

VI. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This Federal action authorizes and approves into the Kansas SIP requirements previously adopted by the state, and imposes no new requirements. Therefore, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, and tribal governments in the aggregate, or to private sector, of \$100 million or more in any one year. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments

that may be significantly or uniquely impacted by the rule.

The EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action authorizes and approves into the Kansas SIP requirements previously adopted by the state, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 14, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 97-7348 Filed 3-21-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96-98; DA 97-557]

Petition of MCI for Declaratory Ruling That New Entrants Need Not Obtain Separate License or Right-to-Use Agreements Before Purchasing Unbundled Elements

AGENCY: Federal Communications Commission.

ACTION: Petition for declaratory ruling; request for comments.

SUMMARY: The Commission has released a Public Notice which establishes a pleading cycle for comments on a petition for declaratory ruling filed by MCI requesting the Commission to issue a declaratory ruling that new entrants need not obtain separate license or right-to-use agreements before purchasing unbundled network elements, and that the Communications Act of 1934, as amended, requires an incumbent LEC to provide requesting telecommunications carriers the same rights to intellectual property that the incumbent LEC enjoys. The Commission wishes to build a complete record on this issue.

DATES: Comments are due on or before April 15, 1997, and reply comments are due on or before May 6, 1997.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW., Room 544, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kalpak Gude, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580.

SUPPLEMENTARY INFORMATION:

Synopsis of Public Notice

On March 11, 1997, MCI filed a petition for declaratory ruling requesting the Commission to issue a declaratory ruling that any requirement imposed by an incumbent local exchange carrier (LEC) or by a state or local government that a requesting telecommunications carrier obtain separate license or right-to-use agreements before the requesting carrier may purchase access to unbundled network elements violates sections 251 and 253 of the Communications Act of 1934, as amended (the Act). MCI also asks the Commission to issue a declaratory ruling that the Act's nondiscrimination requirement requires an incumbent LEC to provide requesting telecommunications carriers the same rights to intellectual property that the incumbent LEC enjoys.

We are assigning file number CCBPol 97-4 to this proceeding. This issue MCI raises was also raised in a Petition for Reconsideration of the *First Report and Order* in CC Docket No. 96-98 (61 FR 45476 (August 29, 1996)) that was filed by Local Exchange Carrier Coalition. Therefore, commenters must include both the docket number and the file number on all pleadings, and should file copies in both proceedings.

In order to build as complete a record as possible, we encourage parties to comment on the following questions: (1) Does providing access to unbundled network elements implicate the intellectual property rights of equipment vendors or other third parties? Why or why not? We urge parties to provide specific supporting information, including descriptions of the types of provisions included in existing contracts between incumbent

LECs and third parties. (2) Does providing access to network elements other than access to vertical features of unbundled switches implicate intellectual property rights of equipment vendors or other third parties? Why or why not? (3) Does providing access to services for resale, in accordance with section 251, implicate intellectual property rights of equipment vendors or other third parties? Why or why not? (4) What are the potential burdens on requesting telecommunications carriers if they are required to independently negotiate licensing agreements with equipment vendors or other third parties before obtaining access to unbundled network elements? Are there ways to eliminate or reduce those burdens on requesting telecommunications carriers? In addition, we encourage parties to comment on MCI's proposal that incumbent LECs bear the burden of negotiating any extension or augmentation of intellectual property rights that might be implicated in interconnection agreements.

Interested parties should file comments on MCI's petition by April 15, 1997, and reply comments by May 6, 1997, with the Secretary, FCC, 1919 M Street, N.W., Washington, D.C. 20554. A copy should also be sent to Janice Myles, Common Carrier Bureau, FCC, Room 544, 1919 M Street, N.W., Washington, D.C. 20554, and to the Commission's contractor for public service records duplication, ITS, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Parties filing comments should include the Policy Division internal reference number, CCBPol 97-4, as well as the docket number, CC Docket No. 96-98, on their pleadings. MCI's petition is available for inspection and copying during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554, as well as in

the Common Carrier Bureau's Public Reference Room, Room 575, 2000 M Street, N.W., Washington, D. C. 20554. Copies can also be obtained from ITS by calling (202) 857-3800. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading.

We will treat this proceeding as non-restricted for purposes of the Commission's *ex parte* rules. See generally 47 CFR §§ 1.1200-1.1216. Parties may not file more than a total of ten (10) pages of *ex parte* submissions, excluding cover letters. This ten-page limit does not include: (1) written *ex parte* filings made solely to disclose an oral *ex parte* contract; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; or (3) written material filed in response to direct requests from Commission staff. *Ex parte* filings in excess of this limit will not be considered as part of the record in this proceeding.

Federal Communications Commission

William F. Caton,

Acting Secretary.

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47 CFR Parts 25, 26, 73, 76 and 100

[MM Docket No. 95-176; DA 97-568]

Closed Captioning of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: This *Order* extends the period for the public to file reply comments in this rulemaking from March 24, 1997 until March 31, 1997. This action will allow the public to more adequately

reply to comments previously filed in response to the *Notice of Proposed Rulemaking* ("NPRM") seeking comment on proposed rules for the closed captioning of video programming.

DATES: Reply comments are now due on or before March 31, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marcia Glauber, John Adams or Alexis Johns, Cable Services Bureau, (202) 418-7200, TTY (202) 418-7172.

SUPPLEMENTARY INFORMATION: By this *Order*, we extend the time period for filing reply comments in this docket until March 31, 1997. Section 305 of the Telecommunications Act of 1996 ("1996 Act") added a new Section 713, Video Programming Accessibility, to the Communications Act of 1934, as amended ("Communications Act"). Section 713 requires the Commission to prescribe, by August 8, 1997, rules and implementation schedules for the closed captioning of video programming. On January 9, 1997, the Commission adopted a *NPRM*, summarized at 62 FR 4959 (February 3, 1997), in this docket, seeking comment on proposed rules, implementation schedules and exemptions as authorized by Congress in Section 713. The *NPRM* established March 24, 1997, as the deadline for filing reply comments.

This action is taken pursuant to authority found in Sections 4(i), 303(r) and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 613.

Federal Communications Commission

Meredith J. Jones,

Chief, Cable Services Bureau.

[FR Doc. 97-7321 Filed 3-21-97; 8:45 am]

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