

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Process Reform for Executive Branch Review of) IB Docket No. 16-155
Certain FCC Applications and Petitions Involving)
Foreign Ownership)

ERRATUM

Released: November 27, 2020

By the Acting Managing Director and the Chief, International Bureau:

On October 1, 2020, the Commission released a Report and Order (*R&O*), FCC 20-133, in the above captioned proceeding. To conform to the publishing conventions of the National Archives and Records Administration’s Office of the Federal Register, this Erratum replaces Appendix B of the *R&O* with attached. See new **APPENDIX B** attached.

FEDERAL COMMUNICATIONS COMMISSION

Deena M. Shetler
Acting Managing Director

Thomas P. Sullivan
Chief
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Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends title 47 of the CFR, parts 0, 1, and 63, as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

2. Amend § 0.261 by adding paragraph (a)(16) to read as follows:

§ 0.261 Authority delegated.

(a) * * *

(16) To administer and make available on a public website, a standardized set of national security and law enforcement questions for the categories of information set forth in part 1, subpart CC, of this chapter.

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PART 1 – PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461, unless otherwise noted.

4. Amend § 1.47 by revising paragraph (h) to read as follows:

§ 1.47 Service of documents and proof of service.

* * * * *

(h) Every common carrier and interconnected VoIP provider, as defined in § 54.5 of this chapter, and non-interconnected VoIP provider, as defined in § 64.601(a)(15) of this chapter and with interstate end-user revenues that are subject to contribution to the Telecommunications Relay Service Fund, that is subject to the Communications Act of 1934, as amended, shall designate an agent in the District of Columbia, and may designate additional agents if it so chooses, upon whom service of all notices, process, orders, decisions, and requirements of the Commission may be made for and on behalf of such carrier, interconnected VoIP provider, or non-interconnected VoIP provider in any proceeding before the Commission. Every international section 214 authorization holder must also designate an agent in the District of Columbia who is a U.S. citizen or lawful U.S. permanent resident pursuant to § 63.18(q)(1)(iii) of this chapter. Such designation shall include, for the carrier, interconnected VoIP provider, or non-interconnected VoIP provider and its designated agents, a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address. Such carrier, interconnected VoIP provider, or non-interconnected VoIP provider shall additionally list any other names by which it is known or under which it does business, and, if the carrier, interconnected VoIP provider, or non-interconnected VoIP provider is an affiliated company, the parent, holding, or management company. Within thirty (30) days of the commencement of provision of service, such carrier, interconnected VoIP provider, or non-interconnected VoIP provider shall file such information with the Chief of the Enforcement Bureau's Market Disputes Resolution Division. Such carriers, interconnected VoIP providers, and non-interconnected VoIP providers may file a hard copy of the relevant portion of the Telecommunications Reporting Worksheet, as delineated by the Commission in the FEDERAL REGISTER, to satisfy the requirement in the preceding sentence. Each Telecommunications Reporting Worksheet filed annually by a common carrier, interconnected VoIP provider, or non-interconnected VoIP provider must contain a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address for its designated agents, regardless of whether such information has been revised since the previous filing. Carriers, interconnected VoIP providers, and

non-interconnected VoIP providers must notify the Commission within one week of any changes in their designation information by filing revised portions of the Telecommunications Reporting Worksheet with the Chief of the Enforcement Bureau's Market Disputes Resolution Division. A paper copy of this designation list shall be maintained in the Office of the Secretary of the Commission. Service of any notice, process, orders, decisions or requirements of the Commission may be made upon such carrier, interconnected VoIP provider, or non-interconnected VoIP provider by leaving a copy thereof with such designated agent at his office or usual place of residence. If such carrier, interconnected VoIP provider, or non-interconnected VoIP provider fails to designate such an agent, service of any notice or other process in any proceeding before the Commission, or of any order, decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the Office of the Secretary of the Commission.

5. Amend § 1.767 by revising paragraphs (a)(8)(i), (a)(11)(i), and (j), adding paragraph (k)(5), and revising the introductory text of paragraph (l) to read as follows:

§ 1.767 Cable landing licenses.

(a) * * * *

(8) * * *

(i) The place of organization and the information and certifications required in § 63.18(h), (o), (p), and (q) of this chapter.

* * * * *

(11)(i) If applying for authority to assign or transfer control of an interest in a cable system, the applicant shall complete paragraphs (a)(1) through (3) of this section for both the transferor/assignor and the transferee/assignee. Only the transferee/assignee needs to complete paragraphs (a)(8) and (9) of this section. The applicant shall include both the pre-transaction and post-transaction ownership diagram of the licensee as required under paragraph (a)(8)(i) of this section. The applicant shall also include a narrative describing the means by which the transfer or assignment will take place. The applicant shall also specify, on a segment specific basis, the percentage of voting and ownership interests being transferred or assigned in the cable system, including in a U.S. cable landing station. The Commission reserves the right to request additional information concerning the transaction to aid it in making its public interest determination.

* * * * *

(j) *Submission of application to executive branch agencies.* On the date of filing with the Commission, the applicant shall also send a complete copy of the application, or any major amendments or other material filings regarding the application, to: U.S. Coordinator, EB/CIP, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520-5818; Office of Chief Counsel/NTIA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, DC 20230; and Defense Information Systems Agency, ATTN: GC/DO1, 6910 Cooper Avenue, Fort Meade, MD 20755-7088, and shall certify such service on a service list attached to the application or other filing.

(k) * * *

(5) Certifying that all ten percent or greater direct or indirect equity and/or voting interests, or a controlling interest, in the applicant are U.S. citizens or entities organized in the United States.

(l) *Reporting requirements applicable to licensees affiliated with a carrier with market power in a cable's destination market.* Any licensee that is, or is affiliated with, a carrier with market power in any of the cable's destination countries must comply with the following requirements:

* * * * *

6. Amend § 1.5001 by adding paragraphs (m) and (n) to read as follows:

§1.5001 Contents of petitions for declaratory ruling under section 310(b) of the Communications Act of 1934, as amended.

* * * * *

(m) *Submission of petition and responses to standard questions to the Committee for the assessment of foreign participation in the United States Telecommunications Services Sector.* For each petition subject to a referral to the executive branch pursuant to § 1.40001, the petitioner must submit:

(1) Responses to standard questions, prior to or at the same time the petitioner files its petition with the Commission, pursuant to subpart CC of this part, directly to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee). The standard questions and instructions for submitting the responses are available on the FCC website. The required information shall be submitted separately from the petition and shall be submitted directly to the Committee.

(2) A complete and unredacted copy of its FCC petition(s), including the file number(s) and docket number(s), to the Committee within three (3) business days of filing it with the Commission. The instructions for submitting a copy of the FCC petition(s) to the Committee are available on the FCC website.

(n) *Certifications.* (1) Broadcast applicants and licensees shall make the following certifications by which they agree:

(i) To designate a point of contact who is located in the United States and is a U.S. citizen or lawful U.S. permanent resident, for the execution of lawful requests and as an agent for legal service of process;

(ii)(A) That the petitioner is responsible for the continuing accuracy and completeness of all information submitted, whether at the time of submission of the petition or subsequently in response to either the Commission or the Committee's request, as required in § 1.65(a), and that the petitioner agrees to inform the Commission and the Committee of any substantial and significant changes while a petition is pending; and

(B) After the petition is no longer pending for purposes of § 1.65, the petitioner must notify the Commission and the Committee of any changes in petitioner information and/or contact information promptly, and in any event within thirty (30) days; and

(iii) That the petitioner understands that if the petitioner or an applicant or licensee covered by the declaratory ruling fails to fulfill any of the conditions and obligations in the certifications set out in paragraph (n)(1) of this section or in the grant of an application, petition, license, or authorization associated with the declaratory ruling and/or that if the information provided to the United States Government is materially false, fictitious, or fraudulent, the petitioner, applicants, and licensees may be subject to all remedies available to the United States Government, including but not limited to revocation and/or termination of the Commission's declaratory ruling, authorization or license, and criminal and civil penalties, including penalties under 18 U.S.C. 1001.

(2) Common carrier applicants, licensees, or spectrum lessees shall make the following certifications by which they agree:

(i) To comply with all applicable Communications Assistance for Law Enforcement Act (CALEA) requirements and related rules and regulations, including any and all FCC orders and opinions governing the application of CALEA, pursuant to the Communications Assistance for Law Enforcement Act and the Commission's rules and regulations in subpart Z of this part;

(ii) To make communications to, from, or within the United States, as well as records thereof, available in a form and location that permits them to be subject to a valid and lawful request or legal process in accordance with U.S. law, including but not limited to:

- (A) The Wiretap Act, 18 U.S.C. 2510 *et seq.*;
- (B) The Stored Communications Act, 18 U.S.C. 2701 *et seq.*;
- (C) The Pen Register and Trap and Trace Statute, 18 U.S.C. 3121 *et seq.*; and
- (D) Other court orders, subpoenas, or other legal process;
- (iii) To designate a point of contact who is located in the United States and is a U.S. citizen or lawful U.S. permanent resident, for the execution of lawful requests and as an agent for legal service of process;
- (iv)(A) That the petitioner is responsible for the continuing accuracy and completeness of all information submitted, whether at the time of submission of the petition or subsequently in response to either the Commission or the Committee's request, as required in § 1.65(a), and that the petitioner agrees to inform the Commission and the Committee of any substantial and significant changes while a petition is pending; and
- (B) After the petition is no longer pending for purposes of § 1.65 of the rules, the petitioner must notify the Commission and the Committee of any changes in petitioner information and/or contact information promptly, and in any event within thirty (30) days; and
- (v) That the petitioner understands that if the petitioner or an applicant or licensee covered by the declaratory ruling fails to fulfill any of the conditions and obligations set forth in the certifications set out in paragraph (n)(2) of this section or in the grant of an application, petition, license, or authorization associated with this declaratory ruling and/or that if the information provided to the United States Government is materially false, fictitious, or fraudulent, the petitioner, applicants, and licensees may be subject to all remedies available to the United States Government, including but not limited to revocation and/or termination of the Commission's declaratory ruling, authorization or license, and criminal and civil penalties, including penalties under 18 U.S.C. 1001.

7. Add subpart CC to part 1 to read as follows:

Subpart CC – Review of Applications, Petitions, Other Filings, and Existing Authorizations or Licenses with Reportable Foreign Ownership By Executive Branch Agencies for National Security, Law Enforcement, Foreign Policy, and Trade Policy Concerns

Sec.

1.40001 Executive branch review of applications, petitions, other filings, and existing authorizations or licenses with reportable foreign ownership.

1.40002 Referral of applications, petitions, and other filings with reportable foreign ownership to the executive branch agencies for review.

1.40003 [Reserved]

1.40004 Time frames for executive branch review of applications, petitions, and/or other filings with reportable foreign ownership.

§ 1.40001 Executive branch review of applications, petitions, other filings, and existing authorizations or licenses with reportable foreign ownership.

(a) The Commission, in its discretion, may refer applications, petitions, and other filings to the executive branch for review for national security, law enforcement, foreign policy, and/or trade policy concerns.

(1) The Commission will generally refer to the executive branch applications filed for an international section 214 authorization and submarine cable landing license as well as an application to assign, transfer control of, or modify those authorizations and licenses where the applicant has reportable

foreign ownership and petitions for section 310(b) foreign ownership rulings for broadcast, common carrier wireless, and common carrier satellite earth station licenses pursuant to §§ 1.767, 63.18 and 63.24 of this chapter, and 1.5000 through 1.5004.

(2) The Commission will generally exclude from referral to the executive branch certain applications set out in paragraph (a)(1) of this section when the applicant makes a specific showing in its application that it meets one or more of the following categories:

(i) Pro forma notifications and applications;

(ii) Applications filed pursuant to §§ 1.767 and 63.18 and 63.24 of this chapter if the applicant has reportable foreign ownership and petitions filed pursuant to §§ 1.5000 through 1.5004 where the only reportable foreign ownership is through wholly owned intermediate holding companies and the ultimate ownership and control is held by U.S. citizens or entities;

(iii) Applications filed pursuant to §§ 63.18 and 63.24 of this chapter where the applicant has an existing international section 214 authorization that is conditioned on compliance with an agreement with an executive branch agency concerning national security and/or law enforcement, there are no new reportable foreign owners of the applicant since the effective date of the agreement, and the applicant agrees to continue to comply with the terms of that agreement; and

(iv) Applications filed pursuant to §§ 63.18 and 63.24 of this chapter where the applicant was reviewed by the executive branch within 18 months of the filing of the application and the executive branch had not previously requested that the Commission condition the applicant's international section 214 authorization on compliance with an agreement with an executive branch agency concerning national security and/or law enforcement and there are no new reportable foreign owners of the applicant since that review.

(3) In circumstances where the Commission, in its discretion, refers to the executive branch an application, petition, or other filing not identified in this paragraph (a)(3) or determines to refer an application or petition identified in paragraph (a)(2) of this section, the Commission staff will instruct the applicant, petitioner, or filer to follow the requirements for a referred application or petition set out in this subpart, including submitting responses to the standard questions to the Committee and making the appropriate certifications.

(b) The Commission will consider any recommendations from the executive branch on pending application(s) for an international section 214 authorization or cable landing license(s) or petition(s) for foreign ownership ruling(s) pursuant to §§ 1.5000 through 1.5004 or on existing authorizations or licenses that may affect national security, law enforcement, foreign policy, and/or trade policy as part of its public interest analysis. The Commission will evaluate concerns raised by the executive branch and will make an independent decision concerning the pending matter.

(c) In any such referral pursuant to paragraph (a) of this section or when considering any recommendations pursuant to paragraph (b) of this section, the Commission may disclose to relevant executive branch agencies, subject to the provisions of 44 U.S.C. 3510, any information submitted by an applicant, petitioner, licensee, or authorization holder in confidence pursuant to § 0.457 or § 0.459 of this chapter. Notwithstanding the provisions of § 0.442 of this chapter, notice will be provided at the time of disclosure.

(d) As used in this subpart, "reportable foreign ownership" for applications filed pursuant to §§ 1.767 and 63.18 and 63.24 of this chapter means any foreign owner of the applicant that must be disclosed in the application pursuant to § 63.18(h); and for petitions filed pursuant to §§ 1.5000 through 1.5004 "reportable foreign ownership" means foreign disclosable interest holders pursuant to § 1.5001(e) and (f).

§ 1.40002 Referral of applications, petitions, and other filings with reportable foreign ownership to the executive branch agencies for review.

(a) The Commission will refer any applications, petitions, or other filings for which it determines to seek executive branch review by placing the application, petition, or other filing on an accepted for filing public notice that will provide a comment period for the executive branch to seek deferral for review for national security, law enforcement, foreign policy, and/or trade policy concerns.

(b)(1) The executive branch agency(ies) must electronically file in all applicable Commission file numbers and dockets associated with the application(s), petition(s), or other filing(s) a request that the Commission defer action until the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) completes its review. In the request for deferral the executive branch agency must notify the Commission on or before the comment date and must state whether the executive branch:

(i) Sent tailored questions to the applicant(s), petitioner(s), and/or other filer(s);

(ii) Will send tailored questions to the applicant(s), petitioner(s), and/or other filer(s) by a specific date not to be later than thirty (30) days after the date on which the Commission referred the application to the executive branch in accordance with paragraph (a) of this section; or

(iii) Will not transmit tailored questions to the applicant(s), petitioner(s), and/or other filer(s).

(2) The executive branch agency(ies) must electronically file in all applicable Commission file numbers and dockets associated with the application(s), petition(s), or other filing(s) a request by the comment date if it needs additional time beyond the comment period set out in the accepted for filing public notice to determine whether it will seek deferral.

(c) If an executive branch agency(ies) does not notify the Commission that it seeks deferral of referred application(s), petition(s), and/or other filing(s) within the comment period established by an accepted for filing public notice, the Commission will deem that the executive branch does not have any national security, law enforcement, foreign policy, and/or trade policy concerns with the application(s), petition(s), and/or other filing(s) and may act on the application(s), petition(s), and/or other filing(s) as appropriate based on its determination of the public interest.

§ 1.40003 Categories of information to be provided to the executive branch agencies.

(a) Each applicant, petitioner, and/or other filer subject to a referral to the executive branch pursuant to § 1.40001:

(1) Must submit detailed and comprehensive information in the following categories:

(i) Corporate structure and shareholder information;

(ii) Relationships with foreign entities;

(iii) Financial condition and circumstances;

(iv) Compliance with applicable laws and regulations; and

(v) Business and operational information, including services to be provided and network infrastructure, in responses to standard questions, prior to or at the same time the applicant files its application(s), petition(s), and/or other filing(s) with the Commission directly to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee).

(2) Must submit a complete and unredacted copy of its FCC application(s), petition(s), and/or other filing(s) to the Committee, including the file number(s) and docket number(s), within three (3) business days of filing it with the Commission.

(b) The standard questions and instructions for submitting the responses and the FCC application(s), petition(s), and/or other filing(s) are available on the FCC website.

(c) The responses to the standard questions shall be submitted directly to the Committee.

§ 1.40004 Time frames for executive branch review of applications, petitions, and/or other filings with reportable foreign ownership.

(a) *Tailored questions.* For application(s), petition(s), and/or other filing(s) referred to the executive branch, in accordance with § 1.40002(b)(1), the executive branch agency(ies) shall notify the Commission:

(1) That the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) has sent tailored questions to the applicant(s), petitioner(s), and/or other filer(s); and

(2) When the Chair of the Committee determines that the applicant's, petitioner's, and/or other filer's responses to any questions and information requests from the Committee are complete.

(b) *Initial review – 120-day time frame.* The executive branch shall notify the Commission by filing in the public record, in all applicable Commission file numbers and dockets for the application(s), petition(s), or other filing(s), no later than 120 days, plus any additional days as needed for escalated review and for NTIA to notify the Commission of the Committee's final recommendation in accordance with Executive Order 13913 (or as it may be amended), from the date that the Chair of the Committee determines that the applicant's, petitioner's, or other filer's responses to the tailored questions are complete, provided that the Committee sent tailored questions within thirty (30) days of the date of the Commission's referral in accordance with § 1.40002(a), and subject to paragraphs (e) and (f) of this section, whether it:

(1) Has no recommendation and no objection to the FCC granting the application;

(2) Recommends that the FCC only grant the application contingent on the applicant's compliance with mitigation measures; or

(3) Needs additional time to review the application(s), petition(s), or other filing(s).

(c) *Secondary assessment – additional 90-day time frame.* When the executive branch notifies the Commission that it needs an additional 90-day period beyond the initial 120-day period for review of the application, petition, or other filing under paragraph (a) of this section, in accordance with the secondary assessment provisions of Executive Order 13913 (or as it may be amended), the executive branch must:

(1) Explain in a filing on the record why it was unable to complete its review within the initial 120-day review period and state when the secondary assessment began; and

(2) Notify the Commission by filing in the public record, in all applicable Commission file numbers and dockets for the application(s), petition(s), or other filing(s) no later than 210 days, plus any additional days as needed for escalated review and for NTIA to notify the Commission of the Committee's final recommendation in accordance with Executive Order 13913 (or as it may be amended), from the date that the Chair of the Committee determines that the applicant's, petitioner's, or other filer's responses to the tailored questions are complete, provided that the Committee sent tailored questions within thirty (30) days of the date of the Commission's referral in accordance with § 1.40002(a), and subject to paragraphs (e) and (f) of this section, whether it:

(i) Has no recommendation and no objection to the FCC granting the application;

(ii) Recommends that the FCC only grant the application contingent on the applicant's compliance with mitigation measures; or

(iii) Recommends that the FCC deny the application due to the risk to the national security or law enforcement interests of the United States.

(d) *Executive branch notifications to the Commission.* (1) The executive branch shall file its notifications as to the status of its review in the public record established in all applicable Commission file numbers and dockets for the application, petition, or other filing. Status

notifications include notifications of the date on which the Committee sends the tailored questions to an applicant, petitioner, or other filer and the date on which the Chair accepts an applicant's, petitioner's, or other filer's responses to the tailored questions as complete. Status notifications also include extensions of the 120-day review period and 90-day extension period (to include the start and end day of the extension) and updates every thirty (30) days during the 90-day extension period. If the executive branch recommends dismissal of the application, petition, or other filing without prejudice because the applicant, petitioner, or other filer has failed to respond to requests for information, the executive branch shall file that recommendation in the public record established in all applicable Commission file numbers and dockets.

(2) In circumstances where the notification of the executive branch contains non-public information, the executive branch shall file a public version of the notification in the public record established in all applicable Commission file numbers and dockets for the application, petition, or other filing and shall file the non-public information with the Commission pursuant to § 0.457 of this chapter.

(e) *Alternative start dates for the executive branch's initial 120-day review.* (1) In the event that the executive branch has not transmitted the tailored questions to an applicant within thirty (30) days of the Commission's referral of an application, petition, or other filing, the executive branch may request additional time by filing a request in the public record established in all applicable Commission file numbers and dockets associated with the application, petition, or other filing. The Commission, in its discretion, may allow an extension or start the executive branch's 120-day review clock immediately. If the Commission allows an extension and the executive branch does transmit the tailored questions to the applicant, petitioner, or other filer within the authorized extension period, the initial 120-day review period will begin on the date that executive branch determines the applicant's, petitioner's, or other filer's responses to be complete. If the executive branch does not transmit the tailored questions to the applicant, petitioner, or other filer within the authorized extension period, the Commission, in its discretion, may start the initial 120-day review period.

(2) In the event that the executive branch's notification under § 1.40002(b) indicates that no tailored questions are necessary, the 120-day initial review period will begin on the date of that notification.

(f) *Extension of executive branch review periods.* In accordance with Executive Order 13913 (or as it may be amended), the executive branch may in its discretion extend the initial 120-day review period and 90-day secondary assessment period. The executive branch shall file notifications of all extensions in the public record.

PART 63 – EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

8. The authority citation for part 63 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, 571, unless otherwise noted.

9. Amend § 63.04 by revising paragraph (a)(4) to read as follows:

§ 63.04 Filing procedures for domestic transfer of control applications.

(a) * * *

(4)(i) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). Where no individual or entity directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, a statement to that effect; and

(ii) An ownership diagram that illustrates the applicant's vertical ownership structure, including the

direct and indirect ownership (equity and voting) interests held by the individuals and entities named in response to paragraph (a)(4)(i) of this section. Every individual or entity with ownership shall be depicted and all controlling interests must be identified. The ownership diagram shall include both the pre-transaction and post-transaction ownership of the authorization holder; and

* * * * *

10. Amend § 63.12 by redesignating paragraph (c)(3) as paragraph (c)(4) and adding a new paragraph (c)(3) to read as follows:

§ 63.12 Processing of international Section 214 applications.

* * * * *

(c)* * *

(3) An individual or entity that is not a U.S. citizen holds a ten percent or greater direct or indirect equity or voting interest, or a controlling interest, in any applicant; or

* * * * *

11. Amend § 63.18 by revising paragraph (h), redesignating paragraphs (p), (q), and (r) as paragraphs (r), (s), and (t), and adding new paragraphs (p) and (q) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(h)(1) The name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). Where no individual or entity directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, a statement to that effect.

(i) *Calculation of equity interests held indirectly in the carrier.* Equity interests that are held by an individual or entity indirectly through one or more intervening entities shall be calculated by successive multiplication of the equity percentages for each link in the vertical ownership chain, regardless of whether any particular link in the chain represents a controlling interest in the company positioned in the next lower tier. Example: Assume that an entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a non-controlling 40 percent equity and voting interest in the carrier. The entity's equity interest in the carrier would be calculated by multiplying the individual's equity interest in Corporation A by that entity's equity interest in the carrier. The entity's equity interest in the carrier would be calculated as 12 percent ($30\% \times 40\% = 12\%$). The result would be the same even if Corporation A held a de facto controlling interest in the carrier.

(ii) *Calculation of voting interests held indirectly in the carrier.* Voting interests that are held through one or more intervening entities shall be calculated by successive multiplication of the voting percentages for each link in the vertical ownership chain, except that wherever the voting interest for any link in the chain is equal to or exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest. A general partner shall be deemed to hold the same voting interest as the partnership holds in the company situated in the next lower tier of the vertical ownership chain. A partner of a limited partnership (other than a general partner) shall be deemed to hold a voting interest in the partnership that is equal to the partner's equity interest. Example: Assume that an entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a controlling 70 percent equity and voting interest in the carrier. Because Corporation A's 70 percent voting interest in the carrier constitutes a controlling interest, it is treated as a 100 percent interest. The entity's 30 percent voting interest in Corporation A would flow through in its entirety to the

carrier and thus be calculated as 30 percent ($30\% \times 100\% = 30\%$).

(2) An ownership diagram that illustrates the applicant's vertical ownership structure, including the direct and indirect ownership (equity and voting) interests held by the individuals and entities named in response to paragraph (h)(1) of this section. Every individual or entity with ownership shall be depicted and all controlling interests must be identified. The ownership diagram shall include both the pre-transaction and post-transaction ownership of the authorization holder.

(3) The applicant shall also identify any interlocking directorates with a foreign carrier.

* * * * *

(p) Each applicant for which an individual or entity that is not a U.S. citizen holds a ten percent or greater direct or indirect equity or voting interest, or a controlling interest, in the applicant, must submit:

(1) Responses to standard questions, prior to or at the same time the applicant files its application with the Commission, pursuant to part 1, subpart CC, of this chapter directly to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee). The standard questions and instructions for submitting the responses are available on the FCC website. The required information shall be submitted separately from the application and shall be submitted directly to the Committee.

(2) A complete and unredacted copy of its FCC application(s), including the file number(s) and docket number(s), to the Committee within three (3) business days of filing it with the Commission. The instructions for submitting a copy of the FCC application(s) to the Committee are available on the FCC website.

(q)(1) Each applicant shall make the following certifications by which they agree:

(i) To comply with all applicable Communications Assistance for Law Enforcement Act (CALEA) requirements and related rules and regulations, including any and all FCC orders and opinions governing the application of CALEA, pursuant to the Communications Assistance for Law Enforcement Act and the Commission's rules and regulations in part 1, subpart Z, of this chapter;

(ii) To make communications to, from, or within the United States, as well as records thereof, available in a form and location that permits them to be subject to a valid and lawful request or legal process in accordance with U.S. law, including but not limited to:

(A) The Wiretap Act, 18 U.S.C. 2510 *et seq.*;

(B) The Stored Communications Act, 18 U.S.C. 2701 *et seq.*;

(C) The Pen Register and Trap and Trace Statute, 18 U.S.C. 3121 *et seq.*; and

(D) Other court orders, subpoenas or other legal process;

(iii) To designate a point of contact who is located in the United States and is a U.S. citizen or lawful U.S. permanent resident, for the execution of lawful requests and as an agent for legal service of process;

(iv)(A) That the applicant is responsible for the continuing accuracy and completeness of all information submitted, whether at the time of submission of the application or subsequently in response to either the Commission or the Committee's request, as required in § 1.65(a) of this chapter, and that the applicant agrees to inform the Commission and the Committee of any substantial and significant changes while an application is pending; and

(B) After the application is no longer pending for purposes of § 1.65 of the rules, the applicant must notify the Commission and the Committee of any changes in the authorization holder or licensee information and/or contact information promptly, and in any event within thirty (30)

days; and

(v) That the applicant understands that if the applicant or authorization holder fails to fulfill any of the conditions and obligations set forth in the certifications set out in paragraph (q) of this section or in the grant of an application or authorization and/or that if the information provided to the United States Government is materially false, fictitious, or fraudulent, applicant and authorization holder may be subject to all remedies available to the United States Government, including but not limited to revocation and/or termination of the Commission's authorization or license, and criminal and civil penalties, including penalties under 18 U.S.C. 1001.

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12. Amend § 63.24 by revising paragraphs (e)(2) and (f)(2)(i) to read as follows:

§ 63.24 Assignments and transfers of control.

* * * * *

(e) * * *

(2) The application shall include the information requested in paragraphs (a) through (d) of § 63.18 for both the transferor/assignor and the transferee/assignee. The information requested in paragraphs (h) through (q) of § 63.18 is required only for the transferee/assignee. The ownership diagram required under § 63.18(h)(2) shall include both the pre-transaction and post-transaction ownership of the authorization holder. The applicant shall include a narrative describing the means by which the proposed transfer or assignment will take place.

* * * * *

(f) * * *

(2) * * *

(i) The information requested in paragraphs (a) through (d) and (h) of § 63.18 for the transferee/assignee. The ownership diagram required under § 63.18(h)(2) shall include both the pre-transaction and post-transaction ownership of the authorization holder; and

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