

assess the AK process to comply with the requirements of 40 CFR part 194, section 24. EPA does not believe that the PFP solid wastes improperly emplaced at WIPP constitute a threat to human health, to the environment or to the long-term performance of the WIPP repository. Based on this determination, the Hanford PFP solid waste will remain in WIPP while EPA undertakes a desk-top review of the AK information for the PFP solid wastes.

With regard to mixed oxides, DOE has clarified that these materials are properly categorized as debris waste rather than as part of the PFP solid waste stream. Based on documentation provided by the DOE, we concur in this determination. The 900 drums of mixed oxides were fully characterized using the procedures approved by EPA for debris waste (S5000) in our August 7, 2003, letter. Therefore, we find their characterization is adequate and no further action is needed to confirm that their placement in the WIPP is allowed. For the remaining 600 drums of ash belonging to the solid waste stream, further evaluation is needed to assess the adequacy of waste characterization processes. Until EPA completes its review of the AK process for Hanford PFP solids and, if warranted, approves the subject waste stream (S3000) for disposal at the WIPP, the Agency has directed DOE not to resume shipment of the remaining TRU solid waste containers from the Hanford PFP.

In most cases, EPA's inspections are conducted through on-site inspections in which the operation of WC equipment and processes can be demonstrated. However, the evaluation of AK relies almost exclusively on a review of documentation. Thus, while such review is often conducted on-site (for convenience, in conjunction with other on-site evaluations), it can be conducted at a remote location with equal ease and rigor. This is especially true for AK related to Hanford PFP solids. Hanford has not relied on the AK information for physical and radiological characterization of the PFP solids; the site relied exclusively on spectroscopic systems to establish isotopic ratios. (Isotopic ratios are sometime used to estimate individual radionuclides when the equipment is not able to quantify them.) Because AK information for the waste was not used to derive or extrapolate WC data tracked for the waste, we expect little linkage with other WC procedures, so there is no need to conduct an on-site inspection. By thorough inspection of the AK documents we can determine adequacy, completeness, sufficiency,

and appropriateness of the AK used for waste characterization.

For this inspection, EPA will conduct a desk-top review of the most recent versions of the AK documents applicable to the Hanford PFP solid waste that were used by the DOE auditors in June 2003. As necessary, EPA will interview by phone the relevant experts at Hanford PFP. Evaluation of the AK documentation pertaining to the PFP solids will be limited to verification of the waste pedigree—defense determination, S3000 waste category determination, absence of liquids confirmation, and classification as TRU waste. This evaluation will allow sufficient evaluation of the adequacy, completeness, and effectiveness of the applicable AK process.

Through this **Federal Register** notice, EPA is notifying the public that EPA will evaluate Hanford's AK process and procedure specific to the PFP solid waste. EPA will perform an inspection of Hanford's AK process for the PFP solid waste in accordance with Condition 3 of the WIPP Certification. If EPA determines as a result of the evaluation that the AK documentation is adequate and is well supported by the radioassay, radiography, and visual examination results, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to leave waste in WIPP underground panels and to resume disposal of the remaining PFP solid waste characterized by the approved processes from Hanford to WIPP. EPA will not make a determination of compliance prior to completing its AK documentation audit or before the 30-day comment period has closed. We have separately directed DOE by letter what measures or restrictions are necessary to prevent recurrence of such violations of EPA's site-specific waste characterization requirements. This letter is available in Docket A-98-49 (Washington, DC, and our three locations in New Mexico), as well as online at the EDOCKET Web site (<http://www.epa.gov/edocket>) in Docket ID No. OAR-2004-0477.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A-93-02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air

Docket since the October 1992 enactment of the WIPP LWA.

Dated: November 23, 2004.

**Robert Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 27

[WT Docket No. 04-356; WT Docket No. 02-353; FCC 04-218]

### Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2175-2180 MHz and 1.7 GHz and 2.1 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** In this document, the Wireless Telecommunications Bureau extends the period for comment and reply comment on the Notice of Proposed Rulemaking in this proceeding. The deadline to file comments is extended from November 23, 2004, to December 8, 2004, and the deadline to file reply comments is extended from January 7, 2005, to January 24, 2005. The action is taken to respond to two Motions for Extension of Time.

**DATES:** Comments due December 8, 2004; reply comments due January 24, 2005. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before December 8, 2004.

**ADDRESSES:** In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 via the Internet to [Kristy.L.LaLonde@omb.eop.gov](mailto:Kristy.L.LaLonde@omb.eop.gov), or via fax at 202-395-5167.

**FOR FURTHER INFORMATION CONTACT:** Peter Corea at 202-418-2487. For additional information concerning the

Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at 202-418-0214, or via Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rulemaking, 69 FR 63489, November 2, 2004, concerns a decision to provide additional twenty megahertz of spectrum that can be used to offer a variety of broadband and advanced wireless services (AWS), potentially including "third generation" (3G) wireless services, the Commission ask for public comment on licensing, technical, and operational rules to govern the use of the 1915-1920 MHz, 1995-2000 MHz, and 2020-2025 MHz and 2175-2180 MHz bands designated for AWS. The Commission announced its desire to provide licensees of this spectrum with flexibility to provide any fixed or mobile service consistent with the technical parameters of allocation.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 51

[WC Docket No. 02-78; FCC 04-252]

#### Petition of Mid-Rivers Telephone Cooperative, Inc. for Order Declaring It To Be an Incumbent Local Exchange Carrier in Terry, MT Pursuant to Section 251(h)(2)

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This Notice of Proposed Rulemaking (NPRM) solicits comment on the application of section 251(h)(2) of the Communications Act of 1934, as amended, regarding the reclassification of competitive local exchange carriers (LECs) to incumbent LECs. Mid-Rivers Telephone Cooperative, Inc. (Mid-Rivers) filed a petition to be classified as an incumbent LEC. The Commission makes tentative conclusions addressing Mid-Rivers petition in part and poses questions concerning the application of section 251(h)(2) in Mid-Rivers case, as well as other similar cases.

**DATES:** Comments are due on or before December 30, 2004, and reply comments are due on or before January 14, 2005.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See

**SUPPLEMENTARY INFORMATION for further filing instructions.**

**FOR FURTHER INFORMATION CONTACT:** Ian Dillner, Attorney, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1191, or at [Ian.Dillner@fcc.gov](mailto:Ian.Dillner@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rulemaking* in WC Docket No. 02-78, adopted October 21, 2004, and released November 15, 2004 (NPRM). The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. All filings should refer to WC Docket No. 02-78. Comments filed through ECFS can be sent as an electronic file via the Internet at <http://www.fcc.gov/e-file/ecfs.html>. Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, postal service mailing address, and the applicable docket number, which in this instance is WC Docket No. 02-78. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfshelp@fcc.gov](mailto:ecfshelp@fcc.gov), and should include the following words in the regarding line of the message: "get form<your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. Parties filing by paper must also send three (3) courtesy copies to the attention of Janice M. Myles, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW., Suite 5-C327, Washington, DC 20554, or via e-mail [janice.myles@fcc.gov](mailto:janice.myles@fcc.gov). Paper filings and courtesy copies must be delivered in the following manner. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. This facility is the only location where hand-delivered or messenger-delivered paper filings or courtesy copies for the Commission's Secretary and Commission staff will be accepted. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Each comment and reply comment must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.48 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

#### Synopsis of the Notice of Proposed Rulemaking

1. *Background.* Mid-Rivers Telephone Cooperative, Inc. (Mid-Rivers), a competitive LEC in the Terry, Montana exchange, filed a petition with the Commission requesting classification as an incumbent LEC in the Terry exchange pursuant to section 251(h)(2) of the Communications Act of 1934, as amended (the Act or Communication Act). This provision allows the Commission to determine "by rule" to treat a competitive LEC as an incumbent LEC if it satisfies a three-prong test: (1) The carrier occupies a market position comparable to an incumbent LEC; (2) the carrier has "substantially replaced" an incumbent LEC, and; (3) the reclassification serves the public interest, convenience, and necessity. 47 U.S.C. 251(h)(2).

2. Mid-Rivers, also an incumbent LEC in a nearby exchange, filed this petition as a result of its success in acquiring approximately 93 percent of the access