is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–5433 Filed 3–7–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–25; RM–8752]

Radio Broadcasting Services; Forest Acres, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Kuhel Communications proposing the allotment of Channel 232A at Forest Acres, South Carolina, as the community's first local aural transmission service. Channel 232A can be allotted to Forest Acres in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 232A at Forest Acres are North Latitude 34–01–09 and West Longitude 80–59–24.

DATES: Comments must be filed on or before April 25, 1996 and reply comments on or before May 10, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Shaun A. Maher, Esq., Smithwick & Belendiuk, P.C., 1990 M Street, NW., Suite 510, Washington, DC 20036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–25, adopted February 16, 1996, and released March 4, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–5432 Filed 3–7–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–26; RM–8749]

Radio Broadcasting Services; Booneville, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by James P. Gray proposing the allotment of Channel 287A at Booneville, Kentucky, as the community's first local aural transmission service. Channel 287A can be allotted to Booneville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 287A at Booneville are North Latitude 37–28–36 and West Longitude 83–40–30.

DATES: Comments must be filed on or before April 25, 1996 and reply comments on or before May 10, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James P. Gray, 10 Trinity Place, Fort Thomas, Kentucky 41075 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–26, adopted February 16, 1996, and released March 4, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–5431 Filed 3–7–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 76

[MM Docket No. 93–215; FCC 95–502]

Cable Television Rate Regulation; Cost of Service Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted the Second Report and Order and First Order on Reconsideration in MM Docket 93–215 to refine existing cost of service rules and to create final rules governing standard cost of service showings filed by cable operators seeking to justify rates for regulated cable services. In a Further Notice of Proposed Rulemaking

(''FNPRM''), the Commission proposes use of an operator's actual debt cost and capital structure to determine the final cost of capital (or rate of return). The FNPRM requests comment regarding the method to determine the value of equity and debt, including the use of a market valuation of equity to establish the proportion of equity in an operator's capital structure.

DATES: Comments are due May 7, 1996. Replies are due June 6, 1996.

FOR FURTHER INFORMATION CONTACT: Tom Power, Cable Services Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Further Notice of Proposed Rulemaking in MM Docket No. 93–215, FCC 95–502, adopted December 15, 1995 and released January 26, 1996.

The complete text of this Further Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (''ITS Inc.'') at (202) 587–3800, 2100 M Street, NW., Suite 140, Washington, DC 20017.

I. Further Notice of Proposed Rulemaking

A. Non-Unitary Rates of Return

1. Although a unitary rate of return applied to all cable operators simplifies the administrative burdens of estimating an operator's rate of return, it squeezes a wide variety of risk profiles into the same regulatory box. We tentatively conclude that risk variables among cable operators may be sufficiently widespread to justify consideration of an alternative rate of return methodology tailored more closely to the financial circumstances of individual cable operators. At the same time, we recognize the risk that individualized rates of return could involve highly detailed and potentially burdensome capital cost determinations in rate cases. Thus, if we adopt a more tailored rate of return methodology, we will nonetheless retain the current presumptive rate, and its concomitant procedures for overcoming that presumption, as an alternative to any new methodology.

2. The capital markets have recognized a significant measure of risk within the cable industry. Cable stocks trade at significant premiums relative to the overall equity market and cable companies often have high debt costs due to low investment grades. In addition, a fair proportion of homes passed by cable do not subscribe to the service, suggesting consumers and businesses do not regard cable as a traditional utility service. We believe it may be necessary to recognize such risk diversity in the cable industry and no longer presume that a single rate of return should be applied to all cable operators making cost of service showings. We seek comment on an alternative to the presumptive 11.24% rate of return. This alternative would provide an equity cost estimate that recognizes the historic growth orientation of cable investors and would allow actual debt cost and use company specific capital structures.

B. Cost of Equity

3. We propose to use the capital asset pricing model (''CAPM'') as a method to estimate the cost of cable equity as an alternative to the discounted cash flow (''DCF'') approach used in the initial Cost Order, 59 FR 17975 (April 15, 1994). As a general matter, the DCF method relies heavily on the consistent payout of dividends as a key part of its formula, a factor that does not apply generally to equities. The absence of dividends may reflect fundamental differences in the strategic nature of cable business operations and the operation of companies whose stocks make up a broad stock index such as the S&P 400. A formula designed to measure a future dividend or income stream may not be an appropriate model for estimating the rate of return demanded by investors who are willing to forgo an income stream in favor of growth through reinvested cash flow. The CAPM attempts to quantify the risk necessary to induce an investor to follow this kind of growth-oriented strategy. Under CAPM, equity cost is calculated by assigning an equity premium to a company's stock that is commensurate with the stock's systematic risk (risk that cannot be avoided through equity diversification). Under this model, a stock's equity rate of return is equal to the risk-free rate (obtainable on a risk-free government debt instrument) plus a premium based on the systematic risk of a given security (the beta).

4. The Commission, in the Cost Order, decided against using the CAPM to determine equity cost due to concerns that insider holdings and monopoly profit expectations would distort the measurement of risk associated with providing regulated cable services. Based on data submitted in response to the Further Notice, we tentatively conclude that it is unnecessary to reject alternative methods of measuring equity cost. The Commission's initial decision to forgo the use of the CAPM stemmed from a concern that insider decisions could overstate the size of the risk premium assigned to cable stocks under the CAPM. A systematic review of the relationship between insider holdings and movements in stock price, however, was not conducted and data submitted in response to the Further Notice, do not support the assertion that cable insiders exaggerate the stock prices of their companies.

5. In addition, with respect to monopoly expectations in cable stock prices, we do not have sufficient data to determine the extent of the relationship, if any, between the existence of monopoly power and the stock price volatility premium assigned to cable company stocks.

6. In establishing an equity cost for cable companies, we propose to rely on data from the cable industry itself rather than forgo such direct evidence of industry cost in favor of some other surrogate industry or stock group. In the Cost Order, we developed an equity cost estimate based on a selected quartile of the S&P 400. As set forth above, however, we do not believe it necessary to eschew reliance on betas of publicly-traded cable stocks as part of the cable equity cost calculation. Using data submitted to the Commission in response to the Further Notice, the Commission examined betas for 11 cable companies that derive the vast majority of their revenues from regulated cable services. Recognizing that cable industry investment in recent years has focused on long term revenue potential from unregulated services, we have limited our analysis of betas to the years 1987 through 1992. Based on data submitted to the Commission, the average beta for cable industry equity investment is 1.42. This indicates that, on average, cable equities are 42% more volatile than the general stock market.

7. Because we propose to examine an investment period of several years, we propose to use the risk-free rate of the average yields on five-year U.S. Treasury Notes after 1987. Based on Federal Reserve data, the average yield on five-year U.S. Treasury Notes from 1987 through the third quarter of 1995 is 7.27%. Although this yield exceeds the current yield on five-year notes, this figure is an average that accounts for numerous rate fluctuations over an extended time period. We believe an average risk-free rate may be appropriate for selecting a cost of equity for cable because the equity cost estimate would be relied upon in cost of service filings for at least the period preceding an operator's next major rate filing.

Moreover, we proposed to update this rate to account for subsequent interest rate changes.

8. Consistent with the CAPM approach, we estimate the average return on investment in the general equity market. Using the S&P 500 from 1987 through the third quarter of 1995, the average compounded return has been 13.53%. Applying the CAPM formula, the general equity market premium above the risk-free rate of return is 6.26% (13.53%–7.27%). The 1.42 beta for cable equity investment multiplied by 6.26% provides a cable equity premium of 8.89 percentage points above the average risk-free rate. Adding the risk-free rate to the cable equity premium results in an equity cost figure of 16.16%. We propose that the average cost of equity for investment in cable operators providing regulating cable services is 16.16%. We propose to adjust the figures used to estimate the equity cost periodically. We ask comment on this approach.

9. We also request comment on a method that would, consistent with the goal of maintaining administrative feasibility, adjust the equity cost to reflect extraordinary financial risk. For example, should the Commission consider debt-to-cash flow multiples as a mechanism to quantify risk levels? We solicit data to establish equity cost figures above and below the proposed 16.16% average equity cost estimate for operators with debt burdens significantly above and below the average in our sample.

C. Cost of Debt

10. The other principal component of the overall cost of capital is the cost of debt. In the Cost Order, we relied on debt cost estimates for the cable industry specifically and concluded that the range for the average cost of fixed rate debt established by information submitted in the cost of service proceeding was 7.8% to 8.65%. The Commission noted the substantial proportion of floating rate debt among cable entities and determined that a cautious estimate would place average debt cost at 8.5%.

11. We propose to rely on more direct estimates of capital cost by gauging an operator's debt cost to its actual cost. This debt cost would encompass fees or other premiums that the operator may pay to obtain debt financing. We invite comment on this proposal.

D. Capital Structure

12. In the Cost Order, we decided against using embedded capital structures and market equity values to establish the capital structure used to calculate the overall rate of return. We indicated that a capital structure range may be more appropriate for the debt-laden cable industry and set that range at 40% to 70% debt and used that range in setting the overall capital cost.

13. We tentatively conclude, however, that actual, i.e., individualized, capital structures should be applied to the estimation of the overall cost of capital. The estimation of debt costs is relatively straightforward because the cost of debt can be documented and certified by independent accounting services. Because debt costs can be measured directly, we tentatively conclude that reliance on the actual percentage of debt in an operator's capital structure will ensure the most accurate estimation of interest costs. Thus, if an operator elected not to rely on the presumptive 11.25% rate of return in favor of the alternative capital cost measure described in this Order, we would look to the actual capital structures of the operator to determine the appropriate overall capital cost.

14. Estimating the amount of equity in an operator's structure is a complex proposition. Many operators have a negative net worth. We recognize, however, that, in the case of several publicly-traded cable companies, the stock of operators with negative book values trades in significant volumes in the open market. While public utility regulation has relied traditionally on book value estimations of equity in determining capital structures for regulated utilities, it may be appropriate to take note of the equity transactions in the cable industry that occur frequently, including the decisions of cable investors to pay multiples of cash flow for cable systems that, based on book value, should be worth less than nothing.

15. In order to rely on actual capital structures, however, we must ensure that measurement of the equity proportion filters out a ‘‘premium’’ for anticipated gains in unregulated services. As we consider this alternative, however, we recognize that several issues must be addressed and resolved. Moreover, we remain committed to an approach that is administratively feasible. To assist the Commission in this endeavor, we request comment on the following issues:

a. What mechanism or analysis should guide the Commission in estimating the equity proportion of an operator's capital structure that is dedicated to regulated services?

b. How should the Commission estimate the proportion of equity in an operator's capital structure when that operator is not publicly-traded?

c. Should the Commission rely on the book value of debt or the market value of debt in estimating the proportion of debt in an operator's capital structure?

d. Can the Commission develop a reasonable estimate of an operator's capital structure by combining the market value of its equity and the book value of its debt?

e. If market capitalization is used to measure the proportion of equity in an operator's capital structure, will increases in the operator's stock price drive up subscriber rates by increasing the proportion of equity in the operator's capital structure? If so, how can the Commission ensure that reliance on market capitalization measures for equity will not unduly impact subscriber rates?

III. Regulatory Flexibility Analysis

16. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis (‘‘IRFA’’) of the expected impact of these proposed policies and rules on small entities:

The proposals, if adopted, will not have a significant effect on a substantial number of small entities.

List of Subjects in 47 CFR Part 76

Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 96–5426 Filed 3–7–96; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Chapter X

[STB Ex Parte No. 528]

Disclosure, Publication, and Notice of Change of Rates and Other Service Terms for Rail Common Carriage

AGENCY: Surface Transportation Board, DOT.

ACTION: Advance Notice Of Proposed Rulemaking.

SUMMARY: The ICC Termination Act of 1995 (ICCTA) eliminated the tariff and tariff filing requirements formerly applicable to rail carriers, but imposed in lieu thereof certain obligations to disclose common carriage rates and service terms as well as a requirement