
SELECTED FCC DOCKET SUMMARIES, 2007–2008

***In re* Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets; Petition of American National Standards Institute Accredited Standards Committee C63 (EMC) ANSI ASC C63®, *First Report and Order*, FCC 08-68, WT Docket No. 07-250 (Feb. 26, 2008)**

On February 28, 2008, the Federal Communications Commission (“FCC” or “Commission”) issued the *First Report and Order* to revise the hearing aid compatibility requirements applicable to providers of public mobile services and manufacturers of digital wireless handsets used in the delivery of those services. The FCC specifically adopted certain benchmarks from the Joint Consensus Plan (“Plan”) developed by Alliance for Telecommunications Industry Solutions (“ATIS”), along with other rule changes. The Plan was an effort by members of the hearing impaired community, representatives of handset manufacturers, and service providers to address the compliance requirements of the 2003 Hearing Aid Compatibility Order. On November 7, 2007, the FCC issued a *Notice of Proposed Rulemaking (Notice)* seeking comment on the proposal to adopt the recommendations of the Plan. At the end of the comment period, the FCC incorporated most of the suggestions of the Plan in an effort to promote an overall objective of ensuring hearing aid-compatible headsets to the deaf and hard-of-hearing community.

The FCC first adopted the tentative conclusions in the *Notice* for manufacturers and Tier 1 carriers (for both RF interface reduction and inductive coupling capability), amending section 20.19 (c) and (d) of the C.F.R. to adopt the benchmarks and deadlines proposed in the *Notice*. The Commission adopted the suggestion that manufacturers will have to meet a rating of M3 (or higher) for a minimum of one-third of their non-de minimus portfolio, and Tier 3 carriers will have to meet an M3 (or higher) rating for the lesser of fifty percent of their handset models per air interface. The Commission adopted the same benchmark deployment standards for all service providers but extended the compliance deadlines by three months for non-Tier 1 carriers.

In order to ensure that customers will have access to the latest features in mobile technology, the Commission also adopted the product refresh rule for manufacturers and the functionality level rule for service providers. The Commission agreed that requiring manufacturers to meet the RF interference reduction thresholds for acoustic coupling in some of their new models each year (the “product refresh” requirement) will greatly benefit consumers at no undue cost to those manufacturers. Additionally, the Commission adopted the Plan’s

suggestion that Tier 1 carriers offer hearing aid-compatible handsets with differing levels of functionality. The Commission declined, however, to define precisely what criteria they will use to distinguish the various levels of functionality. This rule was applied to all service providers.

The *Report and Order* next discussed the definition of what constitutes a “model” for the purposes of compliance with section 20.19. The Commission ruled that a manufacturer may not characterize as separate models any devices that do not differ in form, feature, or capability. The FCC allows the manufacturers to generally decide what constitutes a distinct model, specifying only that when changes are made to the hearing aid compatibility ratings manufacturers must provide the altered device with a distinct model name or number.

With regard to the frequency bands over which handsets operate, the Commission first adopted the Plan’s proposal that handsets must be compatible with each air interface and frequency band it uses as long as standards exist for each of the bands and interfaces. The Commission left the record open as to whether a phone that operates in part in bands or air interfaces for which no standards exist should be counted as compatible if it is compatible in all bands and air interfaces for which hearing and compatibility standards exist. Also, the FCC allowed phones that operate over Wi-Fi interfaces to be counted as compatible if they otherwise qualify as hearing aid-compatible under the rules.

The FCC next retained and codified the existing de minimus exception that allows manufacturers and mobile service providers that offer a small number of handset models (specifically two handset models or fewer) to be exempt from the requirements of section 20.19, though the FCC strongly encouraged all manufacturers to offer hearing aid compatible devices as part of their handset products line.

The Commission also declined to adopt additional deadlines or deployment milestones that reach beyond those contained in the Plan as they specifically relate to the deployment of M4 or T4 handsets prior to the next review of the rules. The FCC noted that neither technology, nor the market itself, have developed enough such that this requirement is necessary at this time.

As a replacement for the 2001, 2005, and 2006 versions of the ANSI C63.19 technical standard, the Commission also adopted the 2007 standard (and the Plan’s transition schedule for it) to require compliance for handset certification for new handset models. The Commission clarified that for new certifications through 2009, a party can use the 2006 or 2007 standards, but they must also use a single certification test and criteria for both the M and T ratings on a given device. Additionally, the proposal to revise the rule to include services over any ANSI C63.19-2007 standard, with specific coverage of the 800–950 MHz and 1.6–2.5 GHz bands, was adopted to the extent that it covers air interfaces for which technical standards are established in the rules.

The Commission also delegated the authority to adopt future versions of the ANSI standard (assuming that the changes do not raise major compliance issues) to the Chief Wireless Telecommunications Bureau and the Chief Office of Engineering and Technology, jointly. The Commission noted that it will adopt the one year minimum period for manufacturers and Tier 1 carriers (and a fifteen month interval for non-Tier 1 carriers) to offer hearing aid-compatible handsets for new bands and air interfaces as early as reasonably possible.

With regard to reporting, the Commission elaborated on multiple requirements for manufacturers and service providers to, among other things: provide dates on which they begin and end offering specific models over a twelve month period (contrary to providing an end-of-the-year snapshot); indicate if devices being marketed under separate model numbers in fact constitute a single model per the rules; and explain the methodology for determining varying levels of functionality. These requirements must be reported by all manufacturers and service providers, even those falling within the de minimus exception and the report filing must begin on January 15, 2009.

For the purposes of outreach, the Commission adopted the proposal to make changes to its Website, databases, and processes, including developing a single Website providing the ratings and model numbers of handsets, adding search functions to the FCC's equipment database, providing a link to manufacturers' and service providers' Websites, and adopting a consumer-friendly complaint resolution system. The Commission did not, however, mandate these changes, but instead asked for them to be implemented to the extent feasible.

Finally, the FCC adopted the Plan's proposal to further review hearing aid rules after the May 2010's deployment benchmarks have passed. The Commission concluded that the changes it adopted will improve the availability of the growing wireless telecommunications services for the deaf and hard-of-hearing community.

Summarized by Luisa Berti

In re Promoting Diversification of Ownership In the Broadcasting Services; 2006 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; 2006 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Cross-Ownership of Broadcast Stations and Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets; Ways to Further Section 257 Mandate and To Build on Earlier Studies, Report and Order and Third Further Notice of Proposed Rule Making, FCC 07-217, MB Docket No. 07-294, MB Docket No. 06-121, MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No. 01-317, MM Docket No. 00-244, MB Docket No. 04-228 (Dec. 18, 2007)

On December 18, 2007, the Federal Communications Commission (“Commission”) issued a *Report and Order and Third Further Notice of Proposed Rule Making (Third Further Notice)* announcing rule and policy changes, as well as future proposals, intended to increase participation in the broadcasting industry by new entrants and small businesses. This included increasing participation by women-owned businesses, which historically have not been well-represented in the broadcasting industry. The *Report and Order* defines the entities that will benefit initially from the Commission’s actions and adopts a number of measures that encourage ownership diversity and new entry in broadcasting. The *Third Further Notice* seeks comment on several additional proposals aimed at increasing participation by minority- and women-owned businesses. The Commission believes that “expanding the pool of potential competitors in media markets to include such businesses should bring new competitive strategies and approaches by broadcast station owners in ways that benefit consumers in those markets.”

The benefits of the Commission’s new measures will be immediately available to “eligible entities.” That term is defined by the Commission as any entity that would qualify as a small business under the revenue based standards of the Small Business Administration (“SBA”). The Commission contends that this definition will make it easier for small businesses and new entrants to acquire a license and attract the capital necessary to compete in the marketplace, thereby advancing the Commission’s objective of promoting diversity of ownership in the broadcast industry. The Commission is hopeful that the result of these measures will be “a wider array of programming services, including some that are responsive to local needs and interests and audiences that are currently underserved.” The *Report and Order* employs a race and gender neutral definition in the current rules rather than specifically identifying underrep-

resented entities so as to avoid constitutional difficulties, which might delay implementation of its diversification initiative.

In the *Third Further Notice*, the Commission invites commenters to propose any alternative definition of “eligible entity” that they believe would better advance the Commission’s goals of promoting ownership diversity and new entry. The Commission discusses at length the potential benefits and constitutional challenges that would likely result with respect to any proposed definition that is race conscious. The Commission concluded with the reminder that the *Report and Order and Third Further Notice* as a whole, is intended “to promote diversity of ownership of media outlets in order to promote diversity and competition, longstanding and important Commission goals, as well as to enhance innovation in broadcasting.”

Summarized by Catherine Coughlin

In re 2006 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; 2002 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Cross-Ownership of Broadcast Stations and Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets, Ways to Further Section 257 Mandate and To Build on Earlier Studies; Public Interest Obligations of TV Broadcast Licensees, Report and Order and Order on Reconsideration, FCC 07-216, MB Docket No. 06-121, MB Docket No. 02-277, MM Docket No. 01-235, MM Docket No. 01-317, MM Docket No. 00-244, MB Docket No. 04-228, MM Docket No. 99-360; FCC Docket No. 07-216 (Dec. 18, 2007)

Pursuant to section 202(h) of the Telecommunications Act of 1996 (“1996 Act”), the FCC is required to review its ownership rules (except the national television ownership limit) every four years and to “determine whether any of such rules are necessary to the public interest as a result of competition.” The FCC “shall repeal or modify any regulation it determines to be no longer in the public interest.” On December 18, 2007, the Commission completed this review with a determination to modify the newspaper/broadcast cross-ownership rule, and to generally retain the other broadcast ownership rules currently in effect.

As part of this examination, the Commission also reviewed the petitions for reconsideration of the Commission’s *Report and Order* in its 2002 biennial

review of its broadcast ownership rules (*2002 Biennial Review Order*) and the remand of that *Order* by the Third Circuit in *Prometheus Radio Project v. FCC (Prometheus)*.

In response to a *Further Notice of Proposed Rule Making*, the FCC invited comments on whether the current ownership rules remain necessary in the public interest in view of changes in competition. The FCC received a number of comments from broadcasters, newspapers, public interest groups, unions, and individual citizens.

In the *2002 Biennial Review and Order*, the Commission concluded that neither the newspaper/broadcast cross-ownership rule nor the radio/television cross-ownership rule remained necessary in the public interest and accordingly replaced those rules with new regulations called cross-media limits. The Third Circuit decision in *Prometheus* remanded and stayed portions of the *2002 Biennial Review and Order* regarding broadcast ownership rules.

The decisions adopted in this *Report and Order and Order on Reconsideration* were crafted to hold firm to the longstanding policies of competition, diversity, and localism, while serving public interest goals and taking into account the current media marketplace, all while complying with statutory responsibilities. The Commission concluded that recent developments in the marketplace appeared to be more related to advances in technology and the marketplace than any advent of wholly new media. The landscape today reflects media companies both old and new, working to identify the best use of technology in order to maintain their competitive positions.

The first action taken by the Commission was to review the newspaper/broadcast cross-ownership rule to determine whether it is still necessary for the public interest. The ban on cross-ownership began in 1975 and has been in force for three decades. After careful review, the Commission decided to take a modest step of loosening the complete ban on cross-ownership. The FCC made the presumption that in the Top Twenty Designated Market Areas (“DMAs”), it is not inconsistent with the public interest for one entity to own a daily newspaper and a television station if: “(1) the television station is not ranked among the top four stations in the DMA, and (2) at least eight independent “major media voices” remain in the DMA.” To determine if a cross-ownership will increase the amount of local news, the Commission will use the following four factors:

- (1) whether the cross-ownership will increase the amount of local news disseminated through the affected media outlets;
- (2) whether the affected media outlet combination will exercise its own independent news judgment;
- (3) the level of concentration of Nielson DMA; and
- (4) the financial condition of the newspaper or broadcast outlet. If the newspaper is in financial distress, the proposed owner must commit to invest significantly in newsroom operations.

The Commission believes this is a “cautious approach which addresses the need to support the availability and sustainability of local news while not significantly increasing local concentration and harming diversity.” Although groups such as the AFL-CIO have objected to the cross-ownership ban, the FCC analysis of the empirical data on both sides suggests that some newspaper/broadcast cross-ownership combination can enhance localism. The FCC has decided to do a case-by-case review instead of across the board limits, allowing the FCC to look at particular markets and particular combinations, recognizing, for example, that the needs of news areas in New York are not necessarily the same as those of Oregon. The underlying basis of the decision was a review of the Top Twenty DMAs in the country and the conclusion that the larger the market, the less concentrated the media will be.

The second review of the Commission was of the Radio/Television Cross-Ownership rule, which limits the number of commercial radio and television stations an entity may own in the same market. The Commission decided to retain the current rule in light of the fact that it has been relaxed over the years and revised as recently as 1999. The rule balances diversity and competition concerns with the broadcasters’ desire to realize the benefits of common ownership. The Commission reviewed the ruling of the Third Circuit in *Prometheus* that determined that cross-media limits are invalid, and held that to adopt diversity protection provisions the best choice was to retain the current radio/television cross-ownership rule.

The third review evaluated the Local Television Ownership Rule, which restricts the common ownership of television stations in local markets when necessary to protect competition. An entity may own two television stations in the same DMA if: “(1) the Grade B contours do not overlap; or (2) at least one of the stations in combination is not ranked among the top four stations in terms of audience share, and at least eight independently owned and operating commercial or non-commercial full-power broadcast television stations would remain in the DMA after the consolidation.” Again this rule was modified as recently as 1999, and the Commission found the best balance to preserve diversity and competition was to keep the rule as it currently stands.

Fourth, the Commission assessed the Local Radio Ownership Rule. This analysis involved a review of the ruling in *Prometheus*, along with a number of petitions for reconsideration of the Commission’s action concerning the Local Radio Ownership Rule in the 2002 *Biennial Review Order*. The Commission found the current rule remains necessary in the public interest to protect competition in local radio markets. An entity may own, operate, or control (1) up to eight commercial radio stations, not more than five of which are in the same service (AM or FM), in a radio market with forty-five or more full-power commercial or non-commercial radio stations, (2) up to seven stations in a market

of thirty to forty-four stations, (3) up to six stations in a market between fifteen and twenty-nine stations, and (4) up to five stations in an market with fourteen or fewer station, but in any case may not own, operate or control more than fifty percent of the stations in such a market.

The next assessment concerned the Dual Network Rule which provides “a television broadcast station may affiliate with a person or entity that maintains two or more networks of television broadcast stations unless such dual or multiple networks are composed of two or more persons or entities defined as (ABC, NBC, FOX, and NBC).” The rule permits common ownership of multiple broadcast networks but prohibits a merger between or among the “top four” networks. The *2002 Biennial Review Order*, the Commission retained the rule concluding it was necessary in the public interest to promote localism and competition. It reasoned that allowing the “top four” to merge would reduce program output, choices, quality, and innovation to the detriment of the viewers. As such, this *Report and Order* keeps the same rule in effect.

Sixth, the Commission decided to revise the *2002 Biennial Review and Order* to keep the fifty percent UHF Discount that is applied in calculating a UHF’s station’s audience reach under the national television cap. When the transition to digital television is complete, the UHF discount would be eliminated for those stations owned by the four largest networks. In 2004, Congress passed the Consolidated Appropriations Act, which set the national television cap at thirty-nine percent and excluded the national cap from the quadrennial review requirement of section 202(h). The Commission has determined it is foreclosed from addressing the issue of the UHF Discount by the 2004 congressional decision, which insulates the UHF discount from the periodic review.

The Commission also reviewed the pending proceeding titled *Public Interest Obligations of TV Broadcast Licensees*, which would impose additional “public interest” obligations on television broadcasters. The Commission has found that many of the proposals made in this proceeding have already been addressed and dealt with in other Commission reviews and proceedings such as the adoption of the *Localism Report and Notice of Proposed Rulemaking*. The Commission decided it would be premature to impose additional obligations at this time.

Summarized by Renee A. Abbott

In re Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-189, MB Docket No. 07-51 (Oct. 31, 2007)

On October 31, 2007, the Federal Communications Commission (“Commission”) adopted a *Report and Order and Further Notice of Proposed Rulemaking (Further Notice)* to address the issue of building exclusivity clauses in contracts made between multichannel video programming distributors (“MVPDs”) and the owners of multiple dwelling units (“MDUs”) or other real estate developments. In the *Report and Order*, the Commission prohibited both the enforcement of existing exclusivity clauses and the execution of new ones. It found that the exclusivity clauses benefit incumbent cable operators who are subject to Section 628 of the Communications Act of 1934. According to the Commission, the exclusivity clauses prevent other MVPDs from accessing the MDU buildings or real estate developments. The effect is that incumbent cable operators are protected from MVPD competition by new entrants, including incumbent local exchange carriers (“LECs”) and other wire-based MVPDs providing satellite cable and broadcasting programming to subscribers. Consequently, the Commission concluded that such clauses have the effect of inhibiting competition, slowing the deployment of broadband facilities, and harming consumers, specifically the residents of these units and developments.

The Commission found that, in the time since it last addressed the exclusivity clause issue in the *2003 Inside Wiring Order*, the harms of exclusivity clauses have grown to significantly outweigh the benefits. The greatest harm was found to be the inhibition of competition in MVPD service. As a result, residents would likely be denied certain benefits, including the opportunity for lower rates, the delivery of better features, and the option of satellite-delivered cable programming. According to the Commission’s findings, this denial of benefits would disproportionately affect minorities and low-income families. Further, the Commission found that exclusivity clauses would foreclose new entrants and the services they offer from the MVPD market. Even if they were not completely barred from the market, new entrants would be foreclosed from a significant portion of it and could be deterred from attempting to enter the market altogether in many areas. Additionally, the Commission found that, because access to the MVPD market is so important to the provision of “triple play” services (voice, MVPD, and broadband Internet), exclusivity clauses reduce competition of these services, lead to the inefficient use of communications facilities, and slow the deployment of broadband.

As a result of these findings, the Commission concluded that the inclusion of exclusivity clauses in contracts between incumbent cable operators and owners of MDUs and other real estate developments constitutes an unfair

method of competition or an unfair act or practice under section 628(b) and should be prohibited. According to the Commission, exclusivity clauses have the purpose or effect of preventing other MVPDs from providing satellite cable and satellite broadcast programming, and also prevent new entrants from competition. The Commission rejected arguments that exclusivity clauses benefit MDU owners and residents more than they harm them. It further rejected proposals to institute a time limit on the prohibition of the clauses, as well as proposals to allow exemptions for certain MDUs or geographic locations. In rejecting these proposals, the Commission stated that the prohibition of the enforcement of new clauses does not disturb the legitimate expectations of MDU investors and video service providers. It further noted that, even after the *Report and Order*, MDU owners would continue to retain their rights under relevant state law to deny particular providers, including new entrants, the right to provide services on their property. Finally, the Commission reiterated that the prohibitions on the enforcement of existing exclusivity clauses and the execution of new ones only apply to those MVPDs that are covered under Section 628, namely cable operators.

In addition to the *Report and Order*, the Commission also issued a *Further Notice* concerning similar exclusivity contracts by MVPDs not covered by section 628, including direct broadcast satellite (“DBS”) providers, private cable operators (“PCOs”), and others. The Commission requested comments on whether these MVPDs use exclusivity clauses, and if so, what the effects of such clauses are on consumer choice, competition, and the deployment of broadband and other advanced communications facilities. In addition, the Commission requested comments on what type of remedy to impose should it determine that exclusivity clauses are harmful to consumers, as well as comments on what authority the Commission has to impose the remedy. The Commission stated that it would use this information to determine whether it should take further action regarding exclusivity clauses entered into by MVPDs that fall outside the scope of section 628 and to determine what that action should be.

Summarized by Jeffrey Dobson

In re Telephone Number Requirements for IP-Enabled Services Providers; Local Numbers Portability Porting Interval and Validation Requirements; IP-Enabled Services; Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues; Final Regulatory Flexibility Analysis; Numbering Resource Optimization, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, FCC 07-188, WC Docket No. 07-243, WC Docket No. 07-244, WC Docket No. 04-36, CC Docket No. 95-116, CC Docket No. 99-200 (Oct. 31, 2007)

On November 8, 2007, the Federal Communications Commission (“Commission” or “FCC”) issued the *Report and Order, Declaratory Ruling, Order on Remand and Notice of Proposed Rulemaking (Report and Order)* extending Local Number Portability (“LNP”) obligations to interconnected Voice over Internet Protocol (“VoIP”) providers. Additionally, the FCC addressed the petition for a declaratory ruling filed by T-Mobile USA, Inc. and Sprint Nextel Corporation regarding LNP obligations. Specifically, the Commission clarified that no entity subject to LNP obligations “may obstruct or delay the porting-process by demanding from the porting-in entity information in excess of the minimum information needed to validate the customer’s request.” Finally, the Commission responded to the United States Court of Appeals for the D.C. Circuit’s stay of the Commission’s 2003 *Intermodal Number Portability Order* as applied to small entities and as defined under the Regulatory Flexibility Act (“RFA”). The Commission prepared a Final Regulatory Flexibility Analysis (“FRFA”) regarding “the impact of wireline-to-wireless intermodal LNP rules on wireline carriers qualifying as small entities under the RFA.”

In order to extend LNP obligations to interconnected VoIP service providers, the Commission relied on its plenary numbering authority, its authority over telecommunications carriers, and its ancillary jurisdiction under Title I of the Act. 47 U.S.C § 251(b)(2), (e) (2000). In the past, the Commission defined LNP as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.” The FCC extended LNP obligations to VoIP providers to allow “[c]onsumers [the ability] to take advantage of new telephone services without losing their telephone numbers.” In addition, the Commission argued that extending such obligations would “facilitate greater competition among telephony providers by allowing customers to respond to price and service changes.” The FCC additionally believed that extending LNP obligations to VoIP providers would help reduce marketplace distortions that result from regulatory advantages among telephone service providers. In extending LNP obligations to interconnected VoIP service providers, the Commission also

extended the obligation to contribute to industry wide costs associated with LNP administration. The FCC was clear in its *Report and Order* that the LNP obligations were only extended to interconnected VoIP service providers because the Commission believes such services are “increasingly used to replace analog voice service . . . including local exchange service.” VoIP service providers become subject to the extended obligations thirty days after publication of the order in the Federal Register.

Additionally, this *Order* addressed the petition for declaratory ruling filed by T-Mobile and Sprint Nextel concerning the LNP porting validation process. Specifically, the FCC concluded that in order to prevent delays and obstruction in the validation process, simple port LNP validation should be based on only four fields: (1) ten-digit telephone number; (2) customer account number; (3) five-digit zip code; and (4) pass code (if applicable). While recognizing the disagreement among carriers as to what information is necessary to complete the porting process, the Commission concluded that these four fields provided the information needed to successfully complete the port. The Commission allowed ninety days for the industry to comply with this ruling.

Finally, the Commission addressed the D.C. Circuit’s order staying the application of the 2003 *Intermodal Number Portability Order* to small entities qualifying under the RFA. In response, the Commission issued an FRFA. The FRFA concluded, after considering “the potential economic impact of the intermodal porting rules on small entities,” that qualifying wireline carriers are “required to provide wireline-to-wireless intermodal porting where the requesting wireless carrier’s ‘coverage area’ overlaps the geographic location in which the customer’s wireline number is provisioned, provided that the porting-in carrier maintains the number’s original rate center designation following the port.” The Commission attached the FRFA as Appendix D to the *Report and Order*.

Summarized by Christopher M. Staley