

must file applications pursuant to §§ 62.1(a), 62.12, and 62.25 hereof.

[50 FR 31377, Aug. 2, 1985, as amended at 51 FR 6116, Feb. 20, 1986]

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

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

SOURCE: 28 FR 13229, Dec. 5, 1963, unless otherwise noted.

## EXTENSIONS AND SUPPLEMENTS

**§ 63.01 Contents of applications for domestic common carriers.**

Except as otherwise provided in this part, any party proposing to undertake any construction of a new line, extension of any line, acquisition, lease, or operation of any line or extension thereof or engage in transmission over or by means of such line, and such line originates and terminates in the United States, for which authority is required under the provisions of Section 214 of the Communications Act of 1934, as amended, shall request such authority by formal application which shall be accompanied by a statement showing how the proposed construction, etc., will serve the public interest, convenience, and necessity. Such statement must include the following information as applicable:

(a) The name and address of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate applicant is organized;

(c) The name, title, and post office address of the officer to whom correspondence concerning the application is to be addressed;

(d) A statement as to whether the applicant is a carrier subject to section 214 of the Act or will become such a carrier as a result of the proposed construction, acquisition, or operation;

(e) A statement as to whether the facilities covered by the application will be used to extend communication service into territory at present not directly served by the applicant or to supplement existing facilities of the applicant, and the nature and classification of the communication services to be provided (e.g. telephone, telegraph, facsimile, data, private line, voice, television relay, etc.);

(f) The points between which the proposed facilities are to be located;

(g) A description of applicant's existing facilities between these points, showing specifically the total number of channels presently provided between major points on each principal route;

(h) A description of the facilities for which authority is requested, including:

(1) The number of channels of each type to be provided by such facilities;

(2) The number, if any, of wires, conductors, and coaxial units of each type (not equipped for immediate operation) capable of providing additional channels of communication only by the construction of additional apparatus, equipment, or other facilities;

(3) The types of classes of toll telephone or telegraph offices to be established;

(i) Applicant's present and estimated future requirements, both for the route of the proposed facilities and for routes from which any rerouting to the proposed facilities is contemplated within the period of the estimate. Where 60 domestic circuits or more are to be derived from the proposed construction, acquisition, or lease, list the principal circuit groups currently operated, the number of circuits in each group, and the estimate number of circuits required in each group to meet the load demands for the ensuing one year, two year, or five year period, as may be appropriate in order to provide adequate justification for said increases, including current traffic load trends, as indicated by periodic traffic load studies.

(j) A map or sketch showing:

(1) Route of proposed project;

(2) Type and ownership of structures (open wire, aerial cable, underground cable, carrier systems, etc.);

(3) Facilities, if any, to be removed;

(4) Cities, towns, and villages along routes indicated on map or sketch, with approximate population of each, and route kilometers between the principal points;

(5) Location of important operating centers, and repeater or relay points;

(6) State boundary lines through which the proposed facilities will extend;

(7) Topographical features which may require special consideration or entail added cost;

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

(1) If proposed facilities are to be constructed, the details thereof, including summary of cost estimates separately by Plant Accounts affected (in case of construction by or for two or more parties, the quantities of facilities of each kind acquired by each and

the cost attributed thereto), quantities and cost of major materials; and amount of labor and cost thereof;

(2) If proposed facilities are to be leased, the details thereof, including the name of the lessor, a summary of the terms of the lease arrangements (or a copy of the lease), the anticipated lease rental, setting up charges, added equipment costs, and each other added cost to the applicant;

(3) If proposed facilities are to be purchased, the name of the vendor; a detailed description of all the properties involved including assets other than plant being acquired in connection with the same transaction; a complete description of the contractual arrangements relating to the sale or a copy of the contract; added equipment cost and each other added cost to the applicant; a statement of the original cost of, and the related reserve requirement for depreciation applicable to, the plant to be acquired (with a full explanation of the manner in which these amounts were determined) including, when appropriate, a separate statement of such amounts applicable to duplicate or other plant which will be retired by the vendee in the reconstruction of the acquired property or its consolidation with previously owned property; and a statement of the estimated annual savings in expenses expected to result from the proposed acquisition;

(4) If facilities are to be acquired or operated other than by lease or purchase a detailed description of the facilities involved; the terms of the contract or other arrangement relating to such acquisition or operation; added equipment costs; and each other added cost to the applicant;

(l) A summary of the factors showing the public need for the proposed facilities;

(m) Economic justification for the proposed project including, where the application involves an extension into new territory at present not directly served by the applicant, estimated added revenues and costs and the basis therefor;

(n) Description of the manner and means by which interstate and foreign communication services of a similar

character are now being rendered by the applicant and others in the area to be served by the proposed facilities, including reasons why existing facilities are inadequate;

(o) Proposed tariff charges and regulations for domestic applications;

(p) A statement of the accounting proposed to be performed in connection with the project. If the facilities are to be acquired by purchase, such proposed accounting shall be presented in journal entry form (on an estimated basis if actual amounts are not available), together with a full explanation of the manner in which the respective amounts were determined.

(q) A statement whether an authorization of the facilities is categorically excluded as defined by §1.1306 of the Commission's rules. If answered affirmatively, an environmental assessment as described in §1.1311 need not be filed with the application.

[28 FR 13229, Dec. 5, 1963, as amended at 41 FR 20661, May 20, 1976; 45 FR 6585, Jan. 29, 1980; 50 FR 18659, May 2, 1985; 51 FR 15003, Apr. 22, 1986; 57 FR 647, Jan. 8, 1992; 57 FR 57965, Dec. 8, 1992; 58 FR 44461, Aug. 23, 1993; 58 FR 44906, Aug. 25, 1993; 61 FR 15727, Apr. 9, 1996]

#### **§63.02 Special provisions relating to extensions involving small projects.**

Applications involving extension of service into domestic territory at present not directly served by the applicant by the construction, acquisition, or operation of facilities, the cost of which to the applicant does not exceed \$50,000 or the annual rental of which does not exceed \$10,000, may omit the information called for by §63.01 that is clearly not relevant to such extension. (Normally the information required by §63.01 (h)(1), (h)(2), (i), (j), and (k)(1) may be omitted.) At minimum, the application shall contain a general description of the existing and proposed facilities, points of service, and cost.

(Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[41 FR 20661, May 20, 1976]

**§ 63.03 Special provisions relating to small projects for supplementing of facilities.**

(a) Facilities authorized under this section are limited to those that supplement existing facilities. Excluded from consideration under this section are applications that would involve:

- (1) A new or modified service;
- (2) One or more points of service not previously authorized to the applicant for the type of service involved;
- (3) New transmission facilities (excluding supplemental radio transmitters) over which applicant has not previously received authority under part 63;
- (4) An action that may have a significant impact upon the environment, see § 1.1307 of this chapter.
- (5) International channels exceeding 60 64-kilobit per second circuits; or
- (6) Domestic channels where the construction or acquisition cost exceeds \$2,000,000 or where the annual rental exceeds \$500,000.

(b) Applications submitted under this section shall be clearly identified as requesting authority pursuant to this section and the original shall be accompanied by two copies. The application shall contain a statement showing how the proposed acquisition, lease, operation or construction would serve the public interest, convenience, and necessity. Such statement must include information concerning:

- (1) The terminal communities between which the proposed facilities are to be located;
- (2) A statement as to the type of communications services which will be provided on the proposed facilities;
- (3) The need for the proposed construction, acquisition, lease or operation;
- (4) A description of the proposed facilities giving the number of each type of communication channel to be provided thereby;
- (5) The estimated construction cost, annual rental, or purchase price, as appropriate for the proposed facilities;
- (6) The route kilometers of the facilities involved (excluding leased facilities) and airline kilometers between terminal communities in the proposed project; and

(7) The accounting to be performed by the carrier with respect to the proposed project.

(c) In addition to the requirements of paragraph (b) of this section, applications involving overseas circuits shall:

(1) Cite by file number and date of adoption a currently effective Commission Order granted pursuant to § 63.01 granting the applicant authority to acquire like facilities for the provision of service between the points for which authority for additional circuitry is being requested. Where the applicant has been granted a currently effective authorization (Blanket Order) which specifies in an appendix to that Commission Order all or most of the facilities of a specific type (e.g. satellite circuits provided by satellites over a given ocean basin, circuits in a single submarine cable system, etc.), the applicant has been authorized to use to serve the ocean basin, area or country to which applicant is seeking to acquire supplemental facilities, the applicant shall cite that authorization.

(2) Contain a specific statement that applicant will construct, acquire and/or operate the requested facilities in accordance with the terms and conditions of the Order cited pursuant to paragraph (c)(1) of this section.

(3) When the Commission Order cited pursuant to paragraph (c)(1) of this section is a Blanket Authorization, applicant shall submit a revised Appendix showing the changes thereto which will occur on grant of its application.

(d) Such supplementing of facilities shall be deemed to have been authorized by the Commission effective as of the 21st day following the date the application appears on public notice unless on or before the 21st day the Commission shall notify the applicant to the contrary. Where supplemental facilities are authorized under this section, they shall be considered subject to the same terms and conditions, if any, that the Commission has imposed upon a prior authorization which is being supplemented.

(e) Any carrier may request continuing authority, subject to termination by the Commission at any time upon 10 days' notice to the carrier, to commence small projects for the supplementing of existing facilities.

Such an application shall set forth the need for such authority; however, it shall not be considered granted pursuant to paragraph (d) of this section. Upon authorization of such continuing authority by the Commission, the carrier may commence small projects subject to the limitations set forth in paragraph (a) of this section, except that the construction, installation and acquisition cost for each project shall be limited to \$70,000 or an annual rental of \$14,000. Not later than the 30th day following the end of each calendar year covered by such authority, the carrier shall file a report in writing on the projects commenced pursuant to continuing authority except that carriers planning to file an application under an approved annual program, see § 63.06, shall file their report as an exhibit to the annual application. The report shall make reference to this paragraph and set forth, with respect to each project (construction, installation, acquisition, lease including any renewal thereof, and operation) which was commenced thereunder, the following information:

- (1) The type of facility constructed, installed, acquired, or leased;
- (2) The route kilometers thereof (excluding leased facilities);
- (3) The terminal communities served and airline kilometers between such communities;
- (4) The cost thereof, including construction, installation, acquisition, or lease; and
- (5) When appropriate, the name of the lessor company and the dates of commencement and termination of the lease.

(Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[41 FR 20661, May 20, 1976, as amended at 49 FR 22818, June 1, 1984; 55 FR 20397, May 16, 1990; 58 FR 44461, Aug. 23, 1993; 58 FR 44906, Aug. 25, 1993]

**§ 63.04 Special provisions relating to temporary or emergency service.**

(a) For the purpose of this section the following definitions shall apply:

- (1) *Temporary service* shall mean service for a period not exceeding 6 months;
- (2) *Emergency service* shall mean service for which there is an immediate

need occasioned by conditions unforeseen by, and beyond the control of, the carrier.

(b) Requests for immediate authority for temporary service or for emergency service may be made by letter or telegram setting forth why such immediate authority is required, the nature of the emergency, the type of facilities proposed to be used, the route kilometers thereof, the terminal communities to be served, and airline kilometers between such communities; how these points are presently being served by the applicant or other carriers, the need for the proposed service, the cost involved including any rentals, the date on which the service is to begin, and where known, the date or approximate date on which the service is to terminate.

(c) Without regard to the other requirements of this part, and by application setting forth the need therefor, any carrier may request continuing authority, subject to termination by the Commission at any time upon 10 days' notice to the carrier, to provide temporary or emergency service by the construction or installation of facilities where the estimated construction, installation, and acquisition costs do not exceed \$35,000 or an annual rental of not more than \$7,000 provided that such project does not involve a major action under the Commission's environmental rules. (See subpart I of part 1 of this chapter.) Any carrier to which continuing authority has been granted under this paragraph shall, not later than the 30th day following the end of each 6-month period covered by such authority, file with the Commission a statement in writing making reference to this paragraph and setting forth, with respect to each project (construction, installation, lease, including any renewals thereof), which was commenced or, in the case of leases, entered into under such authority, and renewal or renewals thereof which were in continuous effect for a period of more than one week, the following information:

- (1) The type of facility constructed, installed, or leased;
- (2) The route kilometers thereof (excluding leased facilities);

(3) The terminal communities served and the airline kilometers between terminal communities in the proposed project;

(4) The cost thereof, including construction, installation, or lease;

(5) Where appropriate, the name of the lessor company, and the dates of commencement and termination of the lease.

(d)(1) A request may be made by any carrier for continuing authority to lease and operate, during any emergency when its regular facilities become inoperative or inadequate to handle its traffic, facilities or any other carrier between points between which applicant is authorized to communicate by radio for the transmission of traffic which applicant is authorized to handle.

(2) Such request may be made by letter or telegram making reference to this paragraph and setting forth the points between which applicant desires to operate facilities of other carriers and the nature of the traffic to be handled thereover.

(3) Continuing authority for the operation thereafter of such alternate facilities during emergencies shall be deemed granted effective as of the 21st day following the filing of the request unless on or before that date the Commission shall notify the applicant to the contrary: provided, however, Applicant shall, not later than the 30th day following the end of each quarter in which it has operated facilities of any other carrier pursuant to authority granted under this paragraph, file with the Commission a statement in writing making reference to this paragraph and describing each occasion during the quarter when it has operated such facilities, giving dates, points between which such facilities were located, hours or minutes used, nature of traffic handled, and reasons why its own facilities could not be used.

(Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[28 FR 13229, Dec. 5, 1963, as amended at 41 FR 20662, May 20, 1976; 58 FR 44906, Aug. 25, 1993]

**§ 63.05 Commencement and completion of construction for domestic common carriers.**

Unless otherwise determined by the Commission upon proper showing in any particular case, in the event construction shall not have been begun upon a project involving an expenditure of more than \$500,000, or where facilities authorized have not been leased or acquired, within 12 months from the date of the Commission's authorization, or all or part of the proposed facilities shall not have been placed in operation within 36 months after such date, such authorization shall terminate at the end of such 12 or 36 months' period, as the case may be; in the case of projects involving an expenditure of \$500,000 or less, the authorization therefor shall terminate at the end of 9 months or 18 months, as the case may be, in the event construction thereof shall not have been commenced, or the facilities placed in operation, within such respective periods.

(Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[41 FR 20662, May 20, 1976]

**§ 63.06 Authority for supplementing facilities under approved annual program plan.**

Any carrier may submit to the Commission a procedure pursuant to which such carrier proposes to request authority covering an annual program of projects for the supplementing of its existing facilities. After approval of such proposed procedure by the Commission, such carrier may request such authority in accordance with such procedure in lieu of filing separate applications for individual projects pursuant to §§ 63.01 and 63.03.

**§ 63.07 Special procedures for non-dominant domestic common carriers.**

(a) Any party that would be a non-dominant domestic interstate communications common carrier is authorized to provide domestic, interstate services to any domestic point and to construct, acquire, or operate any transmission line as long as it obtains all necessary authorizations from the

Commission for use of radio frequencies.

(b) Non-dominant, facilities-based domestic common carriers subject to this section shall not 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 without prior compliance with the Commission's environmental rules. See 1.1312 of this chapter.

[49 FR 34831, Sept. 4, 1984, as amended at 56 FR 13414, Apr. 2, 1991; 62 FR 5165, Feb. 4, 1997]

**§ 63.08 Lines outside of a carrier's exchange telephone service area.**

(a) An exchange telephone common carrier or its affiliate is not required to file for authority pursuant to 47 U.S.C. 214 and 47 CFR 63.01 to provide lines, or for existing lines, outside of the exchange telephone service area of that carrier and any of its affiliates when the lines are:

(1) For its non-common carrier services; or

(2) Sold to an unaffiliated party.

(b) If a nondominant common carrier and its affiliates are not affiliated with an exchange telephone common carrier, the nondominant carrier or its affiliate is not required to file for authority pursuant to 47 U.S.C. 214 and 47 CFR 63.01 to provide lines, or for existing lines, of the types described in paragraph (a) of this section between any domestic points. "Nondominant" is defined as in § 61.15(a) of this chapter.

(c) A common carrier or its affiliate is not required to file for authority pursuant to 47 U.S.C. 214 and § 63.01 to discontinue, reduce, or impair other non-common carrier service.

(d) A common carrier's costs of providing lines for non-common carrier offerings and costs of providing such offerings must be entered on books of account separate from those for its common carrier services.

(e) As used above, the term "affiliate" bars any financial or business relationship whatsoever by contract or otherwise, directly or indirectly between the carrier and the customer, except only the carrier-user relationship.

NOTE TO PARAGRAPH (e): Examples of situations in which a carrier and its customer will be deemed to be controlled or having a relationship include the following, among oth-

ers: Where one is the debtor or creditor of the other (except with respect to charges for communication services); where they have a common officer, director, or other employee at the management level; where there is any element of ownership or other financial interest by one in the other; and where any part has a financial interest in both.

[49 FR 21335, May 21, 1984, as amended at 61 FR 10476, Mar. 14, 1996]

**§ 63.10 Regulatory classification of U.S. international carriers.**

(a) Unless otherwise determined by the Commission, any party authorized to provide an international communications service under this part shall be classified as either dominant or non-dominant for the provision of particular international communications services on particular routes as set forth in this section. The rules set forth in this section shall also apply to determinations of regulatory status pursuant to §§ 63.11 and 63.13. For purposes of paragraphs (a)(1) through (a)(3) of this section, "affiliation" and "foreign carrier" are defined as set forth in § 63.18(h)(1) (i) and (ii), respectively.

(1) A U.S. carrier that has no affiliation with, and that itself is not, a foreign carrier in a particular country to which it provides service (i.e., a destination country) will presumptively be considered non-dominant for the provision of international communications services on that route;

(2) A U.S. carrier that is, or that has or acquires an affiliation with a foreign carrier that is a monopoly in a destination country will presumptively be classified as dominant for the provision of international communications services on that route; and

(3) A U.S. carrier that is, or that has or acquires an affiliation with a foreign carrier that is not a monopoly in a destination country and that seeks to be regulated as non-dominant on that route bears the burden of submitting information to the Commission sufficient to demonstrate that its foreign affiliate lacks the ability to discriminate against unaffiliated U.S. carriers through control of bottleneck services or facilities in the destination country. Such a demonstration should address the factors that relate to the scope or

degree of the foreign affiliate's bottleneck control, including those listed in § 63.18(h)(8).

(4) A carrier that is authorized under this part to provide to a particular destination country a particular international communications service, and that provides such service solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services (either directly or indirectly through the resale of another U.S. resale carrier's international switched services), shall presumptively be classified as nondominant for the provision of the authorized service. The existence of an affiliation with a U.S. facilities-based international carrier shall be assessed in accordance with the definition of affiliation contained in § 63.18(h)(1)(i), except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

(b) Any party that seeks to defeat the presumptions in paragraphs (a)(1), (a)(2) and (a)(4) of this section shall bear the burden of proof upon any issue it raises as to the proper classification of the U.S. carrier.

(c) Any carrier classified as dominant for the provision of particular services on particular routes under this section shall comply with the following requirements in its provision of such services on each such route:

(1) File international service tariffs on 14-days notice without cost support;

(2) Maintain complete records of the provisioning and maintenance of basic network facilities and services procured from its foreign carrier affiliate or from an allied foreign carrier, including, but not limited to, those it procures on behalf of customers of any joint venture for the provision of U.S. basic or enhanced services in which the U.S. and foreign carrier participate, which information shall be made available to the Commission upon request;

(3) Obtain Commission approval pursuant to § 63.18 before adding or discontinuing circuits; and

(4) File quarterly reports of revenue, number of messages, and number of minutes of both originating and termi-

nating traffic within 90 days from the end of each calendar quarter.

[57 FR 57966, Dec. 8, 1992, as amended at 60 FR 67337, Dec. 29, 1995; 61 FR 15727, Apr. 9, 1996]

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

(a) Any carrier authorized to provide international communications service under this part that, as of the effective date of this rule as amended in IB Docket No. 95–22, is, or has an affiliation with, a foreign carrier within the meaning of § 63.18 (h)(1)(i)(A) or (h)(1)(i)(B), or that as of such date knows of an existing ten percent or greater interest, whether direct or indirect, in the capital stock of the authorized carrier by a foreign carrier, or that after the effective date of this rule becomes affiliated with a foreign carrier within the meaning of § 63.18(h)(1)(i)(A), shall notify the Commission within thirty days of the effective date of this rule or within thirty days of the acquisition of the affiliation, whichever occurs later. For purposes of this section, "foreign carrier" is defined as set forth in § 63.18(h)(1)(ii).

(1) The notification shall certify to the information specified in paragraph (c) of this section.

(2) Any carrier that has previously notified the Commission of an affiliation with a foreign carrier, as defined by § 63.18(h)(1) immediately prior to the rule's amendment in IB Docket No. 95–22, need not notify the Commission again of the same affiliation.

(b) Any carrier authorized to provide international communications service under this part that knows of a planned investment by a foreign carrier of a ten percent or greater interest, whether direct or indirect, in the capital stock of the authorized carrier shall notify the Commission sixty days prior to the acquisition of such interest. Any such authorized carrier shall report a ten percent or greater planned investment in the capital stock of 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. The notification shall certify to the information specified in paragraph (c) of this section. Carriers that have filed a notification pursuant to this paragraph are required to maintain the accuracy of the initial filing by notifying the Commission of additional investment interests by the foreign carrier or an affiliated company.

(c) The notification required under paragraphs (a) and (b) of this section shall contain a list of all affiliated foreign carriers and shall state individually the country or countries in which the foreign carriers named in paragraphs (a) and (b) of this section are authorized to provide telecommunications services offered to the public. It shall additionally specify which, if any, of these countries the U.S. carrier is authorized to serve under this part; what services it is authorized to provide to each such country; and the FCC File No. under which each such authorization was granted.

(1) The carrier also should specify, where applicable, those countries named in paragraph (c) of this section for which it provides a specified international communications service solely through the resale of the international switched or private line services of U.S. facilities-based carriers with which the resale carrier does not have an affiliation. Such an affiliation is defined in § 63.18(h)(1)(i), except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

(2) The carrier shall also submit with its notification:

(i) The ownership information as required to be submitted pursuant to § 63.18(h)(2);

(ii) Where the carrier is authorized as a private line reseller on a particular route for which it has an affiliation with a foreign carrier, as defined in § 63.18(h)(1)(i), a certification as required to be submitted pursuant to § 63.18(h)(4); and

(iii) A "special concessions" certification as required to be submitted pursuant to § 63.18(i).

(3) The carrier is responsible for the continuing accuracy of the certifications provided under this section.

Whenever the substance of any certification provided under this section 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, *except that* the carrier shall immediately inform the Commission if at any time the representations in the "special concessions" certification provided under paragraph (c)(2)(iii) of this section are no longer true. See § 63.18(i)(2). This information may be used by the Commission to determine whether a change in regulatory status may be warranted under § 63.10.

(d) Unless the carrier notifying the Commission of a foreign carrier affiliation under paragraph (a) of this section qualifies for the presumption of non-dominant regulation pursuant to § 63.10(a)(4), it should submit the information specified in § 63.18(h)(8) to retain its non-dominant status on any affiliated route.

(e) The Commission will issue public notice of the submissions made under this section for 14 days.

(1) In the case of a notification filed under paragraph (a) of this section, the Commission, if it deems it necessary, will by written order at any time before or after the submission of public comments impose dominant carrier regulation on the carrier for the affiliated routes based on the provisions of § 63.10.

(2) In the case of a planned investment by a foreign carrier of a ten percent or greater interest, whether direct or indirect, in the capital stock of the authorized carrier, the Commission will, unless it notifies the carrier in writing within 30 days of issuance of the public notice that the investment raises a substantial and material question of fact as to whether the investment serves the public interest, convenience and necessity, presume the investment to be in the public interest. If notified that the acquisition raises a substantial and material question, then the carrier shall not consummate the planned investment until it has filed an application under § 63.18 and submitted the information specified

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under § 63.18 (h) (6) or (7) as applicable, and § 63.18(h)(8), and the Commission has approved the application by formal written order.

[60 FR 67338, Dec. 29, 1995, as amended at 61 FR 15727, Apr. 9, 1996; 62 FR 32964, June 17, 1997]

**§ 63.12 Streamlined processing of certain international facilities-based and resale applications.**

(a) Except as provided by paragraph (c) of this section, a complete application seeking authorization under § 63.18(e) (1) and (2) to acquire facilities to provide international services shall be granted by the Commission 35 days after the date of public notice listing the application as accepted for filing.

(b) Issuance of public notice of the grant shall be deemed the issuance of § 214 certification to the applicant, which may commence operation on the 36th day after the date of public notice listing the application as accepted for filing, but only in accordance with the operations proposed in its application and the rules, regulations, and policies of the Commission.

(c) The streamlined processing procedures provided by paragraphs (a) and (b) of this section shall not apply where:

(1) The applicant seeks authority under either § 63.18(e)(1) for global § 214 authority to operate as a facilities-based carrier or § 63.18(e)(2) to resell international services, and the applicant has an affiliation within the meaning of § 63.18(h)(1)(i) with a facilities-based foreign carrier in a destination market, and the Commission has not yet made a determination as to whether that foreign carrier possesses market power in that market; or

(2) The applicant has an affiliation within the meaning of § 63.18(h)(1)(i) with a dominant U.S. facilities-based carrier whose international switched or private line services the applicant seeks authority to resell (either directly or indirectly through the resale of another reseller's services); or

(3) The applicant seeks authority under § 63.18(e)(2) to resell international private line services to a country for which the Commission has not determined as of the date of public notice of the application that equiva-

lent resale opportunities exist between the United States and the destination country; or

(4) The application is formally opposed within the meaning of § 1.1202(e) of this chapter; or

(5) The Commission has informed the applicant in writing, including by public notice, within 28 days after the date of public notice accepting the application for filing, that the application is not eligible for streamlined processing under this section.

(d) Any complete application that is subject to paragraph (c) of this section will be acted upon only by formal written order and operation for which such authorization is sought may not commence except in accordance with such order.

NOTE TO PARAGRAPH (c): The term "facilities-based carrier" means one that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in an international facility, regardless of whether the underlying facility is a common or non-common carrier submarine cable, or an INTELSAT or separate satellite system.

[61 FR 15728, Apr. 9, 1996]

**§ 63.13 Streamlined procedures for modifying regulatory classification of U.S. international carriers from dominant to nondominant.**

(a) Any carrier that is authorized to provide an international communications service under this part and that was classified by the Commission as dominant for all international routes and services prior to the effective date of this rule due to the carrier's foreign ownership may apply to modify its regulatory status from dominant to nondominant for particular routes for the provision of international communications services in accordance with the provisions of this section.

(1) Any such carrier may file a certified list of those routes it is authorized to serve for which it does not have an affiliation with a foreign carrier on the foreign end. For purposes of this paragraph *affiliation* and *foreign carrier* are defined as in § 63.01(r)(1) (i) and (ii), respectively. The carrier shall file with its certified list the ownership information required by § 63.01(r)(2).

(2) Any such carrier may also file a certified list of those routes for which

it has an affiliation with a foreign carrier (as defined in §63.01(r)(1) (i) and (ii)) but for which it provides a specified international communications service solely through the resale of the international switched or private line services of U.S. facilities-based carriers with which the resale carrier does not have an affiliation. Such an affiliation is defined as in §63.01(r)(1)(i), except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

(3) Any carrier filing a certified list pursuant to paragraph (a)(2) of this section that resells international private line services on a particular named route for the provision of a particular named service must also be able to certify, and so certify, that its foreign carrier-affiliate does not own or control telecommunications facilities on the foreign end of the route. For purposes of this paragraph, "telecommunications facilities" are defined as in §63.18(h)(4).

(4) Any carrier filing a certified list pursuant to paragraph (a)(2) of this section must also provide the "special concessions" certification as required to be submitted pursuant to §63.18(i).

(5) Each carrier is responsible for the continuing accuracy of the certifications provided under paragraph (a) of this section. Whenever the substance of any certification provided under paragraphs (a)(2) or (a)(3) of this section is no longer accurate, the carrier shall as promptly as possible and in any event within 30 days file with the Secretary in duplicate a corrected certification referencing the FCC File No. under which the original certification was provided. This information may be used by the Commission to determine whether a change in regulatory status on a particular route may be warranted under §63.10. The carrier shall immediately inform the Commission if at any time the representations in the "special concessions" certification provided under paragraph (a)(4) of this section are no longer true. *See* §63.18(i)(2).

(b) Except as provided in paragraph (c) of this section, a complete application submitted pursuant to the provisions of paragraph (a) of this section shall be granted by the Commission 45

days after the date of public notice listing the application as accepted for filing, and the carrier filing such application may begin operating on the 46th day in accordance with the regulatory status proposed in its application and with all rules, regulations, and policies of the Commission. The Commission will subsequently issue a written order ratifying the modification of the carrier's regulatory status.

(c) The streamlined processing procedure provided by paragraph (b) of this section shall not apply where:

(1) The application is formally opposed within the meaning of §1.1202(e) of this chapter; or

(2) The Commission has informed the applicant in writing, within 45 days after the date of public notice, that the application is not eligible for streamlined processing under this section and must be supplemented as set forth in paragraph (d) of this section.

(d) Any party that desires to modify its regulatory status from dominant to nondominant pursuant to paragraph (a) of this section, but that does not qualify for streamlined processing under this section, must request such modification by filing a petition for declaratory ruling, or by including such request in an application filed under this part requesting authority to provide service on the particular route for which such modification is desired. Any such filing should include the information specified in §63.01(r)(7).

[57 FR 57967, Dec. 8, 1992, as amended at 61 FR 15728, Apr. 9, 1996]

**§63.14 Prohibition on agreeing to accept special concessions.**

Any carrier authorized to provide international communications service under this part shall be prohibited from agreeing to accept special concessions directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows between the United States and any foreign country served under the authority of this part and from agreeing to enter into such agreements in the future. For purposes of this section, "foreign carrier" is defined as in

§ 63.15

§ 63.18(h)(1)(ii) and "special concession" is defined as in § 63.18(i).

[61 FR 15728, Apr. 9, 1996]

**§ 63.15 Special procedures for international service providers.**

(a) Any party seeking to construct, acquire or operate lines in any new major common carrier facility project or non-U.S. licensed satellite or cable system for the provision of international common carrier services shall file an application pursuant to § 63.18(e)(6). If a carrier has global Section 214 authority pursuant to the provisions of § 63.18(e)(1), and the carrier desires to use non-U.S. licensed facilities pursuant to the provisions of § 63.18(e)(1)(ii)(B), this filing requirement does not apply.

(b) Any non-dominant 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.

[50 FR 48203, Nov. 22, 1985; 51 FR 2708, Jan. 21, 1986. Redesignated at 57 FR 57966, Dec. 8, 1992, as amended at 60 FR 51368, Oct. 2, 1995; 61 FR 15728, Apr. 9, 1996]

**§ 63.17 Special provisions for U.S. international common carriers.**

(a) Unless otherwise prohibited by the terms of its Section 214 certificate, a U.S. common carrier authorized under this part to provide international private line service, whether as a reseller or facilities-based carrier, may interconnect its authorized private lines to the public switched network on behalf of an end user customer for the end user customer's own use.

(b) Except as provided in paragraph (b)(5) of this section, a U.S. common carrier, whether a reseller or facilities-based, may engage in "switched hubbing" to countries not found to offer equivalent resale opportunities under § 63.18(e) (3) and (4) under the following conditions:

(1) U.S.-outbound switched traffic shall be routed over the carrier's authorized U.S. international private

lines to an equivalent country, and then forwarded to a third, nonequivalent country only by taking at published rates and reselling the International Message Telephone Service (IMTS) of a carrier in the equivalent country;

(2) U.S.-inbound switched traffic shall be carried to an equivalent country as part of the IMTS traffic flow from a non-equivalent third country and then terminated in the United States over U.S. international private lines from the equivalent hub country;

(3) U.S. common carriers that route U.S.-outbound traffic via switched hubbing through an equivalent country shall tariff their service on a "through" basis from the United States to the ultimate foreign destination.

(4) No U.S. common carrier may engage in switched hubbing under this section to a country where it has an affiliation with a foreign carrier unless and until it receives specific authority to do so under § 63.18. For purposes of this paragraph, "affiliation" and "foreign carrier" are defined in § 63.18(h)(1)(i)(B) and (ii), respectively.

[60 FR 67339, Dec. 29, 1995, as amended at 61 FR 15728, Apr. 9, 1996]

**§ 63.18 Contents of applications for international common carriers.**

Except as otherwise provided in this part, any party seeking authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct a new line, or acquire or operate any line, or engage in transmission over or by means of such additional line for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request such authority by formal application which shall be accompanied by a statement showing how the grant of the application will serve the public interest, convenience, and necessity. Such statement shall consist of the following information, as applicable:

(a) The name, address, and telephone number of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized;

(c) The name, title, post office address, and telephone number of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed;

(d) A statement as to whether the applicant has previously received authority under Section 214 of the Act and, if so, a general description of the categories of facilities and services authorized (i.e., authorized to provide international switched services on a facilities basis);

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

(1) If applying for authority to acquire interests in facilities previously authorized by the Commission in order to provide international basic switched, private line, data, television and business services to all international points, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to the terms and conditions of paragraph (e)(1) of this section.

(ii) Comply with the following terms and conditions:

(A) Authority to provide services to all international points under this part extends only to those countries for which the applicant qualifies for non-dominant regulation as set forth in §63.10. If an applicant is affiliated with a facilities-based foreign carrier in a destination market and the Commission has not determined that the foreign carrier does not possess market power in that market, the applicant shall not commence service on any such route unless and until it receives specific authority to do so under paragraph (e)(6) of this section. If an applicant becomes dominant on a particular route after receiving authority under this section, the terms and conditions of §63.10(c) will apply to its provision of services on the dominant route. An applicant should file separately under Section 63.18(e)(6) to provide service on routes on which it may not qualify for regulation as a non-dominant carrier.

(B) The applicant may only provide service using half-circuits on appropriately licensed U.S. common and non-common carrier facilities (either under Title III of the Communications

Act of 1934, as amended, or the Submarine Cable Landing License Act, 47 U.S.C. 34 *et. al.*) provided that these facilities do not appear on an exclusion list published by the Commission and any necessary overseas connecting facilities. Applicants may not use non-U.S. licensed facilities unless and until the Commission specifically approves their use and so indicates on the exclusion list, and only then for service to the countries indicated thereon.

(C) The applicant may provide service to any country not included on an exclusion list published by the Commission.

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

(E) The authority granted under this paragraph shall be subject to all Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See §63.12.

(2) If applying for authority to resell the international services of authorized U.S. common carriers for the provision of international basic switched, private line, data, television and business services to all international points, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a resale carrier pursuant to the terms and conditions of §63.18(e)(2).

(ii) Comply with the following the terms and conditions:

(A) The applicant may resell the international services of any authorized common carrier, except affiliated carriers regulated as dominant on the route to be served, 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;

(B) The applicant may resell private line services for the provision of international switched basic services only in circumstances where the Commission has found that the country at the foreign end of the private line provides equivalent resale opportunities and that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and that

country are at or below the benchmark settlement adopted for that country in IB Docket No. 96–261. The Commission will provide public notice of its equivalency and settlement rate determinations. The applicant, however, shall not initiate such service on a particular route absent a grant of specific authority under paragraph (e)(6) of this section in circumstances where the applicant is affiliated with a facilities-based carrier in the country at the foreign end of the private line and the Commission has not determined that the foreign carrier does not possess market power in that country.

(C) The authority granted under this paragraph shall be subject to all Commission rules and regulations, including the limitation in §63.21 on the use of private lines for the provision of switched services, and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See sections 63.12, 63.21.

(3) If applying for authority to provide international switched basic services over resold private lines between the United States and a country for which the Commission has not made the settlement rate and equivalency determinations specified in paragraph (e)(2)(ii)(B) of this section, 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. In this regard, applicants shall:

(i) Include evidence demonstrating that equivalent resale opportunities exist between the United States and the subject country, including any relevant bilateral agreements between the administrations involved. Parties must demonstrate that the foreign country at the other end of the private line provides U.S.-based carriers with:

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

(B) 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;

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

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

(ii) The procedures set forth in paragraph (e)(3) of this section are subject to Commission policies on resale of international private lines in CC Docket No. 90–337 as amended in IB Docket Nos. 95–22 and 96–261.

(4) Any carrier authorized under this section to acquire and operate international private line facilities other than through resale may use those private lines to provide switched basic services only in circumstances where the Commission has found that the country at the foreign end of the private line provides equivalent resale opportunities and that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and that country are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261. The Commission will provide public notice of its equivalency and settlement rate determinations. This provision is subject to the following exceptions and conditions:

(i) The applicant shall not initiate such service on a particular route absent a grant of specific authority under paragraph (e)(6) of this section in circumstances where the applicant is affiliated with a facilities-based carrier in the country at the foreign end of the private line and the Commission has not determined that the foreign carrier does not possess market power in that country.

(ii) The applicant is subject to all applicable Commission rules and regulations, including the limitation in §63.21 on the use of private lines for the provision of switched services, and any conditions stated in the Commission's public notice or order that serves as

the applicant's Section 214 certificate. See §§ 63.12, 63.21.

(A) Except as provided in paragraph (e)(4)(ii)(B) of this section, any carrier that seeks to provide international switched basic services over its authorized private line facilities between the United States and a country for which the Commission has not made the settlement rate and equivalency determinations specified in paragraph (e)(2)(ii)(B) of this section 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 line are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96-261 and that the country afford resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall include the information required by paragraph (e)(3) of this section.

(B) No formal application is required under paragraph (e)(4) of this section in circumstances where the carrier's previously authorized private line facility is interconnected to the public switched network only on one end—either the U.S. 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.

(5) 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. Paragraph (g) of this section is not applicable, and only the transferee/assignee needs to complete paragraphs (i) and (j) 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.

(6) If applying for authority to acquire facilities or to provide services not covered by § 63.18(e) (1) through (5), the applicant shall provide a description of the facilities and services for which it seeks authorization. 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. Applicants for new submarine cable facilities also shall include a list of the proposed owners of the cable, their voting interests and ownership interests by segment in the cable.

(f) Applicants may apply for any or all of the authority provided for in paragraph (e) of this section in the same application. The applicant may want to file separate applications for those services not subject to streamlined processing under § 63.12.

(g) Where the applicant is seeking facilities-based authority under paragraph (e)(6) 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 § 1.1311 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.

(1) The certification shall state with specificity each foreign country in which the applicant is, or has an affiliation with, a foreign carrier. For purposes of this certification:

(i) Affiliation is defined to include:

(A) A greater than 25 percent ownership of capital stock, or controlling interest at any level, by the applicant, 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

(B) A greater than 25 percent ownership of capital stock, or controlling interest at any level, in the applicant 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 applicant 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 already found to be affiliated with that U.S. carrier under this section.

(ii) 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.

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

(3) Each applicant that proposes to acquire facilities through the resale of the international switched or private line services of another U.S. carrier shall additionally certify as to whether or not the applicant has an affiliation with the U.S. carrier(s) whose facilities-based service(s) the applicant proposes to resell (either directly or indirectly through the resale of another reseller's service). For purposes of this paragraph, affiliation is defined as in paragraph (h)(1)(i) of this section, except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

(4) Each applicant that certifies under this section that it has an affiliation with a foreign carrier and that proposes to resell the international private line services of another U.S. carrier shall additionally certify as to whether the affiliated foreign carrier owns or controls telecommunications facilities in the particular country(ies) to which the applicant proposes to provide service (i.e., the destination country(ies)). For purposes of this paragraph, telecommunications facilities are defined as the underlying telecommunications transport means, including intercity and local access facilities, used by a foreign carrier to provide international telecommunications services offered to the public.

(5) Each applicant and carrier authorized to provide international communications service under this part is responsible for the continuing accuracy of the certifications required by paragraphs (h) (3) and (4) of this section. Whenever the substance of any such certification is no longer accurate, the applicant/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. This information may be used by the Commission to determine whether a change in regulatory status may be warranted under § 63.10.

(6) Each applicant that certifies that it is, or that it has an affiliation with, a foreign carrier, as defined in paragraphs (h)(1) (i)(B) and (ii) of this section, respectively, in a named foreign country and that seeks to operate as a U.S. facilities-based international carrier to that country from the United States shall provide information in its application filed under this part to demonstrate that either:

(i) The named foreign country (i.e., the destination foreign country) provides effective competitive opportunities to U.S. carriers to compete in that country's international facilities-based market; or

(ii) Its affiliated foreign carrier does not have the ability to discriminate against unaffiliated U.S. international carriers through control of bottleneck



services or facilities in the destination country.

(A) The demonstration specified in paragraph (h)(6)(i) of this section should address the following factors:

(1) 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);

(2) 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;

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

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

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

(iii) Protection of carrier and customer proprietary information;

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

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

(B) The demonstration specified in paragraph (h)(6)(ii) of this section should include the same information requested by paragraph (h)(8) of this section.

(7) Each applicant that certifies that it is, or that it has an affiliation with, a foreign carrier, as defined in paragraph (h)(1) (i)(B) and (ii) of this section, respectively, in a named foreign country and that proposes to resell the international switched or non-interconnected private line services, respectively, of another U.S. carrier for the purpose of providing international communications services to the named foreign country from the United States shall provide information in its application filed under this part to demonstrate that either:

(i) The named foreign country (*i.e.*, the destination foreign country) provides effective competitive opportuni-

ties to U.S. carriers to resell international switched or non-interconnected private line services, respectively; or

(ii) Its affiliated foreign carrier does not have the ability to discriminate against unaffiliated U.S. international carriers through control of bottleneck services or facilities in the destination country.

(A) The demonstration specified in paragraph (h)(7)(i) of this section should address the following factors:

(1) 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);

(2) Whether there exist reasonable and nondiscriminatory charges, terms and conditions for the provision of the relevant resale service;

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

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

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

(iii) Protection of carrier and customer proprietary information;

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

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

(B) The demonstration specified in paragraph (h)(7)(ii) of this section should include the same information requested in paragraph (h)(8) of this section.

(8) Each applicant that certifies that it 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 international communications service to that country may provide information in its application filed under this part to demonstrate that its affiliated foreign carrier does not have the ability

to discriminate against unaffiliated U.S. international carriers through control of bottleneck services or facilities in the named foreign country. See § 63.10, Regulatory Classification of U.S. International Carriers.

(i) Such a demonstration should address the factors that relate to the scope or degree of the foreign affiliate's bottleneck control, such as:

(A) The monopoly, duopoly, or oligopoly status of the destination country; and

(B) Whether the foreign affiliate has the potential to discriminate against unaffiliated U.S. international carriers through such means as preferential operating agreements, preferential routing of traffic, exclusive or more favorable transiting agreements, or preferential domestic access and interconnection arrangements.

(ii) Such a demonstration may also address other factors the applicant deems relevant, such as the effectiveness of regulation in the destination country.

(i) Each applicant shall certify that the applicant has not agreed to accept special concessions directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows between the U.S. and any foreign country which the applicant may serve under the authority granted under this part and will not enter into such agreements in the future.

(1) For purposes of paragraph (i) of this section, and of §§ 63.11(c)(2)(iii), 63.13(a)(4), and 63.14, special concession is defined as any arrangement that affects traffic or revenue flows to or from the United States that is offered exclusively by a foreign carrier or administration to a particular U.S. international carrier and not also to similarly situated U.S. international carriers authorized to serve a particular route.

(2) The special concessions certification required by paragraph (i) of this section and by §§ 63.11(c)(2)(iii) and 63.13(a)(4) shall be viewed as an ongoing representation to the Commission, and applicants/carriers shall immediately inform the Commission if at any time the representations in their certifications are no longer true. Failure to so inform the Commission will be

deemed a material misrepresentation to the Commission.

(j) A certification pursuant to §§ 1.2001 through 1.2003 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. 853a.

NOTE 1 TO PARAGRAPH (h): The word "control" as used in this section is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

NOTE 2 TO PARAGRAPH (h): The term "facilities-based carrier" as used in this section means one that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in an international facility, regardless of whether the underlying facility is a common or non-common carrier submarine cable, or an INTELSAT or separate satellite system.

NOTE 3 TO PARAGRAPH (h): 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 8432 (1995). "Capital stock" includes all forms of equity ownership, including partnership interests.

NOTE 4 TO PARAGRAPH (h): 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 x 0.26). Under the 25 percent attribution benchmark, X's interest in "carrier" would be cognizable, while A's interest would not be cognizable.

[61 FR 15729, Apr. 9, 1996, as amended at 62 FR 32965, June 17, 1997; 62 FR 45762, Aug. 29, 1997]

EFFECTIVE DATE NOTE: At 62 FR 45762, Aug. 29, 1997, § 63.18 was amended by revising paragraphs (e)(2)(ii)(B) through (e)(2)(ii)(C), (e)(3) introductory text, (e)(3)(ii), and (e)(4), effective Jan. 1, 1998. For the convenience of the

user the superseded text is set forth as follows:

**§63.18 Contents of applications for international common carriers.**

\* \* \* \* \*

- (e) \* \* \*
- (2) \* \* \*
- (ii) \* \* \*

(B) The applicant may resell private line services for the provision of international basic switched services only to countries found by the Commission to provide equivalent resale opportunities, except in circumstances where the applicant is affiliated with a facilities-based foreign carrier in a destination market and the Commission has not determined that the foreign carrier does not possess market power in that market. In such circumstances, the applicant shall not commence service on any such route unless and until it receives specific authority to do so under paragraph (e)(6) of this section. The Commission will provide public notice of its determinations.

(C) The authority granted under this paragraph shall be subject to all Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. *See* §63.12.

(3) If applying for authority to resell private lines for the purpose of providing international basic switched services to countries not on the Commission's published list of equivalent countries, applicant shall demonstrate for each country to which it seeks to provide service that that country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall:

\* \* \* \* \*

(ii) The procedures set forth in paragraph (3)(3) of this section are subject to Commission policies on resale of international private lines in CC Docket No. 90-337 as amended in IB Docket No. 95-22.

(4) Any carrier authorized under this section to acquire and operate international private line facilities other than through resale may use those private lines to provide switched basic services to countries found by the Commission to provide equivalent resale opportunities except in circumstances where the applicant is affiliated with a facilities-based foreign carrier in the country at the foreign end of the private line, and the Commission has not determined that the foreign carrier does not possess market power in that market. In such circumstances, the applicant shall not commence service on such route unless and until it receives specific authority to do so under paragraph (e)(6) of

this section. The Commission will provide public notice of its equivalency findings. The applicant is subject to all applicable Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. *See* §63.12.

(i) Except as provided in paragraph (e)(4)(ii) of this section, any carrier that seeks to provide switched basic services over its authorized private line facilities to countries not identified in the Commission's published list of equivalent countries shall, for each country for which it seeks to provide switched basic service over its authorized private lines facilities, request such authority by formal application. Such application shall be accompanied by a demonstration that country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall include the information required by paragraph (e)(3) of this section.

(ii) No formal application is required under paragraph (e)(4) of this section in circumstances where the carrier's previously authorized private line facility is interconnected to the public switched network only on one end—either the U.S. 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.

\* \* \* \* \*

**§63.19 Special procedures for discontinuances of international services.**

(a) Any non-dominant international carrier as this term is defined in §63.10 that seeks to discontinue, reduce or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§63.61 through 63.601:

(1) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment at least 60 days prior to its planned action. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice.

(2) The carrier shall file with this Commission a copy of the notification on or after the date on which notice has been given to all affected customers.

(b) Any dominant international carrier as this term is defined in §63.10 that seeks to retire international facilities, dismantle or remove international trunk lines, and the services being provided through these facilities are not being discontinued, reduced or impaired, shall only be subject to the notification requirements of paragraph (a) of this section. If such carrier discontinues, reduces or impairs service to a community or retires facilities that impair or reduce service to a community, the dominant carrier shall file an application pursuant to §§63.62 and 63.500.

[61 FR 15732, Apr. 9, 1996]

**§63.20 Copies required; fees; and filing periods for international service providers.**

(a) Unless otherwise specified the Commission shall be furnished with an original and five copies of applications filed for international facilities and services under Section 214 of the Communications Act of 1934, as amended. Provided, however, that where applications involve only the supplementation of existing international facilities, and the issuance of a certificate is not required, an original and two copies of the application shall be furnished. Upon request by the Commission, additional copies of the application shall be furnished. Each application shall be accompanied by the fee prescribed in subpart G of part 1 of this chapter.

(b) No application accepted for filing and subject to the provisions of §§63.02, 63.18, 63.62 or §63.505 shall be granted by the Commission earlier than 28 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period, or the application qualifies for streamlined processing pursuant to §63.12.

(c) No application accepted for filing and subject to the streamlined processing provisions of §63.12 shall be granted by the Commission earlier than 21 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period.

(d) Any interested party may file a petition to deny an application within the 21 day or other time period specified in paragraphs (b) or (c) of this section. The petitioner shall serve a copy of such petition on the applicant no later than the date of filing thereof with the Commission. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant may file an opposition to any petition to deny within 14 days after the original pleading is filed. The petitioner may file a reply to such opposition within seven days after the time for filing oppositions has expired. Allegations of facts or denials thereof shall similarly be supported by affidavit. These responsive pleadings shall be served on the applicant or petitioner, as appropriate, and other parties to the proceeding.

[61 FR 15732, Apr. 9, 1996]

**§63.21 Conditions applicable to international Section 214 authorizations.**

International carriers authorized under Section 214 of the Communications Act of 1934, as amended, must follow the following requirements and prohibitions:

(a) Carriers may not use their authorized facilities-based or resold international private lines for the provision of switched basic services unless and until the Commission has determined that the country at the foreign end of the private line provides equivalent resale opportunities and that settlement rates for 50 percent of the settled U.S.-billed traffic between the United States and that country are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96-261. See §63.18 (e)(3) through (e)(4). If at any time the Commission finds, after an initial determination of compliance for a particular country, 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, carriers shall comply with enforcement actions taken by the Commission. This condition shall not apply to a carrier's use of its private lines to provide services as described in §63.18(e)(4)(ii)(B).

(b) Carriers must file copies of operating agreements entered into with their foreign correspondents within 30 days of their execution, and shall otherwise comply with the filing requirements contained in §43.51 of this chapter.

(c) Carriers must file tariffs pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, and part 61 of this chapter.

(d) Carriers must file annual reports of overseas telecommunications traffic as required by §43.61 of this chapter.

(e) Carriers regulated as dominant must provide the Commission with the following information within 30 days after conveyance of transmission capacity on submarine cables to other U.S. carriers:

- (1) The name of the party to whom the capacity was conveyed;
- (2) The name of the facility in which capacity was conveyed;
- (3) The amount of capacity that was conveyed; and
- (4) The price of the capacity conveyed.

[61 FR 15732, Apr. 9, 1996, as amended at 62 FR 45762, Aug. 29, 1997]

EFFECTIVE DATE NOTE: At 62 FR 45762, Aug. 29, 1997, §63.21 was amended by revising paragraph (a), effective Jan. 1, 1998. For the convenience of the user the superseded text is set forth as follows:

**§63.21 Conditions applicable to international Section 214 authorizations.**

(a) Carriers may not resell private lines for the provision of international switched services unless the country at the foreign end of the private line is deemed equivalent. See §63.18(e) (3) through (4).

\* \* \* \* \*

GENERAL PROVISIONS RELATING TO ALL APPLICATIONS UNDER SECTION 214

**§63.50 Amendment of applications.**

Any application may be amended as a matter of right prior to the date of any final action taken by the Commission or designation for hearing. Amendments to applications shall be signed and submitted in the same manner, and with the same number of copies as was the original application. If a petition to deny or other formal objections have been filed to the application, the amendment shall be served on the parties.

(Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[41 FR 20662, May 20, 1976]

**§63.51 Additional information.**

The applicant shall furnish any additional information which the Commission may require after a preliminary examination of the application or request. Where an applicant fails to respond to official correspondence or request for additional material, the application may be dismissed without prejudice.

(Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[41 FR 20662, May 20, 1976]

**§63.52 Copies required; fees; and filing periods for domestic authorizations.**

(a) Unless otherwise specified the Commission shall be furnished with an original and 5 copies of applications filed under section 214 of the Communications Act of 1934, as amended; Provided, however, that where applications involve only the supplementation of existing domestic facilities, and the issuance of a certificate is not required, an original and 2 copies of the application shall be furnished. Upon request by the Commission additional copies of the application shall be furnished. Each application shall be accompanied by the fee prescribed in subpart G of part 1 of this chapter.

(b) No application accepted for filing and subject to the provisions of §§63.01,

63.02, 64.62 (with the exception of 63.62(c)), 63.69, or 63.505 of the rules shall be granted by the Commission earlier than 30 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period.

(c) Any interested party may file a petition to deny an application within the 30-day or other time period specified in paragraph (b) of this section. The petitioner shall serve a copy of such petition on the applicant no later than the date of filing thereof with the Commission. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant may file an opposition to any petition to deny, and the petitioners may file a reply to such opposition (see §1.45 of this chapter), and allegations of facts or denials thereof shall similarly be supported by affidavit. These responsive pleadings shall be served on the applicant or petitioners, as appropriate, and other parties to the proceeding.

(Sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[41 FR 20662, May 20, 1976; 41 FR 22274, June 2, 1976, as amended at 42 FR 36459, July 15, 1977; 61 FR 10476, Mar. 14, 1996; 61 FR 59201, Nov. 21, 1996]

#### §63.53 Form.

(a) Applications under Section 214 of the Communications Act shall be submitted on paper not more than 21.6 cm (8.5 in) wide and not more than 35.6 cm (14 in) long with a left-hand margin of 4 cm (1.5 in). This requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits or to specially prepared exhibits. The impression shall be on one side of the paper only and shall be double-spaced, except that long quotations shall be single-spaced and indented. All papers, except charts and maps, shall

be typewritten or prepared by mechanical processing methods, other than letter press, or printed. The foregoing shall not apply to official publications. All copies must be clearly legible.

(b) Applications submitted under Section 214 of the Communications Act for international services may be submitted on computer diskettes pursuant to a filing manual compiled by the International Bureau, but a paper copy of the application with the original signature must accompany the diskette. The manual will specify the type and format of the computer diskettes and the reporting and procedural requirements for such applications.

(c) Applications submitted under Section 214 of the Communications Act for international services and any related pleadings that are in a foreign language shall be accompanied by a certified translation in English.

[61 FR 15733, Apr. 9, 1996]

EFFECTIVE DATE NOTE: At 61 FR 15733, Apr. 9, 1996, §63.53 was revised. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT

#### §63.60 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) *Discontinuance, reduction, or impairment of service* includes, but is not limited to the following:

(1) The closure by a carrier of a telephone exchange rendering interstate or foreign telephone toll service, a public toll station serving a community or part of a community, or a public coast station as defined in §80.5 of this chapter;

(2) The reduction in hours of service by a carrier at a telephone exchange rendering interstate or foreign telephone toll service, at any public toll station (except at a toll station at which the availability of service to the public during any specific hours is subject to the control of the agent or other persons controlling the premises on which such office or toll station is located and is not subject to the control of such carrier), or at a public

coast station; the term *reduction in hours of service* does not include a shift in hours which does not result in any reduction in the number of hours of service.

(3) [Reserved]

(4) The dismantling or removal from service of any trunk line by a carrier which has the effect of impairing the adequacy or quality of service rendered to any community or part of a community;

(5) The severance by a carrier of physical connection with another carrier (including connecting carriers as defined in section 3(u) of the Communications Act of 1934, as amended) or the termination or suspension of the interchange of traffic with such other carrier;

(b) *Emergency discontinuance, reduction, or impairment of service* means any discontinuance, reduction, or impairment of the service of a carrier occasioned by conditions beyond the control of such carrier where the original service is not restored or comparable service is not established within a reasonable time. For the purpose of this part, a reasonable time shall be deemed to be a period not in excess of the following: 10 days in the case of discontinuance, reduction, or impairment of service at telegraph offices operated directly by the carrier; 15 days in the case of jointly-operated or agency telegraph offices; 10 days in the case of public coast stations; and 60 days in all other cases;

(c) *Public toll station* means a public telephone station, located in a community, through which a carrier provides service to the public, and which is connected directly to a toll line operated by such carrier.

[28 FR 13229, Dec. 5, 1963, as amended at 45 FR 6585, Jan. 29, 1980; 51 FR 31305, Sept. 2, 1986]

#### § 63.61 Applicability.

Any carrier subject to the provisions of section 214 of the Communications Act of 1934, as amended, except any non-dominant carrier as this term is defined in § 61.3(u) of this chapter, proposing to discontinue, reduce, or impair interstate or foreign telephone or telegraph service to a community, or a part of a community, shall request au-

thority therefor by formal application or informal request as specified in the pertinent sections of this part: *Provided, however,* That where service is expanded on an experimental basis for a temporary period of not more than 6 months, no application shall be required to reduce service to its status prior to such expansion but a written notice shall be filed with the Commission within 10 days of the reduction showing (a) date on which, places at which, and extent to which service was expanded and (b) date on which, places at which, and extent to which such expansion of service was discontinued:

*And provided further,* That a licensee of a radio station who has filed an application for authority to discontinue service provided by such station shall during the period that such application is pending before the Commission, continue to file appropriate applications as may be necessary for extension or renewal of station license in order to provide legal authorization for such station to continue in operation pending final action on the application for discontinuance of service.

[28 FR 13229, Dec. 5, 1963, as amended at 45 FR 76169, Nov. 18, 1980; 61 FR 59201, Nov. 21, 1996]

#### § 63.62 Type of discontinuance, reduction, or impairment of telephone or telegraph service requiring formal application.

Authority for the following types of discontinuance, reduction, or impairment of service shall be requested by formal application containing the information required by the Commission in the appropriate sections to this part, except as provided in paragraph (c) of this section, or in emergency cases (as defined in § 63.60(b)) as provided in § 63.63:

(a) The dismantling or removal of a trunk line (for contents of application see § 63.500) for all domestic carriers and for dominant international carriers except as modified in § 63.19;

(b) The severance of physical connection or the termination or suspension of the interchange of traffic with another carrier (for contents of application, see § 63.501);

(c) [Reserved]

(d) The closure of a public toll station where no other such toll station of the applicant in the community will continue service (for contents of application, see § 63.504): *Provided, however*, That no application shall be required under this part with respect to the closure of a toll station located in a community where telephone toll service is otherwise available to the public through a telephone exchange connected with the toll lines of a carrier;

(e) Any other type of discontinuance, reduction or impairment of telephone service not specifically provided for by other provisions of this part (for contents of application, see § 63.505);

(f) An application may be filed requesting authority to make a type of reduction in service under specified standards and conditions in lieu of individual applications for each instance coming within the type of reduction in service proposed.

[28 FR 13229, Dec. 5, 1963, as amended at 45 FR 6585, Jan. 29, 1980; 60 FR 35509, July 10, 1995; 61 FR 15733, Apr. 9, 1996]

EFFECTIVE DATE NOTE: At 61 FR 15733, Apr. 9, 1996, in § 63.62, paragraph (a) was revised. This amendment contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 63.63 Emergency discontinuance, reduction, or impairment of service.**

(a) Application for authority for emergency discontinuance, reduction, or impairment of service shall be made by filing an informal request in quintuplicate as soon as practicable but not later than 15 days in the case of public coast stations; or 65 days in all other cases, after the occurrence of the conditions which have occasioned the discontinuance, reduction, or impairment. The request shall make reference to this section and show the following:

(1) The effective date of such discontinuance, reduction, or impairment, and the identification of the service area affected;

(2) The nature and estimated duration of the conditions causing the discontinuance, reduction, or impairment;

(3) The facts showing that such conditions could not reasonably have been foreseen by the carrier in sufficient

time to prevent such discontinuance, reduction, or impairment;

(4) A description of the service involved;

(5) The nature of service which will be available or substituted;

(6) The effect upon rates to any person in the community;

(7) The efforts made and to be made by applicant to restore the original service or establish comparable service as expeditiously as possible.

(b) Authority for the emergency discontinuance, reduction, or impairment of service for a period of 60 days shall be deemed to have been granted by the Commission effective as of the date of the filing of the request unless, on or before the 15th day after the date of filing, the Commission shall notify the carrier to the contrary. Renewal of such authority may be requested by letter or telegram, filed with the Commission not later than 10 days prior to the expiration of such 60-day period, making reference to this section and showing that such conditions may reasonably be expected to continue for a further period and what efforts the applicant has made to restore the original or establish comparable service. If the same or comparable service is reestablished before the termination of the emergency authorization, the carrier shall notify the Commission promptly. However, the Commission may, upon specific request of the carrier and upon a proper showing, contained in such informal request, authorize such discontinuance, reduction, or impairment of service for an indefinite period or permanently.

[28 FR 13229, Dec. 5, 1963, as amended at 45 FR 6585, Jan. 29, 1980]

**§ 63.65 Closure of public toll station where another toll station of applicant in the community will continue service.**

(a) Except in emergency cases (as defined in § 63.60(b) and as provided in § 63.63), authority to close a public toll station in a community in which another toll station of the applicant will continue service shall be requested by an informal request, filed in quintuplicate, making reference to this paragraph and showing the following:



(1) Location of toll station to be closed and distance from nearest toll station to be retained;

(2) Description of service area affected, including approximate population and character of the business of the community;

(3) Average number of toll telephone messages sent-paid and received-collect for the preceding six months;

(4) Average number of telegraph messages sent-paid and received-collect for the preceding six months;

(5) Statement of reasons for desiring to close the station.

(b) Authority for closures requested under paragraph (a) of this section shall be deemed to have been granted by the Commission effective as of the 15th day following the date of filing such request unless, on or before the 15th day, the Commission shall notify the carrier to the contrary.

**§63.66 Closure of or reduction of hours of service at telephone exchanges at military establishments.**

Where a carrier desires to close or reduce hours of service at a telephone exchange located at a military establishment because of the deactivation of such establishment, it may, in lieu of filing formal application, file in quintuplicate an informal request. Such request shall make reference to this section and shall set forth the class of office, address, date of proposed closure or reduction, description of service to remain or be substituted, statement as to any difference in charges to the public, and the reasons for the proposed closure or reduction. Authority for such closure or reduction shall be deemed to have been granted by the Commission, effective as of the 15th day following the date of filing of such request, unless, on or before the 15th day, the Commission shall notify the carrier to the contrary.

[45 FR 6585, Jan. 29, 1980]

**§63.71 Special procedures for discontinuance, reduction or impairment of service by domestic non-dominant carriers.**

Any non-dominant carrier as this term is defined in §61.15(a) of this chapter and who seeks to discontinue, reduce or impair service shall be subject

to the following procedures in lieu of those specified in §§63.61 through 63.62 and 63.64 through 63.601:

(a) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. Notice shall include the following:

(1) Name and address of carrier;

(2) Date of planned service discontinuance, reduction or impairment;

(3) Points or geographic areas of service affected;

(4) Brief description of type of service affected; and

(5) The following statement:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, DC 20554, referencing the §63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(b) The carrier shall file with this Commission, on or after the date on which notice has been given to all affected customers an application which shall contain the following:

(1) Caption—"Section 63.71 Application";

(2) Information listed in §63.71(a) (1) through (4) above;

(3) Brief description of the dates and methods of notice to all affected customers; and

(4) Any other information the Commission may require.

(c) The application to discontinue, reduce or impair service shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective.

[45 FR 76169, Nov. 18, 1980]

**§ 63.90 Publication and posting of notices.**

(a) Immediately upon the filing of an application or informal request (except a request under § 63.71) for authority to close or otherwise discontinue the operation, or reduce the hours of service at a telephone exchange (except an exchange located at a military establishment), the applicant shall post a public notice at least 51 cm by 61 cm (20 inches by 24 inches), with letter of commensurate size, in a conspicuous place in the exchange affected, and also in the window of any such exchange having window space fronting on a public street at street level. Such notice shall be posted at least 14 days and shall contain the following information, as may be applicable:

- (1) Date of first posting of notice;
- (2) Name of applicant;
- (3) A statement that application has been made to the Federal Communications Commission;
- (4) Date when application was filed in the Commission;
- (5) A description of the discontinuance, reduction, or impairment of service for which authority is sought including the address or other appropriate identification of the exchange or station involved;
- (6) If applicant proposes to reduce hours of service, a description of present and proposed hours of service;
- (7) A complete description of the substitute service, if any, to be provided if the application is granted.

(8) A statement that any member of the public desiring to protest or support the application may communicate in writing with the Federal Communications Commission, Washington, DC 20554, on or before a specified date which shall be 20 days from the date of first posting of the notice.

(b) Immediately upon the filing of an application or informal request of the nature described in paragraph (a) of this section, the applicant shall also cause to be published a notice of not less than 10 column centimeters (4 column inches) in size containing information similar to that specified in paragraph (a), at least once during each of 2 consecutive weeks, in some newspaper of general circulation in the

community or part of the community affected.

(c) Immediately upon the filing of an application or informal request or upon the filing of a formal application to close a public toll station (except a toll station located at a military establishment), applicant shall post a public notice at least A3 (29.7 cm x 42.0 cm) or 11 in x 17 in (27.9 cm x 43.2 cm) in size as provided in paragraph (a) of this section or, in lieu thereof, applicant shall cause to be published a newspaper notice as provided in paragraph (b) of this section.

(d) Immediately upon the filing of any application or informal request for authority to discontinue, reduce, or impair service, or any notice of resumption of service under § 63.63(b), the applicant shall give written notice of the filing together with a copy of such application to the State Commission (as defined in section 3(t) of the Communications Act of 1934, as amended) of each State in which any discontinuance, reduction or impairment is proposed.

(e) When the posting, publication, and notification as required in paragraphs (a), (b), (c) and (d) of this section have been completed, applicant shall report such fact to the Commission, stating the name of the newspaper in which publication was made, the name of the Commissions notified, and the dates of posting, publication, and notification.

[45 FR 6585, Jan. 29, 1980, as amended at 45 FR 76169, Nov. 18, 1980; 58 FR 44907, Aug. 25, 1993; 60 FR 35510, July 10, 1995]

**§ 63.100 Notification of service outage.**

(a) As used in this section:

(1) *Outage* is defined as a significant degradation in the ability of a customer to establish and maintain a channel of communications as a result of failure or degradation in the performance of a carrier's network.

(2) *Customer* is defined as a user purchasing telecommunications service from a common carrier.

(3) *Special offices and facilities* are defined as major airports, major military installations, key government facilities, and nuclear power plants. 911 special facilities are addressed separately in paragraph (a)(4) of this section.

(4) *An outage which potentially affects a 911 special facility* is defined as a significant service degradation, switch or transport, where rerouting to the same or an alternative answering location was not implemented, and involves one or more of the following situations:

(i) Isolation of one or more Public Service Answering Points (PSAPs) for 24 hours or more, if the isolated PSAPs collectively serve less than 30,000 or more access lines, based on the carrier's database of lines served by each PSAP; or

(ii) Loss of call processing capabilities in the E911 tandem(s), for 30 minutes or more, regardless of the number of customers affected; or

(iii) Isolation of one or more PSAP(s), for 30 or more minutes, if the isolated PSAPs collectively serve 30,000 or more access lines, based on the carrier's database of lines served by each PSAP; or

(iv) Isolation of an end office switch or host/remote cluster, for 30 minutes or more, if the switches collectively serve, 30,000 or more access lines.

(5) *Major airports* are defined as those airports described by the Federal Aviation Administration as large or medium hubs. The member agencies of the National Communications System (NCS) will determine which of their locations are "major military installations" and "key government facilities."

(6) *An outage which "potentially affects" a major airport* is defined as an outage that disrupts 50% or more of the air traffic control links or other FAA communications links to any major airport, any outage that has caused an Air Route Traffic Control Center (ARTCC) or major airport to lose it radar, any ARTCC or major airport outage that has received any media attention of which the carrier's reporting personnel are aware, any outage that causes a loss of both primary and backup facilities at any ARTCC or major airport, and any outage to an ARTCC or major airport that is deemed important by the FAA as indicated by FAA inquiry to the carrier management personnel.

(7) *A mission-affecting outage* is defined as an outage that is deemed critical to national security/emergency pre-

paredness (NS/EP) operations of the affected facility by the National Communications System member agency operating the affected facility.

(b) Any local exchange or interexchange common carrier or competitive access provider that operates transmission or switching facilities and provides access service or interstate or international telecommunications service, that experiences an outage which potentially affects 50,000 or more of its customers on any facilities which it owns, operates or leases, must notify the Commission if such outage continues for 30 or more minutes. Satellite carriers and cellular carriers are exempt from this reporting requirement. Notification must be served on the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC. Notification may be served on the Commission's Watch Officer on duty at the FCC's Columbia Operations Center in Columbia, MD, or at such other facility designated by the Commission by regulation or (at the time of the emergency) by public announcement only if there is a telephone outage or similar emergency in Washington, DC. The notification must be by facsimile or other record means delivered within 120 minutes of the carrier's first knowledge that the service outage potentially affects 50,000 or more customers, if the outage continues for 30 or more minutes. Notification shall identify a contact person who can provide further information, the telephone number at which the contact person can be reached, and what information is known at the time about the service outage including: the date and estimated time (local time at the location of the outage) of commencement of the outage; the geographic area affected; the estimated number of customers affected; the types of services affected (e.g. interexchange, local, cellular); the duration of the outage, i.e. time elapsed from the estimated commencement of the outage until restoration of full service; the estimated number of blocked calls during the outage; the apparent or known cause of the incident, including the name and type of equipment involved and the specific part of

the network affected; methods used to restore service; and the steps taken to prevent recurrences of the outage. When specifying the types of services affected by any reportable outage, carriers must indicate when 911 service was disrupted and rerouting to alternative answering locations was not implemented. The report shall be captioned Initial Service Disruption Report. Lack of any of the above information shall not delay the filing of this report. Not later than thirty days after the outage, the carrier shall file with the Chief, Common Carrier Bureau, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.

(c) Any local exchange or interexchange common carrier or competitive access provider that operates transmission or switching facilities and provides access service or interstate or international telecommunications service, that experiences an outage which potentially affects at least 30,000 and less than 50,000 of its customers on any facilities which it owns, operates or leases, must notify the Commission if such outage continues for 30 or more minutes. Satellite carriers and cellular carriers are exempt from this reporting requirement. Notification must be served on the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC. Notification may be served on the Commission's Watch Officer on duty at the FCC's Columbia Operations Center in Columbia, MD, or at such other facility designated by the Commission by regulation or (at the time of the emergency) by public announcement only if there is a telephone outage or similar emergency in Washington, DC. The notification must be by facsimile or other record means delivered within 3 days of the carrier's

first knowledge that the service outage potentially affects at least 30,000 but less than 50,000 customers, if the outage continues for 30 or more minutes. Notification shall identify the carrier and a contact person who can provide further information, the telephone number at which the contact person can be reached, and what information is known at the time about the service outage including: the date and estimated time (local time at the location of the outage) of commencement of the outage; the geographic area affected; the estimated number of customers affected; the types of services affected (*e.g.* interexchange, local, cellular); the duration of the outage, *i.e.* time elapsed from the estimated commencement of the outage until restoration of full service; the estimated number of blocked calls during the outage; the apparent or known cause of the incident, including the name and type of equipment involved and the specific part of the network affected; methods used to restore service; and the steps taken to prevent recurrences of the outage. When specifying the types of services affected by any reportable outage, carriers must indicate when 911 service was disrupted and rerouting to alternative answering locations was not implemented. The report shall be captioned Initial Service Disruption Report. Lack of any of the above information shall not delay the filing of this report. Not later than thirty days after the outage, the carrier shall file with the Chief, Common Carrier Bureau, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.

(d) Any local exchange or interexchange carrier or competitive access provider that operates transmission or switching facilities and provides access service or interstate or international

telecommunications service that experiences a fire-related incident in any facilities which it owns, operates or leases that impacts 1000 or more service lines must notify the Commission if the incident continues for a period of 30 minutes or longer. Satellite carriers and cellular carriers are exempt from this reporting requirement. Notification must be served on the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC. Notification may be served on the Commission's Watch Officer on duty in the FCC's Columbia Operations Center in Columbia, MD, or at such other facility designated by the Commission by regulation or (at the time of the emergency) by public announcement only if there is a telephone outage or similar emergency in Washington, DC. The notification must be by facsimile or other recorded means delivered within 3 days of the carrier's first knowledge that the incident is fire-related, impacting 1000 or more lines for thirty or more minutes. Notification shall identify the carrier and a contact person who can provide further information, the telephone number at which the contact person can be reached, and what information is known at the time about the service outage including: the date and estimated time (local time at the location of the outage) of commencement of the outage; the geographic area affected; the estimated number of customers affected; the types of services affected (*e.g.* interexchange, local cellular); the duration of the outage, *i.e.* time elapsed from the estimated commencement of the outage until restoration of full service; the estimated number of blocked calls during the outage; the apparent or known cause of the incident, including the name and type of equipment involved and the specific part of the network affected; methods used to restore service; and the steps taken to prevent recurrences of the outage. When specifying the types of services affected by any reportable outage, carriers must indicate when 911 service was disrupted and rerouting to alternative answering locations was not implemented. The report shall be captioned Initial Service Disruption Re-

port. Lack of any of the above information shall not delay the filing of this report. Not later than thirty days after the incident, the carrier shall file with the Chief, Common Carrier Bureau, a Final Report providing all available information on the incident, including any information not contained in its Initial Report and detailing specifically the root cause of the incident and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate incidents of the reported type.

(e) Any local exchange or interexchange common carrier or competitive access provider that operates transmission or switching facilities and provides access service or interstate or international telecommunications service, that experiences an outage on any facilities which it owns, operates or leases which potentially affects special offices and facilities must notify the Commission if such outage continues for 30 or more minutes regardless of the number of customers affected. Satellite carriers and cellular carriers are exempt from this reporting requirement. Notification must be served on the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC. Notification may be served on the Commission's Watch Officer on duty at the Columbia Operations Center in Columbia, MD, or at such other facility designated by the Commission by regulation or (at the time of the emergency) by public announcement only if there is a telephone outage or similar emergency in Washington, DC. The notification must be by facsimile or other record means delivered within 120 minutes of the carrier's first knowledge that the service outage potentially affects a special facility, if the outage continues for 30 or more minutes. Notification shall identify a contact person who can provide further information, the telephone number at which the contact person can be reached, and what information is known at the time about the service outage including: the date and estimated time (local time at

the location of the outage) of commencement of the outage; the geographic area affected; the estimated number of customers affected; the types of services affected (*e.g.* 911 emergency services, major airports); the duration of the outage, *i.e.* time elapsed from the estimated commencement of the outage until restoration of full service; the estimated number of blocked calls during the outage; the apparent or known cause of the incident, including the name and type of equipment involved and the specific part of the network affected; methods used to restore service; and the steps taken to prevent recurrences of the outage. When specifying the types of services affected by any reportable outage, carriers must indicate when 911 service was disrupted and rerouting to alternative answering locations was not implemented. The report shall be captioned Initial Service Disruption Report. Lack of any of the above information shall not delay the filing of this report. Not later than thirty days after the outage, the carrier shall file with the Chief, Common Carrier Bureau, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type. Under this rule, carriers are not required to report outages affecting nuclear power plants, major military installations and key government facilities to the Commission. Report at these facilities will be made according to the following procedures:

(1) When there is a mission-affecting outage, the affected facility will report the outage to the National Communications System (NCS) and call the service provider in order to determine if the outage is expected to last 30 minutes. If the outage is not expected to, and does not, last 30 minutes, it will not be reported to the FCC. If it is expected to last 30 minutes or does last 30

minutes, the NCS, on the advice of the affected special facility, will either:

(i) Forward a report of the outage to the Commission, supplying the information for initial reports affecting special facilities specified in this section of the Commission's Rules;

(ii) Forward a report of the outage to the Commission, designating the outage as one affecting "special facilities," but reporting it at a level of detail that precludes identification of the particular facility involved; or

(iii) Hold the report at the NCS due to the critical nature of the application.

(2) If there is to be a report to the Commission, a written or oral report will be given by the NCS within 120 minutes of an outage to the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC. Notification may be served on the Commission's Watch Officer on duty at the FCC's Columbia Operations Center in Columbia, MD, or at such other facility designated by the Commission by regulation or (at the time of the emergency) by public announcement only if there is a telephone outage or similar emergency in Washington, DC. If the report is oral, it is to be followed by a written report the next business day. Those carriers whose service failures are in any way responsible for the outage must consult with NCS upon its request for information.

(3) If there is to be a report to the Commission, the service provider will provide a written report to the NCS, supplying the information for final reports for special facilities required by this section of the Commission's rules. The service provider's final report to the NCS will be filed within 28 days after the outage, allowing the NCS to then file the report with the Commission within 30 days after the outage. If the outage is reportable as described in paragraph (e)(2) of this section, and the NCS determines that the final report can be presented to the Commission without jeopardizing matters of national security or emergency preparedness, the NCS will forward the report as provided in either paragraphs (e)(1)(i) or (e)(1)(ii) of this section to the Commission.

(f) If an outage is determined to have affected a 911 facility so as to be reportable as a special facilities outage, the carrier whose duty it is to report the outage to the FCC shall as soon as possible by telephone or other electronic means notify any official who has been designated by the management of the affected 911 facility as the official to be contacted by the carrier in case of a telecommunications outage at that facility. The carrier shall convey all available information to the designated official that will be useful to the management of the affected facility in mitigating the affects of the outage on callers to that facility.

(g) In the case of LEC end offices, carriers will use the number of lines terminating at the office for determining whether the criteria for reporting an outage has been reached. In the case of IXC or LEC tandem facilities, carriers must, if technically possible, use real-time blocked calls to determine whether criteria for reporting an outage have been reached. Carriers must report IXC and LEC tandem outages where more than 150,000 calls are blocked during a period of 30 or more minutes for purposes of complying with the required 50,000 potentially affected customers threshold and must report such outages where more than 90,000

calls are blocked during a period of 30 or more minutes for purposes of complying with the 30,000 potentially affected customers threshold. Carriers may use historical data to estimate blocked calls when required real-time blocked call counts are not possible. When using historical data, carriers must report incidents where more than 50,000 calls are blocked during a period of 30 or more minutes for purposes of complying with the required 50,000 potentially affected customers threshold and must report incidents where more than 30,000 calls are blocked during a period of 30 or more minutes for purposes of complying with the 30,000 potentially affected customers threshold.

(h)(1) Any local exchange or inter-exchange common carrier or competitive access provider that operates transmission or switching facilities and provides access services or interstate or international telecommunications services, the experiences an outage on any facilities that it owns, operates or leases that potentially affects 911 services must notify the Commission within the applicable period shown in the chart in this paragraph (h)(1) if such outage meets one of the following conditions, as defined in paragraph (a)(4) of this section:

Condition	Lines affected	Duration	Period
Loss of E911 Tandem capability .....	No limit .....	30 minutes or more .....	120 minutes.
Isolation of PSAP(s) .....	Under 30,000 access lines served ....	24 hours or more .....	120 minutes.
Isolation of PSAP(s) .....	50,000 or more access lines served ..	30 minutes or more .....	120 minutes.
Isolation of PSAP(s) .....	30,000 to 50,000 access lines served ..	30 minutes or more .....	3 days.
Isolation of EO switch, host/remotes from 911.	50,000 or more access lines served ..	30 minutes or more .....	120 minutes.
Isolation of EO switch, host/remotes from 911.	30,000 to 50,000 access lines served	30 minutes or more .....	3 days.

(2) Satellite carriers and cellular carriers are exempted from the reporting requirement in this paragraph (h). Notification must be served on the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC. Notification may be served on the Commission's Watch Officer on duty at the Columbia Operations Center in Columbia, MD, or at such other facility designated by the Commission by regulation or (at the time of thee emergency)

by public announcement only if there is a telephone outage or similar emergency in Washington, DC. The notification must be by facsimile or other record means delivered within the notification period indicated above from the time of the carrier's first knowledge that the service outage "potentially affects a 911 special facility" as described in paragraph (a)(4) of this section and summarized in the chart in paragraph (h)(1) of this section and the service outage has continued for the duration indicated in paragraph (a)(4)

of this section and summarized in the chart in paragraph (h)(1) of this section. Notification shall identify a contact person who can provide further information, the telephone number at which the contact person can be reached, and the information known at the time notification is made about the service outage including: the date and estimated time (local time at the location of the outage) of commencement of the outage; the geographic area affected; the estimated number of customers affected; the types of services affected; the duration of the outage, *i.e.* time elapsed from the estimated commencement of the outage until restoration of full service; the estimated number of blocked calls during the outage; the apparent or known cause of the incident, including the name and type of equipment involved and the specific part of the network affected; methods used to restore service; and the steps taken to prevent recurrences of the outage. The report shall be captioned Initial Service Disruption Report. Lack of any of the information in this paragraph (h)(2) shall not delay the filing of this report. Not later than thirty days after the outage, the carrier shall file with the Chief, Common Carrier Bureau, a Final Service Disruption Report providing all available information on the service outage, including any information not contained in its Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.

[59 FR 40266, Aug. 8, 1994, as amended at 60 FR 57196, Nov. 14, 1995; 62 FR 39452, July 23, 1997]

#### CONTENTS OF APPLICATIONS; EXAMPLES

##### **§ 63.500 Contents of applications to dismantle or remove a trunk line.**

The application shall contain:

- (a) The name and address of each applicant;
- (b) The name, title, and post office address of the officer to whom cor-

respondence concerning the application is to be addressed;

- (c) Nature of proposed discontinuance, reduction, or impairment;

- (d) Identification of community or part of community involved and date on which applicant desires to make proposed discontinuance, reduction, or impairment effective; if for a temporary period only, indicate the approximate period for which authorization is desired;

- (e) Proposed new tariff listing, if any, and difference, if any, between present charges to the public and charges for the service to be substituted;

- (f) Description of the service area affected including population and general character of business of the community;

- (g) Name of any other carrier or carriers providing telegraph or telephone service to the community;

- (h) Statement of the reasons for proposed discontinuance, reduction, or impairment;

- (i) Statement of the factors showing that neither present nor future public convenience and necessity would be adversely affected by the granting of the application;

- (j) Description of any previous discontinuance, reduction, or impairment of service to the community affected by the application, which has been made by the applicant during the 12 months preceding filing of application, and statement of any present plans for future discontinuance, reduction, or impairment of service to such community;

- (k) A map or sketch showing:

- (1) Routes of line proposed to be removed from service and of alternate lines, if any, to be retained;

- (2) Type and ownership of structures (open wire, aerial cable, underground cable, carrier systems, etc.);

- (3) Cities and towns along routes with approximate population of each, and route kilometers between the principal points;

- (4) Location of important operating centers and repeater or relay points;

- (5) State boundary lines through which the facilities extend;



(l) A wire chart showing, for both the line proposed to be removed and the alternate lines to be retained, the regular and normal assignment of each wire, its method of operation, the number of channels and normal assignment of each;

(m) The number of wires or cables to be removed and the kind, size, and length of each;

(n) A complete statement showing how the traffic load on the line proposed to be removed will be diverted to other lines and the adequacy of such other lines to handle the increased load.

[28 FR 13229, Dec. 5, 1963, as amended at 58 FR 44907, Aug. 25, 1993]

**§63.501 Contents of applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier.**

The application shall contain:

(a) The name and address of each applicant;

(b) The name, title, and post office address of the officer to whom correspondence concerning the application is to be addressed;

(c) Nature of the proposed change;

(d) Identification of community or part of community involved and date on which applicant desires to make proposed discontinuance, reduction, or impairment effective; if for a temporary period only, indicate the approximate period for which authorization is desired;

(e) Proposed new tariff listing, if any, and differences, if any, between present charges to the public and charges for the service to be substituted;

(f) Description of the service area affected including population and general character of business of the community;

(g) Name of any other carrier or carriers providing telegraph or telephone service to the community;

(h) Statement of the reasons for proposed discontinuance, reduction, or impairment;

(i) Statement of the factors showing that neither present nor future public convenience and necessity would be adversely affected by the granting of the application;

(j) Description of any previous discontinuance, reduction, or impairment of service to the community affected by the application, which has been made by the applicant during the 12 months preceding filing of application, and statement of any present plans for future discontinuance, reduction, or impairment of service to such community;

(k) Name of other carrier;

(l) Points served through such physical connection or interchange;

(m) Description of the service involved;

(n) Statement as to how points served by means of such physical connection or interchange will be served thereafter;

(o) Amount of traffic interchanged for each month during preceding 6-month period;

(p) Statement as to whether severance of physical connection or termination or suspension of interchange of traffic is being made with consent of other carrier.

**§63.504 Contents of applications to close a public toll station where no other such toll station of the applicant in the community will continue service and where telephone toll service is not otherwise available to the public through a telephone exchange connected with the toll lines of a carrier.**

The application shall contain:

(a) The name and address of each applicant;

(b) The name, title, and post office address of the officer to whom correspondence concerning the application is to be addressed;

(c) Nature of proposed discontinuance, reduction, or impairment;

(d) Identification of community or part of community involved and date on which applicant desires to make proposed discontinuance, reduction, or impairment effective; if for a temporary period only, indicate the approximate period for which authorization is desired;

(e) Proposed new tariff listing, if any, and difference, if any, between present charges to the public and charges for the service to be substituted, if any;

(f) Description of the service area affected including population and general character of business of the community;

(g) Name of other carrier or carriers, if any, which will provide toll station service in the community;

(h) Statement of the reasons for proposed discontinuance, reduction, or impairment;

(i) Statement of the factors showing that neither present nor future public convenience and necessity would be adversely affected by the granting of the application;

(j) Description of any previous discontinuance, reduction, or impairment of service to the community affected by the application, which has been made by the applicant during the 12 months preceding filing of application, and statement of any present plans for future discontinuance, reduction, or impairment of service to such community;

(k) Description of the service involved, including a statement of the number of toll telephone messages or telegraph messages sent-paid and received-collect, and the revenues from such traffic, in connection with the service proposed to be discontinued for each of the past 6 months; and, if the volume of such traffic handled in the area has decreased during recent years, the reasons therefor.

**§63.505 Contents of applications for any type of discontinuance, reduction, or impairment of telephone service not specifically provided for in this part.**

The application shall contain:

(a) The name and address of each applicant;

(b) The name, title, and post office address of the officer to whom correspondence concerning the application is to be addressed;

(c) Nature of proposed discontinuance, reduction, or impairment;

(d) Identification of community or part of community involved and date on which applicant desires to make proposed discontinuance, reduction or impairment effective, if for a temporary period only, indicate the approximate period for which authorization is desired;

(e) Proposed new tariff listing, if any, and difference, if any, between present charges to the public and charges for the service to be substituted;

(f) Description of the service area affected including population and general character of business of the community;

(g) Name of any other carrier or carriers providing telephone service to the community;

(h) Statement of the reasons for proposed discontinuance, reduction, or impairment;

(i) Statement of the factors showing that neither present nor future public convenience and necessity would be adversely affected by the granting of the application;

(j) Description of any previous discontinuance, reduction, or impairment of service to the community affected by the application, which has been made by the applicant during the 12 months preceding filing of application, and statement of any present plans for future discontinuance, reduction, or impairment of service to such community;

(k) Description of the service involved, including:

(1) Existing telephone service by the applicant available to the community or part thereof involved;

(2) Telephone service (available from applicant or others) which would remain in the community or part thereof involved in the event the application is granted;

(l) A statement of the number of toll messages sent-paid and received-collect and the revenues from such traffic in connection with the service proposed to be discontinued, reduced, or impaired for each of the past 6 months; and, if the volume of such traffic handled in the area has decreased during recent years, the reasons therefor.

[45 FR 6586, Jan. 29, 1980]

**§63.601 Contents of applications for authority to reduce the hours of service of public coast stations under the conditions specified in §63.70.**

F.C.C. File No. T-D----

Month ----- Year -----

-----  
(Name of applicant)

Federal Communications Commission

§ 63.701

\_\_\_\_\_  
(Address of applicant)

In the matter of Proposed Reduction in Hours of Service of a Public Coast Station Pursuant to §63.70 of the Commission's rules.

Data regarding public coast station \_\_\_\_\_

(Call and address)

Present hours:  
Monday through Friday \_\_\_\_\_  
Saturday \_\_\_\_\_  
Sunday \_\_\_\_\_

Proposed hours:  
Monday through Friday \_\_\_\_\_  
Saturday \_\_\_\_\_  
Sunday \_\_\_\_\_

Proposed effective time and date of change \_\_\_\_\_

Average number of messages handled for month of \_\_\_\_\_, 19—

during total hours to be deleted \_\_\_\_\_

during maximum hour to be deleted \_\_\_\_\_

Data regarding substitute service to be provided by other public coast stations available and capable of providing service to the community affected, or in the marine area served by the public coast station involved:

Station call and location	Operated by	Hours of service		
		Monday thru Friday	Saturday	Sunday

REQUEST FOR DESIGNATION AS A RECOGNIZED PRIVATE OPERATING AGENCY

**§63.701 Contents of application.**

Except as otherwise provided in this part, any party requesting designation as a recognized private operating agency within the meaning of the International Telecommunication Convention shall request such designation by filing an original and two copies of an application stating the nature of the services to be provided and a statement in the applicant's own words but which makes clear that the applicant is aware that it is obligated under Article 44 of the Convention to obey the mandatory provisions thereof, and all regulations promulgated thereunder, and a pledge that it will engage in no conduct or operations which otherwise obey the Convention and regulations in

all respects. The applicant should also include a statement that it is aware that failure to comply will result in an order from the Federal Communications Commission to cease and desist from future violations of an ITU regulation and may result in revocation of its recognized private operating agency status by the United States Department of State. Such statement must include the following information where applicable:

(a) The name and address of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate applicant is organized;

(c) The name, title and post office address of the officer of a corporate applicant, or representative of a non-corporate applicant, to whom correspondence concerning the application is to be addressed;

(d) A statement of the ownership of a non-corporate applicant, or the ownership of the stock of a corporate applicant, including an indication whether the applicant or its stock is owned directly or indirectly by an alien;

(e) A copy of each corporate applicant's articles of incorporation (or its equivalent) and of its corporate bylaws;

(f) A statement whether the applicant is a carrier subject to section 214 of the Communications Act, an operator of broadcast or other radio facilities, licensed under title III of the Act, capable of causing harmful interference with the radio transmissions of other countries, or a non-carrier provider of services classed as "enhanced" under §64.702(a);

(g) A statement that the services for which designated as a recognized private operating agency is sought will be extended to a point outside the United States or are capable of causing harmful interference of other radio transmission and a statement of the nature of the services to be provided;

(h) A statement setting forth the points between which the services are to be provided; and

(i) A statement as to whether covered services are provided by facilities owned by the applicant, by facilities

§ 63.702

leased from another entity, or other arrangement and a description of the arrangement.

[51 FR 18448, May 20, 1986]

§ 63.702 Form.

Application under § 63.701 shall be submitted in the form specified in § 63.53 for applications under section 214 of the Communications Act.

[51 FR 18448, May 20, 1986]

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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Sec.

64.1 Traffic damage claims.

Subpart B—Restrictions on Indecent Telephone Message Services

64.201 Restrictions on indecent telephone message services.

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64.602 Jurisdiction.
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