

PUBLIC NOTICE



FEDERAL COMMUNICATIONS COMMISSION

445 12th STREET, S.W.

WASHINGTON, D.C. 20554

DA 01-267

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COMMON CARRIER BUREAU SEEKS COMMENT ON MOULTRIE INDEPENDENT TELEPHONE COMPANY'S REQUEST FOR CLARIFICATION OF THE AFFILIATE SALE/LEASE-BACK RULES UNDER PART 36 OF THE COMMISSION'S RULES

PLEADING CYCLE ESTABLISHED

CC Docket No. 96-45

Release Date: February 1, 2001

Comment Date: February 16, 2001

Reply Comment Date: February 26, 2001

On March 29, 1999, Moultrie Independent Telephone Company (Moultrie) filed a Petition for Declaratory Ruling (Petition) regarding the treatment of sale/lease-back arrangements between a carrier and its affiliate.¹ Moultrie claims that there is an inconsistency in the treatment under Parts 32 and 36 of sale/lease-back arrangements between a carrier and its affiliate and requests that the Commission direct NECA to accept its cost study that removes the sold assets from Moultrie's investment accounts and records payments to Moultrie's affiliate under Moultrie's expense accounts. Moultrie also filed a Motion for Stay of Section 69.605 of the Commission's rules, which requests that Moultrie not be required to file a revised cost study until the Commission had resolved its Petition.²

On December 29, 2000, Moultrie filed an *ex parte* letter that provides additional information regarding the relief requested in its Petition.³ We will treat Moultrie's *ex parte* letter as a request for waiver of Part 36 of the Commission's rules. A waiver of the Commission's rules may be granted if special circumstances warrant a deviation from the general rule, and such a deviation will serve the

¹ *Moultrie Independent Telephone Company*, Petition for Declaratory Ruling, filed March 29, 2000; 47 C.F.R. §§ 32.27(c) and 36.2(c).

² *Moultrie Independent Telephone Company*, Motion for Stay, filed March 29, 2000. In addition, on March 30, 1999, Moultrie filed an Erratum to the Petition. On April 6, 1999, Moultrie amended its Motion for Stay and its Petition.

³ See Letter from David A. Irwin, Moultrie, to Dorothy S. Attwood, FCC, dated December 29, 2000.

public interest.⁴ We invite interested parties to comment on the issues raised in these filings and whether a waiver of the Commission's rules would be appropriate in this instance.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before **February 16, 2001**, and reply comments on or before **February 26, 2001**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body 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. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

For further information, contact William Cox, Accounting Policy Division, Common Carrier Bureau at (202) 418-7400, TTY (202) 418-0484.

⁴ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).