Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

RIN 1515–AB38

Fees Assessed for Defaulted Payments

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws the proposed amendment to the Customs Regulations which would have allowed the assessment of a $30 defaulted payment fee for any check or other monetary instrument that was presented for duties, taxes or other charges, and returned unpaid by a financial institution, in connection with any commercial importation or other transaction secured by a Customs bond. Customs has concluded that the fee should not be assessed in cases where the transaction is already backed by a Customs bond and liquidated damages may properly be assessed under the bond for a defaulted payment. Customs authority to assess the $30 fee thus remains limited to defaulted payments on noncommercial importations and other transactions that are not supported by a bond.

DATE: This withdrawal is effective on February 9, 2001.

FOR FURTHER INFORMATION CONTACT: David Baker, Office of Finance, (202–927–0205).

SUPPLEMENTARY INFORMATION:

Background

Under § 24.1(e) of the Customs Regulations (19 CFR 24.1(e)), Customs may charge a $30 fee for each check that is returned by a financial institution unpaid, if that check was presented to Customs either for payment of duties, taxes or other charges incurred on noncommercial importations for which a formal entry was not required or for payment in connection with any other transaction not backed by a Customs bond.

By a document published in the **Federal Register** (59 FR 13664) on March 23, 1994, Customs proposed to amend § 24.1(e) to also provide for a $30 defaulted payment fee in those cases where the transaction was secured by a bond, in order to recoup the administrative costs incurred for processing returned checks and other defaulted payments in these situations as well.

Withdrawal of Proposal

Three comments were received from the public in response to the proposed rule. All opposed the amendment of § 24.1(e) to provide for a $30 fee in cases of defaulted payments of duties, taxes or other charges to Customs incurred in connection with commercial importations or other transactions that were supported by a bond. After careful consideration of these comments, and further review of the matter, Customs has determined not to proceed with the notice of proposed rulemaking to this effect that was published in the **Federal Register** (59 FR 13664) on March 23, 1994. Customs has concluded at this time that an additional fee should not be assessed in cases where a commercial importation or other Customs transaction is secured by a bond under which liquidated damages may properly be assessed for a defaulted payment of duties, taxes or other applicable charges. Customs authority to assess the $30 fee thus remains limited to defaulted payments on noncommercial importations and other transactions that are not supported by a bond.

Raymond W. Kelly,

Commissioner of Customs.

Approved: November 9, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–3359 Filed 2–8–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 32

[CC Docket No. 98–137; CC Docket No. 99–117; AAD File No. 98–26; FCC 00–396]

1998 Biennial Regulatory Review—Review of Depreciation Requirements for Incumbent Local Exchange Carriers, Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, et al., GTE Telephone Operating Companies Release of Information Obtained During Joint Audit

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission declines to adopt the alternative proposal set forth in a Further Notice of Proposed Rulemaking issued on April 3, 2000 concerning conditions for price cap incumbent local exchange carriers (ILECs) to obtain relief from the Commission's depreciation requirements. In addition, the Commission declines to pursue further investigation into the continuing property record (CPR) audits of certain ILECs that are currently before the Commission.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, TW–A325, Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: JoAnn Lucanik at (202) 418–0873.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order in CC Docket 99–137 and Order in CC Docket No. 99–117 and AAD File No. 98–26. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC 20554. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, Washington, DC 20036, telephone (202) 857–3800.

Summary of the Order

The alternative proposal set forth in the *April 2000 FNPRM,* 65 FR 19725 (April 12, 2000), as an option for price cap ILECs to obtain freedom from the Commission's depreciation

requirements, generated a great deal of controversy among the parties. In particular, significant concerns were raised by state regulatory commissions, consumer groups, and industry participants about the effect that the proposed above-the-line accounting treatment would have on local and interstate rates, unbundled network element (UNE) and interconnection rates, and universal service support. Many parties commenting on this issue generally disagreed with an accounting treatment that would permit above-the-line amortization of the regulatory-to-financial book differential over a five-year period. They also argued that the proposed non-recovery commitment included as part of the proposed alternative did not provide adequate assurance that a significant amount of costs would be excluded from recovery in customers' rates and did not protect against carriers' potential understatement of earnings and rates of return. In addition, many parties raised issues about the potential impact of the proposed above-the-line accounting treatment on state cost issues and argued that the non-recovery commitment proposed by the ILECs was not sufficient to assure that the amortized costs, particularly the intrastate portion, would be excluded from cost recovery.

Our review of the record finds that the parties have raised sufficient concerns that warrant our taking a cautious approach in this matter. We are concerned about assertions that the proposed accounting alternative set forth in the *April 2000 FNPRM,* along with the ILECs' non-recovery commitment, lacks the inherent protections that are provided for in the waiver process we approved in the *December 1999 Order* (which was not published in **Federal Register**). In light of the concerns expressed by various parties, particularly our state colleagues, we decline to adopt the proposed alternative set forth in the *April 2000 FNPRM* and instead maintain the status quo.

In making a decision here we weigh the concerns expressed by the states heavily in the balance. We are reluctant to take action that could unfairly burden state proceedings, particularly when our *December 1999 Order* provides a waiver process whereby carriers may seek additional relief from our depreciation prescription rules in the future without raising such concerns. In 1997, the Common Carrier Bureau's auditors began an audit of the CPRs of the largest ILECs, the RBOCs, to determine if their records were being maintained in compliance with the Commission's rules and to verify that property recorded in their accounts represented equipment used and useful for the provision of telecommunications services.

We note that the audits of the carriers' CPRs were initiated more than three years ago. The telecommunications landscape has changed significantly since that time. Among other things, in a recent decision issued on May 31, 2000, we adopted reforms intended to accelerate competition in the local and long distance telecommunications markets and set the appropriate level of interstate access charges for the next five years (''*May 2000 Access Reform Order*'') (which was not published in the **Federal Register**). Specifically, we provided for an immediate reduction in access charges paid by long distance companies and removed implicit subsidies found in interstate access charges by converting them into explicit, portable, universal service support. In earlier actions to implement the 1996 Act, we took steps to move the price of long distance companies' access to local telephone networks towards levels that reflect costs. These actions have brought about significant reductions in access charges and major changes in the interstate rate structure that resolve historically complex issues (some dating back nearly two decades), in a manner that benefits consumers.

In light of these recent reform measures, which in large part are only beginning to get underway, and the fact that the CPR audits were conducted prior to our implementation of these various reforms, we now decide not to pursue further investigation into the CPR audits and close the proceeding with regard to whether the CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules. Further, we note that although we have made no decision concerning the findings stated in the CPR audits, we recognize that further investigation into the CPR audit matter will require a great deal of time and effort, and could prove to be a lengthy and costly proceeding for all participants. We wish to make clear, however, that our decision in this order does not preclude the states from investigating relevant state issues raised by the CPR audits.

Finally, while we decline here to further pursue investigation into the CPR audits with regard to whether the CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules, we remain concerned about the poor record keeping that these audits revealed. The Commission's auditors found, and the RBOCs did not seriously challenge, that the CPRs were not well maintained. Thus, we find that the RBOCs' CPRs were not maintained in accordance with our rules. Accordingly, we direct the Common Carrier Bureau to work with the RBOCs to evaluate and improve the accuracy of their property records and accounts to ensure compliance with our requirements going forward.

Conclusion

The alternative proposal set forth in the *April 2000 FNPRM* has generated substantial controversy over whether it provides the same protections as provided in the *December 1999 Order* given the expressed concerns of our state colleagues, we decline to adopt it. Carriers remain free to seek relief under the waiver approach adopted in the *December 1999 Order* to obtain freedom from the Commission's depreciation requirements. Moreover, we have determined not to pursue further investigation into whether the RBOCs' CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules and hereby close the CPR audit proceedings in this respect.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–3117 Filed 2–8–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–193; MM Docket No. 00–155; RM–9924]

Radio Broadcasting Services; Las Vegas and Rowe, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: The Commission denies the request of Meadows Media, LLC, permittee of Station KTRL, Las Vegas, New Mexico, to substitute Channel 275C3 for Channel 275C2 at Las Vegas, the reallotment of Channel 275C3 to Rowe, as its first local aural service, and the modification of Station KTRL's construction permit accordingly. The Commission found that petitioner did not show that Rowe has sufficient community indicia to find that it is a community for allotment purposes. In addition, even if it were found to be a community for allotment purposes, the Commission found that the reallotment would not result in a preferential