

FCC FACT SHEET*

**Mandatory Electronic Filing of Section 325(c) Applications, International Broadcast Applications,
and Dominant Carrier Section 63.10(c) Quarterly Reports**
Order – IB Docket No. 21-265

Background: The Commission has been committed to streamlining its processes by mandating the electronic filing of applications and other filings related to telecommunications services over the past several decades. Today, the majority of applications and other filings are filed electronically with the Commission. Applications and other filings for which an electronic form is not available and/or is not yet required to be filed electronically by rule must be filed by paper or by modified electronic filing. Currently, for international licenses, authorizations, or other filings that are processed by the International Bureau, almost all applications must be filed electronically through the International Bureau Filing System (IBFS), including all applications for international and satellite services for which an IBFS form is available. The exceptions to mandatory electronic filing in IBFS, however, remain for Section 325(c) Applications, International High Frequency Broadcast (IHF) Applications (IHF Applications), and Dominant Carrier Section 63.10(c) Quarterly Reports. Section 325(c) and IHF Applications are submitted through a modified electronic filing process that involves filing a non-docketed pleading through the Commission’s Electronic Comment Filing System (ECFS). For Dominant Carrier Section 63.10(c) Quarterly Reports, certain authorization holders are required to mail a paper copy to the Commission within ninety (90) days from the end of each calendar quarter. Section 25.111(d) also requires a paper copy of satellite cost-recovery declarations to be submitted in addition to the version filed electronically.

What the Order Would Do:

- Modify the Commission’s rules to mandate the electronic filing of Section 325(c) Applications, IHF Applications, and Dominant Carrier Section 63.10(c) Quarterly Reports, and to remove a duplicate, paper filing requirement for satellite cost-recovery declarations.
 - For Section 325(c) Applications and IHF Applications, eliminate the paper mailing and modified electronic filing requirements through ECFS and require applicants to file electronically in IBFS when the electronic forms are available.
 - For Dominant Carrier Section 63.10(c) Quarterly Reports, eliminate paper filings option and require carriers to submit these reports electronically in IBFS within ninety (90) days after the end of each calendar quarter.
- Revise section 63.10(d) of the Commission’s rules to remove the erroneous reference to section 63.10(c)(3)-(5) and replace this portion of the rule with the correct reference to section 63.10(c)(2)-(4), as well as to reflect the new electronic filing requirement for these reports.
- Establish a process for any changes mandated by the Order to take effect.

* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in IB Docket No. 21-265, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.1200 *et seq.*

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

In the Matter of)
Mandatory Electronic Filing of Section 325(c)) IB Docket No. 21-265
Applications, International Broadcast Applications,)
and Dominant Carrier Section 63.10(c) Quarterly)
Reports)

ORDER*

Adopted: []

Released: []

By the Commission:

I. INTRODUCTION

1. Over the past decades, the Commission has made significant progress to upgrade and modernize its licensing systems and filing procedures. Today, we continue these efforts and require that any remaining applications and reports administered by the International Bureau and filed on paper or through an alternative filing process be filed only electronically through the Commission’s International Bureau Filing System (IBFS). Specifically, we modify our rules to mandate the electronic filings of Section 325(c) Applications, applications for International High Frequency Broadcast (IHF) Stations

* This document has been circulated for tentative consideration by the Commission at its July 2021 open meeting. The issues referenced in this document and the Commission’s ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The FCC’s ex parte rules apply and presentations are subject to “permit-but-disclose” ex parte rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203.

1 See, e.g., International Bureau Announces a Change in the Procedure for Filing Coordination Notifications for Earth Stations on Vessels Operating in the C-Band, Public Notice, DA 11-132, 26 FCC Rcd 564 (IB 2011) (requiring coordination notification for Earth Stations on Vessels operating in the C-band to be filed electronically via the International Bureau Filing System (IBFS)); Completing the Transition to Electronic Filing, Licenses and Authorizations, and Correspondence in the Wireless Radio Services, Order, 35 FCC 10781 (2020) (2020 Wireless Radio Order) (requiring electronic filing of certain applications for licenses in the Wireless Radio Services); Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization, Order, 29 FCC Rcd 14955 (2014) (requiring electronic filing of certain applications under sections 214(a) and 251(c)(5) of the Communications Act of 1934, as amended (Act)).

2 See Federal Communications Commission, International Bureau Filing System (IBFS), http://licensing.fcc.gov/myibfs/ (IBFS Filing System).

3 47 CFR § 73.3545.

(IHF Applications),⁴ and Dominant Carrier Section 63.10(c) Quarterly Reports,⁵ and to remove a duplicate paper filing requirement for satellite cost-recovery declarations.⁶ These mandatory electronic filing requirements will reduce costs and administrative burdens, result in greater efficiencies, facilitate faster and more efficient communications, and improve transparency to the public.

A. Background

2. *Electronic and Paper Filings.* The Commission has been committed to streamlining its processes by mandating the electronic filing of applications and other filings related to telecommunications services over the past several decades.⁷ Today, the majority of applications and other filings are filed electronically with the Commission.⁸ Applications and other filings for which an electronic form is not available and/or is not yet required to be filed electronically by rule must be filed by paper or by modified electronic filing.⁹ Currently, for international licenses, authorizations, or other filings that are processed by the International Bureau, almost all applications must be filed electronically through IBFS, including all applications for international and satellite services for which an IBFS form is available.¹⁰ The exceptions to mandatory electronic filing in IBFS, however, remain for Section 325(c) Applications,¹¹ IHF Applications,¹² and Dominant Carrier Section 63.10(c) Quarterly Reports.¹³ Section 325(c) and IHF Applications are submitted through a modified electronic filing process that involves

⁴ 47 CFR §§ 73.702; 73.761, 73.3533; 73.3539-73.3540.

⁵ 47 CFR § 63.10(c)(2)-(4).

⁶ 47 CFR § 25.111(d).

⁷ See *Mandatory Electronic Filing for International Telecommunications Services and Other International Filings*, Report and Order, 20 FCC Rcd 9292 (2005) (*2005 IBFS Order*); *International Bureau Filing System (IBFS)*, Order, 19 FCC Rcd 4575 (2004); *2020 Wireless Radio Order*.

⁸ See 47 CFR §§ 1.767(n)(1), 1.768(j), 25.110, 25.111, 25.113, 25.115, 25.116, 25.119, 25.137, 25.172, 63.11(j), 63.18(r), 63.19(d), 63.20(a), 63.21(j), 63.24(h), 63.25(e), 63.701(j).

⁹ See *International Bureau Reminds Interested Parties That Section 325(C) Applications for Permit to Deliver Programs to Foreign Stations And International High Frequency Applications Can Be Submitted Electronically as Non-Docketed Filings*, Public Notice, DA 14-1838 (rel. Dec. 16, 2014) (*325(c) and IHF Electronic Filing Notice*); *International and Satellite Services Fee Filing Guide at 6* (effective September 4, 2018) (*2018 IB Fee Filing Guide*) (“The Bureau offers a choice of paper filing and/or modified electronic filing on the remaining international telecommunications, international high frequency broadcast (IHF), and Section 325(c) (325) applications pending the availability of OMB approved electronic forms.”).

¹⁰ See *2005 IBFS Order*. A list of forms that are available for electronic filing can be found on the FCC webpage and through IBFS homepage. See Federal Communications Commission, Licensing & Databases, Forms, <https://www.fcc.gov/licensing-databases/forms>; IBFS Filing System; see also 47 CFR §§ 1.10000-1.10018.

¹¹ 47 U.S.C. § 325(c) (“No person shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefore”); 47 CFR § 73.3545.

¹² An International Broadcast Station, also known as High Frequency Broadcasting (IHF) or Shortwave Broadcasting, employs frequencies allocated to the Broadcasting Service between 5,950 and 26,100 kHz. The transmissions of an IHF station, which are licensed only to non-governmental entities, are intended to be received directly by the general public in foreign countries. 47 U.S.C. § 307; 47 CFR §§ 73.701, 73.702.

¹³ Section 63.10(c) of the Commission’s rules sets forth competitive safeguards that the Commission applies to U.S.-authorized carriers that are affiliates of foreign carriers with market power on the foreign end of a U.S.-international route as a condition of the U.S. carriers’ section 214 authorization(s) to provide U.S.-international service on the route. 47 CFR § 63.10(c)(2)-(4).

filing a non-docketed pleading through the Commission's Electronic Comment Filing System (ECFS).¹⁴ For Dominant Carrier Section 63.10(c) Quarterly Reports, certain authorization holders are required to mail a paper copy to the Commission within ninety (90) days from the end of each calendar quarter.¹⁵ Section 25.111(d) also requires a paper copy of satellite cost-recovery declarations to be submitted in addition to the version filed electronically.¹⁶

II. DISCUSSION

3. Given the well-established benefits of electronic filing, we amend our rules to require the electronic filing of Section 325(c) Applications, IHF Applications, and Dominant Carrier Section 63.10(c) Quarterly Reports in IBFS, which will reduce the overall burden associated with these filings and increase significantly the efficiency of our administrative processes.¹⁷ We modify our rules involving procedural filing of Section 325(c) Applications and IHF Applications, and require electronic filing of these applications in IBFS and remove a duplicate paper filing requirement for satellite cost-recovery declarations. We also eliminate paper filing of Dominant Carrier Section 63.10(c) Quarterly Reports and require their submission in IBFS within ninety (90) days after the end of each calendar quarter. Finally, we set a process for any changes to take effect.

A. Mandatory Electronic Filing

4. As part of the Commission's continuing efforts to modernize its IBFS, electronic forms will be available for Section 325(c) Applications, IHF Applications, and Dominant Carrier Section 63.10(c) Quarterly Reports. Accordingly, we require such filings to be submitted to the Commission electronically in IBFS, subject to the transition period set forth below. We have long-recognized the benefits of mandatory electronic filing, including reducing regulatory burdens and environmental waste while streamlining the filing process.¹⁸ As the Commission explained in its *2005 IBFS Order*, electronic filing eliminates delays from mail delivery and does not require Commission staff to convert the filings into electronic format.¹⁹ Electronic filing also reduces time needed to process applications and can allow the Commission to more quickly place applications on public notice.²⁰ Filers also benefit from electronic

¹⁴ See *325(c) and IHF Electronic Filing Notice; 2018 IB Fee Filing Guide*; Electronic Comment Filing System, Non-Docketed Filing, <https://www.fcc.gov/ecfs/filings/nodocket>. Once the non-docketed ECFS submissions are received, they are uploaded into IBFS by the Commission's staff.

¹⁵ 47 CFR § 63.10(c)(2)-(4). While similar reporting requirements, such as those for cable landing licensees affiliated with a carrier with market power in a cable's destination market, mandate the electronic filing of those reports, the reporting requirements under section 63.10(c) contain no such obligation. Compare 47 CFR § 1.767(l) with 47 CFR § 63.10(c).

¹⁶ 47 CFR § 25.111(d).

¹⁷ Because these modifications requiring mandatory electronic filing are procedural in nature and do not substantively change the information required to be filed with the Commission, the notice and comment requirements of the Administrative Procedure Act do not apply. 5 U.S.C. § 553(b)(3)(A); *Promoting Expanded Opportunities for Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules; 2006 Biennial Review of Telecommunications Regulations – Part 2 Administered by the Office of Engineering and Technology (OET)*, Report and Order, 28 FCC Rcd 758, 818, para. 164 (2013) (*2013 Radio Experimentation Order*) (rule change clarifying that informal objections to certain applications should be filed electronically); *Amendment of Part 5 of the Commission's Rules to Require Electronic Filing of Applications for Experimental Radio Licenses and Authorizations*, Order, 18 FCC Rcd 16966, 16967, paras. 4, 6 (2003) (*2003 Amendment of Part 5 Order*) (adopting requirement to electronically file certain applications); *JEM Broadcasting Co. Inc. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994).

¹⁸ *2020 Wireless Radio Order*, 35 FCC at 10784, para. 8; *2005 IBFS Order*, 20 FCC Rcd at 9294-95, paras. 5-7.

¹⁹ *2005 IBFS Order*, 20 FCC Rcd at 9294, para. 5.

²⁰ *Id.* at 9294-95, para 7.

filing because an electronic filing system can automatically notify users of critical errors or omissions in their filings,²¹ and electronic filing creates a digital record of users' submissions to the Commission and establishes proof of delivery.²² The Commission benefits from a reduced workload because the data fields on electronic forms are automatically populated.²³ Other interested parties benefit as well because electronic filings are transmitted nearly instantaneously, making the filings available to the other interested parties around the same time that they become available to the Commission.²⁴

5. For Section 325(c) Applications and IHF Applications, we eliminate the paper mailing and modified electronic filing requirements through ECFS and require applicants to file electronically in IBFS when the electronic forms are available.²⁵ The changes we adopt herein will improve the filing process and expedite review of the applications in an orderly manner as IBFS will automatically identify initial filing deficiencies in the electronic forms and route the filed applications to appropriate Commission staff without delay, thereby facilitating timely review. Additionally, any properly filed amendments, renewals, transfers, assignments, surrenders, notifications of limitation or discontinuance of operations, notifications of broadcast service resumption, equipment tests, program tests, post-season reports, pre-season operation notifications, or modifications, will be linked to other relevant applications or filings and similarly routed to the relevant Commission staff, decreasing processing time and administrative cost serving the public interest.²⁶

6. For Dominant Carrier Section 63.10(c) Quarterly Reports, we eliminate the paper filing option and require carriers to submit these reports electronically in IBFS within ninety (90) days after the end of each calendar quarter.²⁷ This change will provide a number of benefits to carriers and Commission staff, including cost savings, convenience, and speed. As the Commission noted in the *2020 Wireless Radio Order*, “[e]lectronic filing reduces paper, printing, and delivery expenses,” and is more convenient as users can submit their filings “nearly 24 hours a day, 7 days a week”²⁸ Further, the electronic filing of Dominant Carrier Section 63.10(c) Quarterly Reports will eliminate the delay of waiting for these filings to be delivered to the Commission, processed, and provided to the relevant Commission staff. Carriers will receive confirmation of their filing from the system, and Commission staff will no longer need to manually digitize these quarterly reports, reducing burdens and decreasing costs to carriers and the Commission.

7. With the actions taken herein, we take another key step to modernize our filings processes, enable cost savings, increase convenience, and decrease processing time and complete the process of mandating that all International Bureau forms and filings must be submitted electronically in IBFS.

²¹ *Id.* at 9294, para 6.

²² *2020 Wireless Radio Order*, 35 FCC Rcd at 10788, para. 23.

²³ *2005 IBFS Order*, 20 FCC Rcd at 9294-95, para 7.

²⁴ *2020 Wireless Radio Order*, 35 FCC Rcd at 10788, para. 23.

²⁵ 47 CFR §§ 73.3533(a)(2), 73.3545.

²⁶ 47 CFR §§ 73.3540(c)-(d), 73.702, 73.713(a), 73.732, 73.759(c)(2), 73.761, 73.762, and 73.3539(a).

²⁷ *See* Appx. A.

²⁸ *2020 Wireless Radio Order*, 25 FCC Rcd at 10788, para. 23. In 2020, the Commission received a total of 73 reports: 20 reports in the first quarter, 19 reports in the second quarter, 20 reports in the third quarter, and 14 reports in the fourth quarter. The data derived from these reports continue to be important resource for the Commission. *See supra* note 45.

B. Conforming Amendments

8. *Section 63.10.* Section 63.10(d) specifies the number of copies and where to file each quarterly report. However, it misstates the relevant provisions of section 63.10(c)(2)-(4) identifying these quarterly reports. To correct the error, we revise paragraph (d) to remove the erroneous reference to section 63.10(c)(3)-(5) and replace this portion of the rule with the correct reference to section 63.10(c)(2)-(4), as well as to reflect the new electronic filing requirement for these reports.²⁹

C. Paper Copies of Satellite ITU Cost-Recovery Declarations

9. The Commission's part 25 rules governing satellite services contain one paper filing requirement. Before the Commission will submit a satellite network filing to the International Telecommunication Union (ITU), the party requesting the filing must submit a signed declaration of unconditional acceptance of all consequent ITU cost-recovery responsibility.³⁰ This cost-recovery declaration ensures that the ITU filing charges are paid by the operator, not the United States as notifying administration.³¹ The cost-recovery declaration must be filed electronically in IBFS. A paper copy must also be mailed to the Satellite Division of the International Bureau. Our experience has shown that this duplicate, paper copy is unnecessary to ensure that cost-recovery responsibility is properly assumed by the requesting party. We therefore modify our rules and remove the paper filing requirement.

D. Transition and Other Issues

10. We direct the International Bureau to release any relevant public notices announcing the availability of electronic filing for Section 325(c) Applications, IHF Applications, and Dominant Carrier Section 63.10(c) Quarterly Reports as the rules and forms become effective and available in IBFS. Until the International Bureau announces the availability of electronic filing, the current filing processes will continue to apply.

11. *Waiver Requests.* There may be limited instances where electronic filing rather than paper filing may be unduly burdensome or create a hardship for some potential applicants. For such cases, we will permit applicants and filers to file a request for waiver of our electronic filing requirements under limited circumstances for good cause shown, pursuant to section 1.3 of our rules.³² To qualify for a waiver, the applicant must plead with particularity the facts and circumstances warranting relief.³³ For

²⁹ These amendments, referring to how the quarterly reports should be filed, are procedural rules, thus the notice and comment requirements of the Administrative Procedure Act do not apply. 5 U.S.C. § 553(b)(3)(A); *see also, supra*, note 17. We also find there is good cause to forego a notice-and-comment period in this instance given that notice and comment is unnecessary and contrary to the public interest to make the modifications to section 63.10(d), as discussed herein. 5 U.S.C. § 553(b)(3)(B). Here, we correct a typographical error with respect to cross-references contained in the rule paragraph and eliminate a requirement that will be rendered obsolete by the adoption of an electronic filing requirement and find that following a notice and comment process would needlessly prolong an obvious inaccuracy in the rules, reference an obsolete requirement, and fail to yield any of the public interest benefits that notice and comment procedures are designed to produce. *See, e.g., Allocation and Service Rules for the 1675-1680 MHz Band*, Notice of Proposed Rulemaking and Order, 34 FCC Rcd 3552, 3572 para. 55 (2019) (finding for good cause that notice and comment procedures are unnecessary to correct and update incorrect cross-references in various rule paragraphs).

³⁰ 47 CFR § 25.111(d); *see also Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Report and Order, 28 FCC Rcd 12403, 12425-26, paras. 61-65, 12479-80, Appx. B (2013); *Implementation of ITU Cost Recovery Charges for Satellite Network Filings*, Public Notice, 16 FCC Rcd 18732 (IB 2001).

³¹ *See generally* ITU Council Decision 482 (modified 2020) at 4, *decides* 9 (providing that the invoice for ITU cost-recovery charges will be sent to the notifying administration or, at the request of that administration, to the satellite network operator in question), <https://www.itu.int/md/S20-CL-C-0070/en>.

³² 47 CFR § 1.3.

³³ The Commission may waive its policies or rules upon a showing of good cause and may take into account, on an

(continued....)

example, the applicant must set forth the specific reasons why electronic filing would constitute an unreasonable burden or expense, including the special circumstances at hand that justify a waiver and how a waiver would serve the public interest. We expect the number of waiver requests to be small, and we will not routinely grant waivers of our mandatory filing requirement.

12. *Confidential Filings.* Applicants or other filers that seek to file confidentially or to preserve the confidentiality of a piece of information in a filing may request such treatment under section 0.459 of the Commission's rules.³⁴

III. PROCEDURAL MATTERS

13. *Regulatory Flexibility Analysis.* Because these rule changes are being adopted without notice and comment, the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*, does not apply.³⁵

14. *Paperwork Reduction Act.* This Order does not contain new or substantively modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13 (44 U.S.C. §§ 3501-3520). Specifically, the changes to existing information collections, including mandatory electronic filing for Section 325(c) Applications, IHF Applications, and Dominant Carrier Section 63.10(c) Quarterly Reports are non-substantive and will be submitted to the Office of Management and Budget for approval as non-substantive changes.³⁶ Because these changes are non-substantive, there is also no new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4).

15. *Congressional Review Act.* The Commission will not send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.³⁷

IV. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED that pursuant to Sections 1, 4(i), 214, 218, 301, 303, 307, 308(b), and 325(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 214, 218, 301, 303, 307, 308(b), 325(c), this Order is HEREBY ADOPTED.

17. IT IS FURTHER ORDERED that pursuant to Sections 1, 4(i), 214, 218, 301, 303, 307, 308(b) and 325(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 214, 218, 301, 303, 307, 308(b), 325(c), the rules discussed herein ARE ADOPTED and Parts 63 and 73 of the Commission's rules, 47 CFR §§ 63 and 73 ARE AMENDED AS SET FORTH IN Appendix A.

18. IT IS FURTHER ORDERED that this Order, including the revisions to Title 47 of the Code of Federal Regulations shown in Appendix A, SHALL BE EFFECTIVE upon publication in the

individual basis, considerations of hardship, equity, or more effective implementation of overall policy. *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *see also Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Waiver of the Commission's policies or rules is appropriate only if both: (i) special circumstances warrant a deviation from the general rule; and (ii) such deviation will serve the public interest. *See Network IP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008).

³⁴ 47 CFR § 0.459.

³⁵ *See* 5 U.S.C. § 601(2) (definition of "rule"), 604(a) (requiring a final regulatory flexibility analysis when an agency promulgates a final rule "after being required ... to publish a general notice of proposed rulemaking").

³⁶ *See* OMB Control Nos. 3060-1133, 3060-0031, 3060-0009, 3060-1035, 3060-0686, and 3060-0678.

³⁷ *See* 5 U.S.C. § 804(3)(C).

Federal Register,³⁸ which shall be preceded by OMB approval of the modified information collection requirements adopted herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

³⁸ The rule changes adopted in this Order and contained in Appendix A constitute procedural rules and are not subject to the effective date provisions of the Administrative Procedure Act. 47 CFR § 1.427(b) (rules of procedure may be made effective without regard to the 30-day Federal Register publication requirement). The Administrative Procedure Act's requirement that rules must be published in the Federal Register at least 30 days before their effective date, subject to certain exceptions, applies only to "substantive rules." *See* 5 U.S.C. § 553(d).

APPENDIX A – FINAL RULES

The Federal Communications Commission amends 47 CFR parts 25, 63 and 73 as follows:

PART 25 – SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

2. Amend § 25.111 by revising the second sentence of paragraph (d) to read as follows:

§ 25.111 Additional information, ITU filings, and ITU cost recovery.

* * * * *

(d) * * * Applicants and licensees must file the declaration electronically in the application file in the ~~IBFS database~~ International Bureau Filing System (IBFS), ~~and must also mail a paper copy to the International Bureau, Satellite Division.~~ * * *

* * * * *

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

3. 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.

4. Amend § 63.10 by revising paragraph (d) to read as follows:

§ 63.10 Regulatory classification of U.S. international carriers.

* * * * *

(d) A carrier classified as dominant under this section shall file ~~an original and two copies of~~ electronically each report required by paragraphs (c)(2), (c)(3), and (c)(4) and (c)(5) of this section in the International Bureau Filing System (IBFS). ~~with the Chief, International Bureau. The carrier shall also file one copy of these reports with the Commission's copy contractor. The transmittal letter~~

accompanying **Each** report **filed in IBFS** shall clearly identify the report as responsive to the appropriate paragraph of § 63.10(c).

* * * * *

PART 73 – RADIO BROADCAST SERVICES

5. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

* * * * *

Subpart F—INTERNATIONAL BROADCAST STATIONS

6. Amend § 73.702 by revising paragraphs (a), (b), (c), (d), and (e) to read as follows:

§ 73.702 Assignment and use of frequencies.

(a) Frequencies will be assigned by the Commission prior to the start of each season to authorized international broadcasting stations for use during the season at specified hours and for transmission to specified zones or areas of reception, with specified power and antenna bearing. Six months prior to the start of each season, licensees and permittees shall by informal written request, submitted to the Commission ~~in triplicate~~ **electronically in the International Bureau Filing System (IBFS)**, indicate for the season the frequency or frequencies desired for transmission to each zone or area of reception specified in the license or permit, the specific hours during which it desires to transmit to such zones or areas on each frequency, and the power, antenna gain, and antenna bearing it desires to use. Requests will be honored to the extent that interference and propagation conditions permit and that they are otherwise in accordance with the provisions of this section.

(b) After necessary processing of the requests required by paragraph (a) of this section, the Commission will notify each licensee and permittee of the frequencies, hours of use thereof to specified zones or areas of reception, power, and antenna bearing which it intends to authorize for the season in question. After receipt of such notification, the licensee or permittee shall, in writing, not later than two months before the start of the season in question, **electronically** inform the Commission **in the International Bureau**

Filing System (IBFS) either that it plans to operate in accordance with the authorization which the Commission intends to issue, or that it plans to operate in another manner. If the licensee or permittee indicates that it plans to operate in another manner, it shall furnish explanatory details.

(c) If after submitting the request required under the provisions of paragraph (a) of this section, but before receipt of the Commission's notification referred to in paragraph (b) of this section, the licensee or permittee submits a request for changes of its original request **electronically in the International Bureau Filing System (IBFS)** such requests will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If the information required to be submitted by the licensee or permittee under the provisions of paragraph (b) of this section indicates that operation in another manner is contemplated, and the explanatory details contain a request for change in the originally proposed manner of operation, such requests will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If after the licensee or permittee submits the information required under the provisions of paragraph (b) of this section, but before the start of the season in question, the licensee or permittee submits **electronically in the International Bureau Filing System (IBFS)** a request for changes in its manner of operation for the season in question, the request will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If after the start of a season the licensee or permittee submits a request for changes in the manner of operation as authorized, the request will be considered only if accompanied by statements showing good cause therefor, and will be honored only if conditions permit.

(d) The provisions of paragraphs (a), (b), and (c) of the section shall apply to licensees, to permittees operating under program test authority, and to permittees who anticipate applying for and receiving program test authority for operation during the specified season.

Note: Permittees who during the process of construction wish to engage in equipment tests shall by informal written request, submitted to the Commission **electronically in the International Bureau Filing System (IBFS)** not less than 30 days before they desire to begin such testing, indicate the

frequencies they desire to use for testing and the hours they desire to use those frequencies. No equipment testing shall occur until the Commission has authorized frequencies and hours for such testing. Such authorizations shall be only for one season, and if it is desired to continue equipment testing in a following season, new requests for frequencies and hours must be submitted at least 30 days before it is desired to begin testing in the following season.

(e) Within 14 days after the end of each season, a report shall be filed with the Commission **electronically in the International Bureau Filing System (IBFS)** by each licensee or permittee operating under program test authority who has been issued a seasonal schedule for that season. The report shall state whether the licensee or permittee has operated the number of frequency-hours authorized by the seasonal schedule to each of the zones or areas of reception specified in the schedule. If such operation has not occurred, a detailed explanation of that fact shall also be submitted which includes specific dates, frequency-hours not used, and reasons for the failure to operate as authorized. The report shall also contain information that has been received by the licensee or permittee as to reception or interference, and conclusions with regard to propagation characteristics of frequencies that were assigned for the season in question.

* * * * *

(h) Requirements for Regional operation.

* * * * *

(2) During the hours of 0800–1600 UTC (Coordinated Universal Time) antenna gain with reference to an isotropic radiator in any easterly direction that would intersect any area in Region 2 shall not exceed 2.15 dBi, except in the case where a transmitter power of less than 100 kW is used. In this case, antenna gain on restricted azimuths shall not exceed that which is determined in accordance with equation below. Stations desiring to operate in this band must submit sufficient antenna performance information **electronically in the International Bureau Filing System (IBFS)** to ensure compliance with these restrictions. Permitted gain for transmitter powers less than 100 kW:

Where:

$$G_i = 2.15 + 10 \log \left(\frac{100}{P_a} \right) \text{ dBi}$$

G_i = maximum gain permitted with reference to an isotropic radiator.

P_a = Transmitter power employed in kW.

(i) Frequencies requested for assignment must be as near as practicable to the optimum working frequency (unless otherwise justified) for the zone or area of reception for the period and path of transmission, and should be chosen so that a given frequency will provide the largest period of reliable transmission to the selected zone or area of reception. Moreover, at the zone or area of reception frequencies shall provide protection to the transmissions of other broadcasting stations which, in the opinion of the Commission, have priority of assignment.

* * * * *

Note 4: Seasonal requests for frequency-hours will be only for transmissions to zones or areas of reception specified in the basic instrument of authorization. Changes in such zones or areas will be made only on separate application for modification of such instruments **made electronically in the International Bureau Filing System (IBFS)**.

(j) Not more than one frequency will be assigned for use at any one time for any one program transmission except in instances where a program is intended for reception in more than one zone or area of reception and the intended zones or areas cannot be served by a single frequency: Provided, however, That on a showing of good cause **made electronically in the International Bureau Filing System (IBFS)** a licensee may be authorized to operate on more than one frequency at any one time to transmit any one program to a single zone or area of reception.

* * * * *

(m) The total maximum number of frequency-hours which will be authorized to all licensees of international broadcasting stations during any one day for any season is 100. The number of frequency-hours allocated to any licensee will depend on past usage, availability, and need. If for a forthcoming season the total of the requests for daily frequency-hours of all licensees exceeds 100, all licensees will be

notified and each licensee that makes an adequate showing **electronically in the International Bureau Filing System (IBFS)** that good cause exists for not having its requested number of frequency-hours reduced and that operation of its station without such reduction would be consistent with the public interest may be authorized the frequency-hours requested.

7. Amend § 73.713 by revising paragraph (a) to read as follows:

§ 73.713 Program Tests

(a) Upon completion of construction of an international broadcasting station in accordance with the terms of the construction permit, the technical provisions of the application therefor, and the rules and regulations and the applicable engineering standards, and when an application for station license has been filed showing the station to be in satisfactory operating condition, the permittee may request authority to conduct program tests. Such request shall be **electronically** filed with the FCC **in the International Bureau Filing System (IBFS)** at least 10 days prior to the date on which it is desired to begin such operation. All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the license application.

8. Amend § 73.732 and revise to read as follows:

§ 73.732 Authorizations

Authorizations issued to international broadcasting stations by the Commission will be authorizations to permit the construction or use of a particular transmitting equipment combination and related antenna systems for international broadcasting, and to permit broadcasting to zones or areas of reception specified on the instrument of authorization. The authorizations will not specify the frequencies to be used or the hours of use. Requests for frequencies and hours of use will be made **by electronic filing in the International Bureau Filing System (IBFS)** as provided in § 73.702. Seasonal schedules, when issued pursuant to the provisions of § 73.702, will become attachments to and part of the instrument of authorization, replacing any such prior attachments.

9. Amend § 73.759 by revising paragraph (c)(2) to read as follows:

§ 73.759 Authorizations

* * * * *

(c) The auxiliary transmitters shall be maintained so that they may be put into immediate operation at any time for the following purposes:

* * * * *

(2) The transmission of regular programs during maintenance or modification work on the main transmitter, necessitating discontinuance of its operation for a period not to exceed 5 days. (This includes the equipment changes which may be made without authority as set forth elsewhere in the rules and regulations or as authorized by the Commission by letter or by construction permit. Where such operation is required for periods in excess of 5 days, request therefor shall be **made electronically in the International Bureau Filing System (IBFS)** in accordance with § 73.3542 of this chapter.)

* * * * *

10. Amend § 73.761 and revise to read as follows:

§ 73.761 Modification of transmission systems.

Specific authority, upon **electronic** filing of a formal application (FCC Form 309) therefor **in the International Bureau Filing System (IBFS)**, is required for any of the following changes:

* * * * *

Other changes, not specified above in this section, may be made at any time without the authority of the Commission: Provided, That the Commission shall be immediately notified **electronically in the International Bureau Filing System (IBFS)** thereof and such changes shall be shown in the next application for renewal of license.

11. Amend § 73.762 by revising subparagraphs (b) and (c) to read as follows:

§ 73.762 Time of operation

* * * * *

(b) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating, the station may limit or discontinue operation for a period of not more than 10 days, without further authority from the FCC. However, in such cases, the FCC shall be

immediately notified ~~in writing~~ **by electronic filing in the International Bureau Filing System (IBFS)** of such limitation or discontinuance of operation and shall subsequently be notified **by electronic filing in the International Bureau Filing System (IBFS)** when the station resumes regular operation.

(c) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating for a temporary period of more than 10 days, the station may not limit or discontinue operation until it requests and receives specific authority to do so from the FCC **by electronic filing in the International Bureau Filing System (IBFS)**. When the station subsequently resumes regular operation after such limited operation or discontinuance of operation, it shall notify the FCC in Washington, DC **by electronic filing in the International Bureau Filing System (IBFS)**. The license of a broadcasting station that fails to transmit broadcast signals for any consecutive 12-month period expires as a matter of law at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.

Subpart H—RULES APPLICABLE TO ALL BROADCAST STATIONS

12. Amend § 73.3533 by revising paragraph (a)(2) to read as follows:

§ 73.3533 Application for construction permit or modification of construction permit

(a) Application for construction permit, or modification of a construction permit, for a new facility or change in an existing facility is to be made on the following forms:

* * * * *

(2) FCC Form 309, “Application for Authority to Construct or Make Changes in an Existing International or Experimental Broadcast Stations.” **For International Broadcast Stations, applications shall be filed electronically in the International Bureau Filing System (IBFS).**

* * * * *

13. Amend § 73.3539 by revising paragraph (a) to read as follows:

§ 73.3539 Application for renewal of license

(a) Unless otherwise directed by the FCC, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be

renewed, except that applications for renewal of license of an experimental broadcast station shall be filed not later than the first day of the second full calendar month prior to the expiration date of the license sought to be renewed. If any deadline prescribed in this paragraph falls on a nonbusiness day, the cutoff shall be the close of business of the first full business day thereafter. **For International Broadcast Stations, applications shall be filed electronically in the International Bureau Filing System (IBFS).**

* * * * *

14. Amend § 73.3540 by revising paragraphs (c) and (d) to read as follows:

§ 73.3540 Application for voluntary assignment or transfer of control

* * * * *

(c) Application for consent to the assignment of construction permit or license must be filed on FCC Form 314 “Assignment of license” or FCC Form 316 “Short form” (See paragraph (f) of this section).

For International Broadcast Stations, the application shall be filed electronically in the International Bureau Filing System (IBFS).

(d) Application for consent to the transfer of control of a corporation holding a construction permit or license must be filed on FCC Form 315 “Transfer of Control” or FCC Form 316 “Short form” (see paragraph (f) of this section). **For International Broadcast Stations, applications shall be filed electronically in the International Bureau Filing System (IBFS).**

* * * * *

15. Amend § 73.3545 and revise to read as follows:

§ 73.3545 Application for permit to deliver programs to foreign stations.

Application under section 325(c) of the Communications Act for authority to locate, use, or maintain a broadcast studio in connection with a foreign station consistently received in the United States, should be made on FCC Form 308, “Application for Permit to Deliver Programs to Foreign Broadcast Stations.” An informal application may be used by applicants holding an AM, FM or TV broadcast station license or construction permit. Informal applications must, however, contain a description of the nature and character of the programming proposed, together with other information requested on Page 4 of Form

308. All applications must be filed electronically in the International Bureau Filing System (IBFS).