§ 572.702 Agreements subject to Monitoring Report requirements.

* * * * *

(b) * * * Thereafter, before the beginning of each calendar year, the Bureau of Economics and Agreement Analysis shall determine whether the agreement should be classified as ''Class A'' or ''Class B'' for that year, based on the market share data reported on the agreement's quarterly Monitoring Report for the previous second quarter (April-June).

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–19781 Filed 8–2–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CS Docket No. 96–46; FCC 96–312]

Video Dialtone Systems; Regulatory Scheme for Future Use

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The First Order on Reconsideration requires operators of existing video dialtone systems to make an election concerning what regulatory scheme they will operate under in the future. This order clarifies our rules in accordance with the Telecommunications Act of 1996. This order fulfills the mandate of the Telecommunications Act of 1996.

DATES: Effective August 5, 1996.

Public and agency comments on the information collection are due on or before August 30, 1996. OMB notification of action is requested September 4, 1996.

ADDRESSES: Comments on the information collection contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the information collection contained herein contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This First Order on Reconsideration contains a new information collection under the Paperwork Reduction Act of 1995 (the ''1995 Act''). The Commission has requested approval of this collection by the Office of Management and Budget (''OMB''), under the emergency processing provisions of the 1995 Act. Approval is requested to be effective September 4, 1996. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection contained in this First Order on Reconsideration, as required by the1995 Act. Public and agency comments are due on or before August 30, 1996. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. OMB notification of action is requested September 4, 1996.

OMB Approval Number: New collection submitted for OMB approval.

Title: Implementation of Section 302 of the Telecommunications Act of 1996.

Type of Review: New collection.

Respondents: Businesses, and other for profit entities.

Number of Respondents: Approximately 10.

Number of Responses: 14. (10 elections letters+4 showings of good cause=14.).

Estimated Time Per Response: .5–5.5 hours. The Commission estimates an average burden of .5 hours to prepare and file each election letter. The Commission estimates a burden of 5 hours to prepare and file a showing of good cause requesting an extension of time. The Commission estimates entities will undergo an average burden of 2 hours to coordinate information with outside legal assistance in preparing each showing of good cause.

Total Annual Burden: 13 hours. (10 election letters×.5 hours=5 hours.) (4 showings of good cause×2 hours=8 hours.)

Estimated costs per respondent: $3000. The Commission estimates that respondents will use outside legal assistance paid at $150 per hour to prepare showings for good cause. (4 showings of good cause×5 hours @ $150 per hour=$3000.)

Needs and Uses: The election letters and any potential showings of good cause will be collected and reviewed by the Commission to ensure that all existing video dialtone operators have elected an option for the delivery of video programming services under Section 651. The filings will serve as an official record to verify that video dialtone operators are in compliance with the Commission's rules and the intent of Congress.

First Order on Reconsideration

I. Introduction

1. On February 8, 1996, the Telecommunications Act of 1996 (the ''1996 Act'') was signed into law. Among other things, the 1996 Act repealed the telephone-cable cross-ownership restriction imposed by the Cable Communications Policy Act of 1984 (''1984 Cable Act''), which generally prohibited common carriers from providing video programming directly to subscribers in their telephone service areas. The 1996 Act also repealed the Commission's ''video dialtone'' rules and policies, which had been established to permit common carriers to participate in the video marketplace in a manner that was consistent with the statutory telephone-cable cross-ownership restriction. In repealing the Commission's video dialtone rules and policies, the 1996 Act provided:

> The Commission's regulations and policies with respect to video dialtone requirements issued in CC Docket No. 87–266 shall cease to be effective on the date of enactment of this Act. This paragraph shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act.

2. Consistent with the above statutory provisions, in the *Report and Order and Notice of Proposed Rulemaking* in CS Docket No. 96–46, the Commission: (1) Eliminated our rules implementing the telephone-cable cross-ownership restriction; (2) eliminated our video dialtone rules and policies; (3) terminated our proceeding that established our video dialtone rules and policies (CC Docket No. 87–266); and (4) did not require currently approved video dialtone systems to cease operations.

3. The general regulatory treatment for video programming services provided by common carriers is now set forth in new Sections 651 through 653 of Title VI of the Communications Act of 1934 (the ''Communications Act''). The

options for common carriers entering the video programming marketplace are found in Section 651, which provides that common carriers may: (1) Provide video programming to subscribers through radio communication under Title III of the Communications Act; (2) provide transmission of video programming on a common carrier basis under Title II of the Communications Act; (3) provide video programming as a cable system under Title VI of the Communications Act; or (4) provide video programming by means of an ''open video system'' under new Section 653 of the Communications Act.

II. Pleadings

4. On April 1 and April 10, 1996, the National Cable Television Association (''NCTA'') filed nearly identical petitions for reconsideration of the Commission's decision in the *First Report and Order* not to require currently approved video dialtone systems to cease operations. NCTA filed one petition for reconsideration as part of its comments in the open video system rulemaking proceeding. *See Comments and Petition for Reconsideration of the National Cable Television Association, Inc.*, CS Docket No. 96–46, CC Docket 87–266 (Terminated) (filed April 1, 1996) (''*NCTA April 1 Petition*''). NCTA then filed a nearly identical petition for reconsideration of the order terminating CC Docket No. 87–266. See Petition for Reconsideration, CC Docket No. 87–266 (Terminated) (filed April 10, 1996) (''*NCTA April 10 Petition*''). Because they present identical issues, and because CC Docket No. 87–266 has been terminated, we will consider these petitions, and the responses thereto, in CS Docket No. 96–46. According to NCTA, Congress did not ''require'' the termination of existing video dialtone authorizations, but left termination to the Commission's discretion. With the repeal of the Commission's video dialtone rules, NCTA argues that the Commission has two choices: either conduct another rulemaking to establish new rules for these few systems, or require that they select between open video and franchised cable service. NCTA argues that the latter alternative is preferable, after a reasonable transition period. NCTA therefore asks the Commission to require (1) outstanding video dialtone trials to terminate in accordance with the dates previously established by the Commission, and (2) companies holding outstanding commercial authorizations to choose between open video and franchised cable service by a date certain.

5. In response, BellSouth Telecommunications, Inc. (''BellSouth'') argues that the Commission did not err by issuing an Order that conformed strictly to Section 302(b)(3) of the 1996 Act. Further, BellSouth and the Bell Atlantic Telephone Companies (''Bell Atlantic'') argue that NCTA overlooks a third wireline option for telephone companies under Section 651—common carrier video transmission subject to Title II regulation. In addition, Pacific Bell argues that NCTA erroneously asserts that Congress did not ''grandfather'' existing video dialtone authorizations, and that existing video dialtone systems should have the opportunity to continue operating as common carriers under Section 651, under any other provision of the 1996 Act or under any other option available prior to the 1996 Act's passage and not repealed by Congress. Recently, Sprint Corporation (''Sprint'') filed an ex parte letter, objecting to the proposed discontinuance of operations of existing approved video dialtone trials. In particular, Sprint argued that it would be disruptive for the customers of its video dialtone trial in Wake Forest, North Carolina if its operations were to cease prematurely, and that the 1996 Act does not require the Commission to terminate such systems.

6. In its reply, NCTA argues that Pacific Bell is ''simply wrong'' to claim that existing video dialtone authorizations were somehow ''grandfathered'' by the 1996 Act. While the 1996 Act does not ''require'' the termination of currently authorized video dialtone systems, NCTA asserts that the 1996 Act does not prohibit the Commission from terminating the authorizations. NCTA further argues that the common carrier video programming transmission model applies when only video transmission is being provided on a common carrier basis. If a common carrier provides more than video transmission (e.g., when it provides its own video programming, or provides enhanced services associated with video transmission), NCTA asserts that the common carrier option is not available and the common carrier must choose either the open video or the traditional cable model.

III. Discussion

7. We agree with NCTA that Section 302(b)(3) was not intended to ''grandfather'' existing video dialtone systems indefinitely as video dialtone systems. Again, Section 302(b)(3) of the 1996 Act provides: ''This paragraph shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act.'' Rather, we interpret Section 302(b)(3) to mean that the repeal of the Commission's video dialtone rules does not also require the immediate termination of video dialtone systems operating under those rules. We believe that Section 302(b)(3) was intended to give the Commission the discretion to avoid an immediate disruption of video dialtone service, and to develop an orderly transition plan for existing video dialtone systems.

8. We find that the public interest would be served by requiring currently authorized video dialtone operators to select one of the four video programming delivery options set forth in Section 651—radio-based, common carrier transmission, traditional cable or open video. The Commission's open video system rules were released on June 3, 1996, and the Commission must release any reconsideration of those rules by August 8, 1996. We believe that after August 8, 1996 video dialtone operators will possess adequate information regarding their options to make such an election.

9. We realize that video dialtone operators will need time to evaluate their options under Section 651 and to implement their choice. We therefore will provide video dialtone operators ninety days from August 8, 1996 in which to effect a transition to one of the four options for providing video programming services under Section 651. A video dialtone operator may, of course, begin providing video service under one of the regulatory options in Section 651 at any time and need not wait until the end of the election period. This will also permit video dialtone subscribers to continue receiving service without disruption. At or before the end of this 90-day period, each currently authorized video dialtone operator must inform the Office of the Secretary of the Commission in writing, with a copy to the Chief of the Cable Services Bureau, which option under Section 651 it has elected. We realize, however, that it may not be possible in all circumstances for a video dialtone operator to complete the transition in ninety days. In those instances, we would consider reasonable extensions of time based on a showing of good cause. For example, if the video dialtone operator were diligently pursuing a cable franchise and the local franchising authority had not yet granted the franchise, we would likely consider that good cause.

10. We believe that requiring such an election is fully consistent with congressional intent. We are not requiring video dialtone operators to

cease providing video service to their subscribers, but simply to provide service in compliance with one of the statutorily-recognized video programming delivery options. We also believe that this conclusion is consistent with the Conference Report, since we are not requiring video dialtone operators to elect a different option until after our open video system rules have become effective. To hold otherwise, as NCTA points out, would require the Commission to initiate a new rulemaking proceeding to establish rules governing a handful of systems. We believe that creating a fifth option for a limited number of systems would be unnecessary, wasteful, and contrary to Congress' Section 651 framework. We decline to adopt such an approach.

11. We also believe that the above election requirement generally is consistent with the positions advanced by BellSouth, Bell Atlantic and Pacific Bell. We also believe that the election requirement generally is consistent with Sprint's position that the Commission is not required to terminate currently authorized video dialtone systems, and addresses its concern that subscribers' service not be disrupted. None of those companies has argued for, or expressed an interest in, providing video programming service separate and apart from the Communication Act's current framework. These parties have all posited that entities with existing video dialtone authorizations should have the opportunity to continue offering service under Title II. For instance, although Pacific Bell disagrees with NCTA's assertion that existing video dialtone authorizations were not ''grandfathered,'' it argues that existing video dialtone systems ''should have the opportunity to continue offering service under Title II'' or some other permissible framework. Similarly, Bell Atlantic asserts that its video dialtone system in Dover Township, New Jersey already qualifies as a common carrier system, and that it will evaluate the appropriate regulatory framework for its Dover Township system once the Commission's open video system rules are in place. We expressly do not reach the merits of Bell Atlantic and BellSouth's assertions that some or all video dialtone systems qualify as common carrier video offerings under Section 651. As noted above, common carrier transmission is one of the Section 651 alternatives under which video dialtone operators may continue to provide service.

12. We do not distinguish between video dialtone trials and commercial authorizations for purposes of this election. The repeal of our video dialtone rules requires an election comporting with the provisions of the amended law. The type of authorization under the video dialtone structure is not relevant to this requirement.

IV. Paperwork Reduction Act of 1995 Analysis

13. This *First Order on Reconsideration* contains a new information collection under the Paperwork Reduction Act of 1995 (the ''1995 Act''). The Commission has requested approval of this collection by the Office of Management and Budget (''OMB''), under the emergency processing provisions of the 1995 Act. Approval is requested to be effective September 4, 1996. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection contained in this *First Order on Reconsideration* as required by the 1995 Act. Public and agency comments on the information collection are due on or before August 30, 1996. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. OMB notification of action is requested September 4, 1996.

14. A copy of any comments on the information collection contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236, NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov. For additional information concerning the information collections contained herein contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

V. Ordering Clauses

15. Accordingly, it is Ordered that NCTA's Petition for Reconsideration in CS Docket No. 96–46 is granted in part and denied in part, as provided herein.

16. It is further ordered that pursuant to Sections 4(i), 4(j), 651, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 571, and 573, and Section 302(b)(3) of the Telecommunications Act of 1996, the requirements and policies discussed in this *First Order on Reconsideration* are adopted.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Regulatory Flexibility Analysis

The Federal Communications Commission certifies that the Regulatory Flexibility Act is not applicable to the requirements we adopt in this First Order on Reconsideration. There will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Entities directly subject to the requirements herein are large corporations engaged in the provision of video programming services, and therefore are not ''small entities'' as defined by the Small Business Act. We are nevertheless committed to reducing the regulatory burdens on small communications services companies whenever possible, consistent with our other public interest responsibilities. The Secretary shall send a copy of this First Order on Reconsideration to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Sections 603(a) and 605(b) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601, *et seq.* (1981).

Federal Communications Commission.

[FR Doc. 96–19428 Filed 8–2–96; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1806, 1852

Rewrite of the NASA FAR Supplement (NFS)

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Parts 1801 through 1806, and clauses affected by these parts, are revised in their entirety. The numbering of NFS sections has been changed to indicate the exact section of the FAR being implemented or supplemented.

The FAR numbering system is by part, subpart, section, and subsection, for example 1.105–2. Subdivisions below these numbers are designated by