

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 95-178; FCC 99-116]

Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document makes a minor correction to part 76 of the Commission's rules pertaining to definition of markets which were published in the *Federal Register*, 64 FR 33796, June 24, 1999, regarding cable television broadcast signals.

DATES: Effective April 9, 2003.

FOR FURTHER INFORMATION CONTACT: Kenneth Lewis, Media Bureau (202) 418-2622.

SUPPLEMENTARY INFORMATION: The Order on Reconsideration and Second Report and Order, FCC 99-116, adopted May 21, 1999; released May 26, 1999, approved a final rule regarding the change of market definitions from Arbitron's areas of dominant influence to Nielsen Media Research's designated market areas for must-carry/retransmission elections. In this document we make a non-substantive change to update Nielsen Media Research's address in the publication of § 76.55(e)(2)(i) of the Commission's rules.

Need for Correction

As published, the final regulations contain an old address for Nielsen Media Research.

List of Subjects in 47 CFR Part 76

Cable television.

■ Accordingly, 47 CFR part 76 is corrected by making the following correcting amendments:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

§ 76.35 [Amended]

■ 2. In § 76.55, in paragraph (e)(2)(i), "299 Park Avenue" is revised to read "770 Broadway".

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03-8577 Filed 4-8-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1109, 1111 and 1114

[STB Ex Parte No. 638]

Procedures to Expedite Resolution of Rate Challenges to be Considered Under the Stand-Alone Cost Methodology

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rules and request for comments.

SUMMARY: The Board amends its regulations to expedite the resolution of rail rate challenges considered under the stand-alone cost (SAC) methodology. The revisions institute a requirement for mandatory, non-binding post-complaint mediation between the shipper and railroad under Board auspices, and establish expedited processes, using Board staff, for resolving discovery and evidentiary disputes. The Board also requests comments on the following discovery-related issues: developing a list of standard information that should be routinely made available in discovery; limiting the number of discovery requests available to the parties; limiting the number of years of data for which discovery responses would be required, and establishing a cut-off date for updating discovery responses; and cost-sharing for production of discovery responses.

DATES: The final rules are effective on May 9, 2003; comments are due on June 9, 2003, with reply comments due on June 19, 2003.

ADDRESSES: Send comments (an original plus 10 copies) referring to Ex Parte No. 638 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: Jamie P. Rennert (202) 565-1566. [Federal Information Relay Service (FIRS) (Hearing Impaired): (800) 877-8339.]

SUPPLEMENTARY INFORMATION: The Surface Transportation Board requests comments as follows:

Standard Discovery Requests

We are asking each interested party to (1) submit lists of all of the information and documents that (a) it believes it should be entitled to obtain as a matter of course in discovery in a SAC case and (b) it would expect to produce to the other party as a matter of course in discovery in a SAC case, and then (2) comment on the lists submitted by other parties in this proceeding. After reviewing the parties' lists and comments, we will decide whether to issue a list of standard information and documents that the parties to a SAC case would be required to produce. We also seek comment on the practical aspects of this proposal, such as the appropriate timing for such initial disclosures. For example, would it be practical to require the complainant's initial disclosures to be made contemporaneously with the filing of the complaint, and to make the defendant's initial disclosures due at the same time as its answer to the complaint?

Additional Discovery

A suggestion was made to place a limit on the number of discovery requests that each party would be allowed to make, absent permission from the Board. This is the procedure that applies to complex commercial litigation conducted in the federal courts, in Rule 33(a) of the Federal Rules of Civil Procedure (which limits a party to 25 written interrogatories, including all discrete subparts, without leave of court). We seek comment on (1) the appropriate number of interrogatories and document requests that could be made without our leave, and why, and (2) whether such a limitation is a necessary and appropriate measure to prevent parties from requesting data in multiple formats or versions. Commenters should address this proposal both as if it were to be adopted alone and as if it were to be adopted in conjunction with a list of standard information and documents that the parties to a SAC case would be required to produce as initial disclosures.

Time Periods

Suggestions were also made to limit the number of years for which data would need to be produced for a SAC case, absent permission from the Board, and to establish a cut-off date for discovery after which responses to discovery requests would not need to be updated. We seek comment on (1) the advantages and disadvantages of establishing such limits, (2) whether

such limits should be standard or determined on a case-by-case basis at an initial discovery conference, (3) what the appropriate limitations would be, and for which types of data, and (4) an appropriate cut-off point in the procedural schedule for making additional discovery requests.

Costs

Finally, a suggestion has been made that the parties share the costs of production of data in response to discovery requests, rather than the responding party alone shouldering what can be substantial costs. We seek comment on (1) our authority to require such cost-sharing, (2) the circumstances, if any, under which parties should be required to share those costs, (3) how the costs of production would be quantified, and (4) how, if at all, the costs should be divided between the parties.

Additional information is contained in the Board's decision. To obtain a copy of the full decision, visit the Board's Web site at <http://www.stb.dot.gov>; or call the Board's Information Officer at (202) 565-1674. To purchase a copy of the decision, write to, call, email, or pick up in person from D&D Legal Copy Service, Room 405, 1925 K Street, NW., Washington, DC 20006, (202) 293-7776, da2dalegal@earthlink.net. [Federal Information Relay Service (FIRS) (Hearing Impaired): (800) 877-8339.]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

We conclude that our action will not have a significant effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because small entities are not litigants in the rail rate cases that are the subject of this proceeding.

List of Subjects in 49 CFR Parts 1109, 1111 and 1114

Practice and procedure, Railroads.

Decided: April 3, 2003.

By the Board, Chairman Nober and Commissioner Morgan.

Vernon A. Williams,
Secretary.

■ The Surface Transportation Board amends 49 CFR parts 1109, 1111 and 1114 as follows:

PART 1109—USE OF ALTERNATIVE DISPUTE RESOLUTION IN BOARD PROCEEDINGS AND THOSE IN WHICH THE BOARD IS A PARTY

■ 1. The authority citation for part 1109 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721, 10704, and 11701.

■ 2. Add new § 1109.4, to read as follows:

§ 1109.4 Mandatory mediation in rate cases to be considered under the stand-alone cost methodology.

(a) A shipper seeking rate relief from a railroad or railroads in a case involving the stand-alone cost methodology must engage in non-binding mediation of its dispute with the railroad upon filing a formal complaint under 49 CFR Part 1111.

(b) Within 10 business days after the shipper files its formal complaint, the Board will assign a mediator to the case. Within 5 business days of the assignment to mediate, the mediator shall contact the parties to discuss ground rules and the time and location of any meeting. At least one principal of each party, who has the authority to bind that party, shall participate in the mediation and be present at any session at which the mediator requests that the principal be present.

(c) The mediator will work with the parties to try to reach a settlement of all or some of their dispute or to narrow the issues in dispute, and reach stipulations that may be incorporated into any adjudication before the Board if mediation does not fully resolve the dispute. If the parties reach a settlement, the mediator may assist in preparing a settlement agreement.

(d) The entire mediation process shall be private and confidential. No party may use any concessions made or information disclosed to either the mediator or the opposing party before the Board or in any other forum without the consent of the other party.

(e) The mediation shall be completed within 60 days of the appointment of the mediator. The mediation may be terminated prior to the end of the 60-day period only with the certification of the mediator to the Board. Requests to extend mediation, or to re-engage it later, will be entertained on a case-by-case basis, but only if filed by all interested parties.

(f) Absent a specific order from the Board, the onset of mediation will not affect the procedural schedule in stand-alone cost rate cases, set forth at 49 CFR 1111.8(a).

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

■ 1. The authority citation for part 1111 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721, 10704, and 11701.

■ 2. Redesignate the current text in § 1111.8 as § 1111.8(a), add a new paragraph heading to redesignated paragraph (a), and add new paragraph (b) to read as follows:

§ 1111.8 Procedural schedule in stand-alone cost cases.

(a) *Procedural schedule.* * * *

(b) *Conferences with parties.* (1) The Board will convene a technical conference of the parties with Board staff prior to the filing of any evidence in a stand-alone cost rate case, for the purpose of reaching agreement on the operating characteristics that are used in the variable cost calculations for the movements at issue. The parties should jointly propose a schedule for this technical conference.

(2) In addition, the Board may convene a conference of the parties with Board staff, after discovery requests are served but before any motions to compel may be filed, to discuss discovery matters in stand-alone cost rate cases. The parties should jointly propose a schedule for this discovery conference.

PART 1114—EVIDENCE; DISCOVERY

■ 1. The authority citation for part 1114 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721, 10704, and 11701.

■ 2. Revise § 1114.31(a) to read as follows:

§ 1114.31 Failure to respond to discovery.

(a)(1) *Reply to motion to compel generally.* Except in rate cases to be considered under the stand-alone cost methodology, the time for filing a reply to a motion to compel is governed by section 1104.13.

(2) *Reply to motion to compel in stand-alone cost rate cases.* A reply to a motion to compel must be filed with the Board within 10 days thereafter in a rate case to be considered under the stand-alone cost methodology.

(3) *Conference with parties on motion to compel.* Within 5 business days after the filing of a reply to a motion to compel in a rate case to be considered under the stand-alone cost methodology, Board staff may convene a conference with the parties to discuss the dispute, attempt to narrow the issues, and gather any further information needed to render a ruling.

(4) *Ruling on motion to compel in stand-alone cost rate cases.* Within 5 business days after a conference with the parties convened pursuant to subparagraph (a)(3) of this section, the Secretary will issue a summary ruling on the motion to compel discovery in a stand-alone cost rate case. If no

conference is convened, the Secretary will issue this summary ruling within 10 business days after the filing of the reply to the motion to compel. Appeals of a Secretary's ruling will proceed under 49 CFR 1115.9, and the Board will attempt to rule on such appeals within 20 days after the filing of the reply to the appeal.

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[FR Doc. 03-8645 Filed 4-8-03; 8:45 am]

BILLING CODE 4915-15-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011128283-3075-03; I. D. 111401B]

RIN 0648-AN55

Fisheries of the Exclusive Economic Zone Off Alaska; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; Technical amendment.

SUMMARY: This document corrects a cross reference in the regulatory text of 50 CFR part 679. The action is necessary to correct an error in a cross reference at § 679.20(a)(5)(iii)(B).

DATES: Effective April 8, 2003.

FOR FURTHER INFORMATION CONTACT:

Patsy A. Bearden, NMFS, 907-586-7228 or e-mail at patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION: A final rule, which published December 30, 2002 (67 FR 79692), redesignated § 679.20(a)(5)(ii) as § 679.20(a)(5)(iii). This paragraph redesignation affected a cross reference in existing § 679.20(a)(5)(iii)(B) but the change was not made. This error is corrected by this action.

Need for Corrections

This rule corrects a cross reference in § 679.20(a)(5)(iii)(B) by removing the reference to “(a)(5)(ii)(A)” and adding in its place “(a)(5)(iii)(A).”

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator of Fisheries (AA), NOAA, finds good cause to waive prior notice and an opportunity for public comment. NOAA finds that prior notice and comment are unnecessary as this rule makes a minor, non-substantive change to correct a mis-citation to another section of the regulation. Because this action is not

substantive, 5 U.S.C. 553(d) does not apply. Therefore, this final rule is not subject to a 30-day delay in effectiveness.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 2, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ Accordingly, 50 CFR part 679 is corrected by making the following correcting amendments:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

§ 679.20 [Corrected]

In § 679.20(a)(5)(iii)(B), the cross-reference “(a)(5)(ii)(A)” is corrected to read “(a)(5)(iii)(A).”

[FR Doc. 03-8684 Filed 4-8-03; 8:45 am]

BILLING CODE 3510-22-S