

approve any request for a further extension of the time limitations.

(k) *Appeals*—(1) *Bills for Collection (BFC's)*. The State may appeal the issuance of a BFC by the Regional Director. Such an appeal shall be made in writing within 30 days of the issuance of the bill. The appeal must include information justifying why the bill is incorrect. The Regional Director shall review the material submitted and notify the State, in writing, within 15 days of receipt of the appeal, of his/her decision. Interest on BFC's starts accruing on the date of issuance of the BFC, but is not charged if the State pays within 30 days of issuance. If the State is successful in its appeal, interest will not be charged; if unsuccessful, interest is due and payable, as above.

(2) *Other appeals*. The State may appeal any other decision of the Regional Director. Such appeals shall be made in writing within 30 days of the Regional Director's decision. The appeal must include information justifying a reversal of the decision. The Regional Director shall review the material submitted and notify the State, in writing, within 15 days of receipt of the appeal, of his/her decision.

(3) *Appeals to the Associate Director*. The State may further appeal the Regional Director's decisions to the Associate Director. This appeal shall be made in writing within 30 days of the Regional Director's decision. The appeal must include information justifying a reversal of the decision. The Associate Director shall review the material submitted and notify the State, in writing, within 15 days of receipt of the appeal, of his/her decision.

(l) *Exemption from Garnishment*. All proceeds received or receivable under the IFG program shall be exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver. No rights under this provision are assignable or transferable. The above exemptions will not apply to the requirement imposed by paragraph (e)(1)(ii)(K) of this section.

(m) *Debt Collection*. In cases involving fraud or misapplication of IFG funds, the Regional Director shall institute debt collection activities against the individual according to the procedures outlined in 44 CFR Part 11, Claims.

Dated: September 3, 1986.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 42

[CC Docket No. 84-283; FCC 88-367]

Common Carrier Services; Revision of Part 42, Preservation of Records of Communication Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has revised the record retention requirements for communication common carriers to eliminate the detailed list of records and prescribed retention periods and to make other revisions intended to give carriers greater flexibility in record retention and to relieve recordkeeping burdens. Also, pursuant to a petition of the U.S. Department of Justice, the Commission decided to require the retention of telephone toll records for 18 months to assist in law enforcement activities.

EFFECTIVE DATE: November 14, 1986.

FOR FURTHER INFORMATION CONTACT: Clifford Rand, Accounting and Audits Division, Common Carrier Bureau, (202)634-1861.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted August 7, 1986, and released August 22, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202)857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. In a Notice of Proposed Rulemaking (NPRM) released July 17, 1985, the Commission proposed to revise Part 42 of its Rules and Regulations, "Preservation of Records of Communication Common Carriers", to reduce the record retention and reporting burdens imposed on the carriers. Based on an analysis of the comments filed in this proceeding, we have decided to adopt our proposals with some modifications.

2. Comments were due on or before August 23, 1985 and reply comments on or before September 9, 1985. Fourteen comments and seven reply comments were received from telephone and

telegraph companies, a state commission, and government agencies.

3. We proposed to eliminate § 42.9, "List of records" and to rely instead on the carriers' own record retention needs as documented by a master index of records. As an alternative, we proposed to continue to prescribe a list of records with fewer records and shorter retention periods. Twelve respondents support elimination of the list of records but suggest some modifications. Generally, the respondents in favor of eliminating the list of records state that this would reduce paperwork burdens by allowing the carriers greater flexibility in record retention practices and would reduce this Commission's administrative burden. Four respondents, on the other hand, favor the alternative of prescribing a list with fewer records because they believe that reliance on the carriers' own record retention needs will result in a lack of uniformity among carriers and that a master index would be more burdensome for the carriers to maintain and more difficult for this Commission to administer.

4. After considering the comments, we have decided to eliminate the list of records. We are not concerned about the lack of uniformity of record retention practices among carriers as long as records needed by this Commission are available. We believe the carriers' need for records for their own business operations and to meet the requirements of other agencies will assure the availability of the records needed by this Commission. We also believe that eliminating the list of records will greatly reduce the carriers' record retention burdens.

5. Because our proposed elimination of the list of records would rely more heavily on the carriers' documentation of their record retention practices, we proposed to make the master index required in § 42.4 subject to review by Commission staff and to reserve the right to add records or lengthen retention periods upon a finding that retention periods may be insufficient for our regulatory purposes. The principal concern expressed by several respondents is that our proposal would require carriers to maintain a copy of the master index at each location where records are stored instead of an index only of records stored at that site. It was not our intention to extend the requirement for a master index to each location where records are stored, and we have revised § 42.4 to clarify that point. We have decided not to adopt a suggestion that no requirement be made as to the location of the master index; however, we have revised the wording

to require that the master index be maintained at the "operating company headquarters" rather than at the "general offices" of the carrier. The master index shall continue to include all records retained by the carrier. We have decided not to require the filing of the indices with this Commission and we are not establishing a formal review program.

6. The Commission proposed to modify § 42.5, "Preservation and protection of reproductions of original records" to permit carriers to use the preservation media of their choice. Although most parties agree with our proposals, some propose modifications which include: discouraging the use of new, experimental media forms; certifying the duplication rather than the accuracy of records in machine-readable media; and, specifying rules for magnetic storage media. In addition, parties state that detailed requirements related to microfilm should be eliminated in favor of the standard embodied in the Uniform Photographic Copies of Business and Public Records as Evidence Act.¹ We have decided to allow the carriers to use the storage medium of their choice. We believe that allowing carriers to use the most efficient storage media available will reduce record storage and retrieval costs and permit carriers to use new storage technologies. Based on the comments, we have decided to require certification that records on machine-readable media have been accurately duplicated rather than that each record is accurate. We have decided not to prescribe specific rules for machine-readable media because our goal is to reduce burdensome and unnecessary recordkeeping requirements for this type of medium. Finally, we agree that the detailed requirements related to microfilm in § 42.5(c) should be replaced by a reference to the Federal Business Records Act.

7. We proposed to eliminate § 42.6, "Destruction of records", with conforming changes to § 42.2, "Designation of supervisory official". Since none of the comments objected to these changes we have adopted them as proposed.

8. We proposed to eliminate § 42.7, "Premature destruction", which requires reporting of premature destruction of records with 90 days of discovery. Only one comment recommended retention of this section. Since we have decided to eliminate the list of records and to rely more heavily on the carriers' procedures

as documented in the master index, we have decided not to require the continued reporting of premature destruction of records to this Commission. Nevertheless, because we are relying on the carriers' documented procedures to verify the availability of records, we have decided to modify the requirements for the master index of records to require the addition of a certified statement documenting any loss or destruction of records before expiration of the retention period set forth in the master index. We believe this will serve this Commission's needs with the least burden on the carriers.

9. We also sought comment on the regulatory need for § 42.8, "Extension of period for retention of telegraph messages." The three comments on this provision stated that there is no current regulatory need for it. Therefore, we have decided to eliminate this section.

10. Fourteen respondents commented on our proposal to extend the retention period to telephone toll records from six months to 18 months consistent with a petition filed by the Department of Justice (DOJ). Nine respondents oppose the extension claiming that it is unnecessary, that it is not adequately supported by DOJ, and that its cost will exceed its benefits. After considering the opposing comments we have decided to extend the retention period as proposed. We believe that DOJ has provided sufficient detail to warrant this extension. We also believe that the increased cost is offset by valid public policy considerations. We have decided not to adopt a separate review procedure for this provision. We believe the review required every three years under the Paperwork Reduction Act² adequately provides for reevaluation of the need for this requirement. In adopting this extension, we have modified the proposal to require retention of only sufficient toll records to provide the information actually needed by DOJ. DOJ indicated that it needed the following information: the name, address, and telephone number of the caller, telephone number called, date, time, length of the call, and automatic message accounting tapes. Finally, in response to two requests for clarification, we have noted that Part 42 is applicable to the OCCs and that a carrier should retain records for toll calls it bills including billings on behalf of another carrier.

11. We proposed in a new § 42.7 to require that carriers add to the index of records any records relevant to complaint proceedings that are not

already included therein and to retain these records until final disposition of the complaint. Several comments oppose this, claiming it would be duplicative of the rules governing complaints in §§ 1.711-1.735 of this Commission's Rules and Regulations. We have determined that this provision is not duplicative of §§ 1.711-1.735. Section 42.7 instructs carriers to keep records of complaint proceedings. Sections 1.711-1.735 prescribe the procedures for formal and informal complaints and detail the appropriate steps a carrier should follow in a complaint proceeding. We have also determined that there is no need to prescribe more detailed requirements in § 42.7 as requested by some respondents.

12. Also, in this Report and Order, we have decided not to initiate a proceeding to extend the applicability of Part 42 to the unregulated affiliates of telephone companies. We did, however, revise the applicability section to remove the language that distinguishes among types of common carriers, and we confirmed that Part 42 is applicable only to fully subject carriers.

Other Matters

13. The rules contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980, *supra*, and found to impose modified requirements of burden upon the public. Implementation of any new or modified requirement of burden will be subject to approval by the Office of Management and Budget as prescribed by this Act.

14. In compliance with the provision of section 805(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we certify that these reporting changes can be readily implemented by all carriers subject to Part 42 of the Commission's Rules and Regulations without a significant economic impact on a substantial number of small entities because current reporting requirements have been reduced by the final rules.

Ordering Clauses

15. Accordingly, it is ordered, That pursuant to the provisions of Sections 4(i), 219 and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 219 and 220, Part 42 is hereby revised as set forth below effective November 14, 1986.

16. It is further ordered, That CC Docket No. 84-283 is hereby terminated.

17. It is further ordered, That the Secretary shall cause a copy of this Report and Order to be served on each state commission.

¹ This refers to the Federal Business Records Act, 28 U.S.C. 1732.

² 44 U.S.C. 3507.

18. It is further ordered, That the Secretary shall cause a summary of this Report and Order to be published in the Federal Register.

Appendix

The Federal Communications Commission is revising Part 42, *Preservation of Records of Communication Common Carriers* to read as follows:

PART 42—PRESERVATION OF RECORDS OF COMMUNICATION COMMON CARRIERS

Applicability

Sec.

42.01 Applicability.

General Instructions

- 42.1 Scope of the regulations in this part.
- 42.2 Designation of a supervisory official.
- 42.3 Protection and storage of records.
- 42.4 Index of records.
- 42.5 Preparation and preservation of reproductions of original records.
- 42.6 Retention of telephone toll records.
- 42.7 Retention of other records.

Authority: Sec. 4(i), 48 Stat. 1068, as amended, 47 U.S.C. 154(i). Interprets or applies sec. 219 and 220, 48 Stat. 1077-78, 47 U.S.C. 219, 220.

Applicability

§ 42.01 Applicability.

This part prescribes the regulations governing the preservation of records of communication common carriers that are fully subject to the jurisdiction of the Commission.

General Instructions

§ 42.1 Scope of the regulations in this part.

(a) The regulations in this part apply to all accounts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the carrier as well as those which come into its possession in connection with the acquisition of property, such as by purchase, consolidation, merger, etc.

(b) The regulations in this part shall not be construed as requiring the preparation of accounts, records, or memoranda not required to be prepared by other regulations, such as the Uniform System of Accounts, except as provided hereinafter.

(c) The regulations in this part shall not be construed as excusing compliance with any other lawful requirement for the preservation of records.

§ 42.2 Designation of a supervisory official.

Each carrier subject to the regulations in this part shall designate one or more

officials to supervise the preservation of its records.

§ 42.3 Protection and storage of records.

The carrier shall protect records subject to the regulations in this part from damage from fires, and other hazards and, in the selection of storage spaces, safeguard the records from unnecessary exposure to deterioration.

§ 42.4 Index of records.

Each carrier shall maintain at its operating company headquarters a master index of records. The master index shall identify the records retained, the related retention period, and the locations where the records are maintained. The master index shall be subject to review by Commission staff and the Commission shall reserve the right to add records, or lengthen retention periods upon finding that retention periods may be insufficient for its regulatory purposes. When any records are lost or destroyed before expiration of the retention period set forth in the master index, a certified statement shall be added to the master index, as soon as practicable, listing, as far as may be determined, the records lost or destroyed and describing the circumstances of the premature loss or destruction. At each office of the carrier where records are kept or stored, the carrier shall arrange, file, and currently index the records on site so that they may be readily identified and made available to representatives of the Commission.

§ 42.5 Preparation and preservation of reproductions of original records.

(a) Each carrier may use a retention medium of its choice to preserve records in lieu of original records, provided that they observe the requirements of paragraphs (b) and (c) of this section.

(b) A paper or microfilm record need not be created to satisfy the requirements of this part if the record is initially prepared in machine-readable medium such as punched cards, magnetic tapes, and disks. Each record kept in a machine-readable medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it has been accurately duplicated. This statement shall be executed by a person duplicating the records. The records shall be indexed and retained in such a manner that they are easily accessible, and the carrier shall have the facilities available to locate, identify and reproduce the records in readable form without loss of clarity.

(c) Records may be retained on microfilm provided they meet the requirements of the Federal Business Records Act (28 U.S.C. § 1732).

§ 42.6 Retention of telephone toll records.

Each carrier that offers or bills toll telephone service shall retain for a period of 18 months such records as are necessary to provide the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time, length of the call, and automatic message accounting tapes. Each carrier shall retain this information for toll calls that it bills whether it is billing its own toll service customers for toll calls or billing customers for another carrier.

§ 42.7 Retention of other records.

Except as specified in § 42.6, each carrier shall retain records identified in its master index of records for the period established therein. Records relevant to complaint proceedings not already contained in the index of records should be added to the index as soon as a complaint is filed and retained until final disposition of the complaint. Records a carrier is directed to retain as the result of a proceeding or inquiry by the Commission to the extent not already contained in the index will also be added to the index and retained until final disposition of the proceeding or inquiry.

Federal Communications Commission.

William J. Tricarico,

Secretary.

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47 CFR Part 73

[MM Docket No. 86-51, RM-5123]

Radio-Broadcasting Services; Altus, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 300A to Altus, Oklahoma, as the community's second local FM service, at the request of Robert M. Kerr. The channel can be allocated in compliance with the Commission's minimum distance separation and other technical requirements without the imposition of a site restriction. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 15, 1986. The window period for filing applications