which it seeks authorization. The applicant shall certify that it will comply with the terms and conditions contained in § 63.21 and § 63.22 and/or § 63.23, as appropriate. Such description also shall include any additional information the Commission shall have specified previously in an order, public notice or other official action as necessary for authorization.

* * * * *

(g) Where the applicant is seeking facilities-based authority under paragraph (e)(4) of this section, a statement whether an authorization of the facilities is categorically excluded as defined by § 1.1306 of this chapter. If answered affirmatively, an environmental assessment as described in § 1.311 of this chapter need not be filed with the application.

(h) A certification as to whether or not the applicant is, or has an affiliation with, a foreign carrier, supported by the following information:

(1) In support of the required certification, each applicant shall also provide the name, address, citizenship and principal businesses of its greater-than-25-percent direct and indirect shareholders or other equity holders and identify any interlocking directorates.

(2) The certification shall state with specificity each foreign country in which the applicant is, or has an affiliation with, a foreign carrier.

(3) Any applicant that seeks to provide international telecommunications services to a particular country and that is a foreign carrier in that country, or directly or indirectly controls a foreign carrier in that country, or has an affiliation within the meaning of paragraph § 63.09(e)(2) of this section with a foreign carrier in that country shall make one of the following showings:

(i) The named foreign country (i.e., the destination foreign country) is a Member of the World Trade Organization; or

(ii) The applicant's affiliated foreign carrier lacks sufficient market power in the named foreign country to affect competition adversely in the U.S. market; or

(iii) The named foreign country provides effective competitive opportunities to U.S. carriers to compete in that country's market for the service that the applicant seeks to provide (facilities-based, resold switched, or resold non-interconnected private line services). An effective competitive opportunities demonstration should address the following factors:

(A) If the applicant seeks to provide facilities-based international services, the legal ability of U.S. carriers to enter the foreign market and provide facilities-based international services, in particular international message telephone service (IMTS);

(B) If the applicant seeks to provide resold services, the legal ability of U.S. carriers to enter the foreign market and provide resold international switched services (for switched resale applications) or non-interconnected private line services (for non-interconnected private line resale applications);

(C) Whether there exist reasonable and nondiscriminatory charges, terms and conditions for interconnection to a foreign carrier's domestic facilities for termination and origination of international services or the provision of the relevant resale service;

(D) Whether competitive safeguards exist in the foreign country to protect against anticompetitive practices, including safeguards such as:

(*1*) Existence of cost-allocation rules in the foreign country to prevent cross-subsidization;

(*2*) Timely and nondiscriminatory disclosure of technical information needed to use, or interconnect with, carriers' facilities; and

(*3*) Protection of carrier and customer proprietary information;

(E) Whether there is an effective regulatory framework in the foreign country to develop, implement and enforce legal requirements, interconnection arrangements and other safeguards; and

(F) Any other factors the applicant deems relevant to its demonstration.

(4) Any applicant that proposes to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to the named foreign country and that is a foreign carrier in that country or has an affiliation with a foreign carrier in that country shall either provide in its application a showing that would satisfy § 63.10(a)(3) or state that it will file the quarterly

traffic reports required by § 43.61(c) of this chapter.

(5) With respect to regulatory classification under § 63.10, any applicant that certifies that it is or has an affiliation with a foreign carrier in a named foreign country and that desires to be regulated as non-dominant for the provision of particular international telecommunications services to that country should provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to § 63.10.

(i) Each applicant shall certify that the applicant has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into such agreements in the future.

* * * * *

15. Section 63.21 is amended by revising the section heading and paragraph (a), and adding new paragraphs (i) and (j) to read as follows:

§ 63.21 Conditions applicable to all international Section 214 authorizations.

* * * * *

(a) Each carrier is responsible for the continuing accuracy of the certifications made in its application. Whenever the substance of any such certification is no longer accurate, the carrier shall as promptly as possible and in any event within thirty days file with the Secretary in duplicate a corrected certification referencing the FCC File No. under which the original certification was provided. The information may be used by the Commission to determine whether a change in regulatory status may be warranted under § 63.10. See also § 63.11.

* * * * *

(i) Subject to the requirement of § 63.10 that a carrier regulated as dominant along a route must provide service as an entity that is separate from its foreign carrier affiliate, and subject to any other structural-separation requirement in Commission regulations, an authorized carrier may provide service through any wholly owned subsidiaries without seeking additional Commission authorization, *provided* that this provision shall not be construed to authorize the provision of service by any entity barred by statute or regulation from itself holding an authorization or providing service.

(j) An authorized carrier that changes its name shall notify the Commission by letter filed with the Secretary in duplicate within 30 days of the name change. Such letter shall reference the FCC File No. under which the carrier's authorizations were granted.

* * * * *

16. Sections 63.22 through 63.25 are added to read as follows:

§ 63.22 Facilities-based international common carriers.

The following conditions apply to authorized international facilities-based carriers:

(a) A carrier authorized under § 63.18(e)(1) may provide international facilities-based services to international points for which it qualifies for non-dominant regulation as set forth in § 63.10, except in the following circumstance: If the carrier is or is affiliated with a foreign carrier in a destination market and the Commission has not determined that the foreign carrier lacks sufficient market power in the destination market to affect competition adversely in the U.S. market (see § 63.10(a)), the carrier shall not provide service on that route unless it has received specific authority to do so under § 63.18(e)(4).

(b) The carrier may provide service using half-circuits on any appropriately licensed U.S. common carrier and non-common carrier facilities (under either Title III of the Communications Act of 1934, as amended, or the Submarine Cable Landing License Act, 47 U.S.C. §§ 34–39) that do not appear on an exclusion list published by the Commission. Carriers may also use any necessary non-U.S.-licensed facilities, including any submarine cable systems, that do not appear on the exclusion list. Carriers may not use U.S. earth stations to access non-U.S.-licensed satellite systems unless the Commission has specifically approved the use of those satellites and so indicates on the exclusion list, and then only for service to the countries indicated thereon. The exclusion list is maintained on the Commission's World Wide Web site at http://www.fcc.gov/ib/td/pf/exclusion list.html.

(c) The carrier may not provide service to any country listed on an exclusion list published by the Commission unless it has received specific authority under § 63.18(e)(4).

(d) The carrier may provide international basic switched, private line, data, television and business services.

(e) Subject to the requirements of the Submarine Cable Landing License Act, 47 U.S.C. 34–39, the carrier is authorized to construct, acquire, or operate lines in any new major common carrier facility project between the United States and all international points that it is authorized to serve on a facilities basis. This paragraph shall not authorize the carrier to engage in any construction or extension of lines that may have a significant effect on the environment as defined in § 1.1307 of this chapter. See § 1.1312 of this chapter. The carrier must seek specific Section 214 authority and comply with the Commission's environmental rules before any such construction or extension.

(f) Except as otherwise ordered by the Commission, the carrier may provide facilities-based service to a market served by an affiliate that terminates U.S. international switched traffic only if that affiliate has in effect a settlement rate with U.S. international carriers that is at or below the Commission's relevant benchmark adopted in IB Docket No. 96–261. See FCC 97–280 (rel. Aug. 18, 1997) (available at the FCC's Reference Operations Division, Washington, DC 20554, and on the FCC's World Wide Web Site at http://www.fcc.gov).

(g)(1) Except as provided in paragraph (g)(2) of this section, the carrier may provide switched basic services over its authorized facilities-based private lines if and only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines. See § 63.16. If at any time the Commission finds that the country no longer provides equivalent resale opportunities or that market distortion has occurred in the routing of traffic between the United States and that country, the carrier shall comply with enforcement actions taken by the Commission.

(2) The carrier may use its authorized private line facilities to provide switched basic services in circumstances where the private line facility is interconnected to the public switched network on only one end—either the U.S. end or the foreign end—and where the carrier is not operating the facility in correspondence with a carrier that directly or indirectly owns the private line facility in the foreign country at the other end of the private line.

(h) The carrier shall file annual international circuit status reports as required by § 43.82 of this chapter.

(i) The authority granted under this part is subject to all Commission rules and regulations and any conditions or limitations stated in the Commission's public notice or order that serves as the carrier's Section 214 certificate. See § 63.12.

§ 63.23 Resale-based international common carriers.

The following conditions apply to carriers authorized to resell the international services of other authorized carriers:

(a) A carrier authorized under § 63.18(e)(2) may provide resold international services to international points for which the applicant qualifies for non-dominant regulation as set forth in § 63.10, except that the carrier may not provide either of the following services unless it has received specific authority to do so under § 63.18(e)(4):

(i) Switched resold services to a non-WTO Member country where the applicant is or is affiliated with a foreign carrier; and

(ii) Switched or private line services over resold private lines to a destination market where the applicant is or is affiliated with a foreign carrier and the Commission has not determined that the foreign carrier lacks sufficient market power in the destination market to affect competition adversely in the U.S. market (see § 63.10(a)).

(b) The carrier may not resell the international services of an affiliated carrier regulated as dominant on the route to be served unless it has received specific authority to do so under § 63.18(e)(4).

(c) Except as provided in paragraph (b) of this section, the carrier may resell the international services of any authorized common carrier, pursuant to that carrier's tariff or contract duly filed with the Commission, for the provision of international basic switched, private line, data, television and business services to all international points.

(d) The carrier may provide switched basic services over its authorized resold private lines if and only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines. See § 63.16. If at any time the Commission finds that the country no longer provides equivalent resale opportunities or that market distortion has occurred in the routing of traffic between the United States and that country, the carrier shall comply with enforcement actions taken by the Commission.

(e) Any party certified to provide international resold private lines to a particular geographic market shall report its circuit additions on an annual basis. Circuit additions should indicate the specific services provided (e.g., IMTS or private line) and the country served. This report shall be filed on a consolidated basis not later than March 31 for the preceding calendar year.

(f) The authority granted under this part is subject to all Commission rules and regulations and any conditions or limitations stated in the Commission's public notice or order that serves as the carrier's Section 214 certificate. See §§ 63.12, 63.21.

§ 63.24 Pro forma assignments and transfers of control.

(a) *Definition.* An assignment of an authorization granted under this part or a transfer of control of a carrier authorized under this part to provide an international telecommunications service is a *pro forma* assignment or transfer of control if it falls into one of the following categories and, together with all previous *pro forma* transactions, does not result in a change in the carrier's ultimate control:

(1) Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;

(4) Corporate reorganization that involves no substantial change in the beneficial ownership of the corporation;

(5) Assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or

(6) Assignment of less than a controlling interest in a partnership.

(b) A *pro forma* assignment or transfer of control of an authorization to provide international telecommunications service is not subject to the requirements of § 63.18. A *pro forma* assignee or a carrier that is the subject of a *pro forma* transfer of control is not required to seek prior Commission approval for the transaction. A *pro forma* assignee must notify the Commission no later than 30 days after the assignment is consummated. The notification may be in the form of a letter, and it must contain a certification that the assignment was *pro forma* as defined in paragraph (a) of this section and, together with all previous *pro forma* transactions, does not result in a change of the carrier's ultimate control. A single letter may be filed for an assignment of more than one authorization if each authorization is identified by the file number under which it was granted.

§ 63.25 Special procedures for non-dominant international common carriers.

(a) Any party that would be a non-dominant international communications common carrier is authorized to provide facilities-based international services, subject to § 63.22, between the United States and all international points, except that this paragraph shall not authorize the party to provide service between the United States and any country where an affiliated foreign carrier operates.

(b) Any party that would be a non-dominant international communications common carrier is authorized to provide resold international services, subject to § 63.23, between the United States and all international points, except that this paragraph shall not authorize the party to provide service between the United States and any country where an affiliated foreign carrier operates.

(c) Within 30 days of commencing service pursuant to paragraph (a) or (b), the party shall notify the Commission by letter addressed to the Chief, International Bureau, that it has commenced providing service pursuant to § 63.25 of the Commission's rules. Such letter shall include the applicable information and certifications described in § 63.18.

(d) Notwithstanding paragraphs (a) and (b), the Commission reserves the right to condition or revoke the authorization of any entity for a violation of the Commission's rules or policies, and such condition or revocation shall be effective against all successors, transferees, or assigns, as ordered by the Commission.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 3

[IB Docket No. 98–96, FCC 98–123]

1998 Biennial Regulatory Review of Accounts Settlements in the Maritime and Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as an Accounting Authority

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communication Commission adopted a Notice of