

**§ 27.5 [Amended]**

■ 14. Section 27.5 is amended by removing and reserving paragraph (g).

**§ 27.6 [Amended]**

■ 15. Section 27.6 is amended by removing and reserving paragraph (g).

**§ 27.11 [Amended]**

■ 16. Section 27.11 is amended by removing and reserving paragraph (h).

**§ 27.13 [Amended]**

■ 17. Section 27.13 is amended by removing and reserving paragraph (f).

**§ 27.50 [Amended]**

■ 18. Section 27.50 is amended by removing and reserving paragraph (g).

**§ 27.53 [Amended]**

■ 19. Section 27.53 is amended by removing and reserving paragraph (k).

**Subpart K—[Removed]**

■ 20. Subpart K is removed and reserved.

**PART 87—AVIATION SERVICES**

■ 21. The authority citation for part 87 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 307(e) unless otherwise noted.

■ 22. Section 87.173 is amended by revising the entry in the table in paragraph (b) for “2310–2390 MHz” to read as follows:

**§ 87.173 Frequencies.**

\* \* \* \* \*

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
2310–2395 MHz	J	MA,FAT	Aeronautical telemetry and telecommand operations.

■ 23. Section 87.303 is amended by revising paragraph (d)(1) to read as follows:

**§ 87.303 Frequencies.**

\* \* \* \* \*

(d)(1) Frequencies in the bands 1435–1525 MHz and 2360–2395 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of aircraft and missiles, or their major components. The bands 1525–1535 MHz and 2310–2360 MHz are also available for these purposes on a secondary basis. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the Earth’s atmosphere, as well as any incidental orbiting prior to reentry, of objects undergoing flight tests. In the band 1435–1530 MHz, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5, and 1525.5 MHz. In the band 2360–2390 MHz, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles, whether or not such operations involve flight testing: 2364.5, 2370.5 and 2382.5 MHz. In the band 2360–2395 MHz, all other mobile telemetry uses are secondary to the above stated launch vehicle uses.

\* \* \* \* \*

**PART 97—AMATEUR RADIO SERVICE**

■ 24. The authority citation for part 97 continues to read as follows:

**Authority:** 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

■ 25. Section 97.303(j)(2)(iii) is revised to read as follows:

**§ 97.303 Frequency sharing requirements.**

\* \* \* \* \*

(j) \* \* \*

(2) \* \* \*

(iii) The 2390–2417 MHz segment is allocated to the amateur service on a primary basis.

(A) The 2390–2395 MHz segment is shared with Federal and non-Federal Government mobile services on a co-equal basis. See 47 CFR 2.106, footnote US276.

(B) Amateur stations operating in the 2400–2417 MHz segment must accept harmful interference that may be caused by the proper operation of industrial, scientific and medical equipment.

\* \* \* \* \*

[FR Doc. 04–28420 Filed 12–28–04; 8:45 am]

**BILLING CODE 6712-01-C**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 51**

[CC Docket Nos. 01–338; CC Docket No. 96–98; CC Docket No. 98–147; FCC 04–248]

**Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) modifies certain of the unbundling obligations associated with fiber-to-the-curb (FTTC) architectures pursuant to section 251 of the Telecommunications Act of 1996 (1996 Act). Specifically, the Commission concludes that FTTC loops will be subject to the same, limited unbundling obligations governing fiber-to-the-home (FTTH) loops. The Commission further clarifies that incumbent LECs need not build time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that never had TDM capability. In addition, the Order also clarifies that where an incumbent LEC has deployed new FTTH or FTTC loops using packet-based equipment, and they nevertheless need to hand off a signal to some customers in TDM format in order

to be compatible with an end user's customer premises equipment, this "TDM handoff" does not change the scope of unbundling relief.

**DATES:** Effective January 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Marcus Maher, Attorney-Advisor, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1580, or via the Internet at [marcus.maher@fcc.gov](mailto:marcus.maher@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration in CC Docket No. 01-338, CC Docket No. 96-98, and CC Docket No. 98-147; FCC 04-248, adopted October 14, 2004, and released October 18, 2004. The full text of this document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail <http://www.bcpiweb.com>. It is also available on the Commission's website at <http://www.fcc.gov>. The complete text of this Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418-0484.

### Synopsis of the Order on Reconsideration

1. In the *Triennial Review Order*, 68 FR 52276, September 2, 2003, the Commission adopted rules pursuant to section 251 of the 1996 Act, requiring incumbent local exchange carriers (LECs) to make elements of their local network available to competitors on an unbundled basis. The *Triennial Review Order* imposed only limited unbundling obligations with respect to incumbent LECs' broadband loops. In *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (*USTA II*), the D.C. Circuit recently upheld these rules. The Commission granted the greatest unbundling relief for dark or lit fiber loops serving mass market customers that extend to the customer's premises (known as fiber-to-the-home or FTTH loops) in new build or "greenfield" situations. For those loops, the Commission determined that no unbundling is required. However, where a FTTH loop is deployed in overbuild, or "brownfield," situations, the Commission determined that incumbent LECs must either provide unbundled access to a 64 kbps transmission path over the fiber loop or

unbundled access to a spare copper loop.

2. In this Order, the Commission concludes that it is appropriate to apply the FTTH rules to FTTC loops, as well. With respect to new FTTC deployments ("greenfield" deployments), the Commission finds that competitive LECs face similar barriers to deployment as incumbent LECs. In the *Triennial Review Order*, the Commission found that entry barriers for FTTH deployments were largely the same for incumbent and competitive carriers. The Commission finds that this conclusion remains valid regardless of the loop technology deployed, and thus equally applies to greenfield deployments of FTTC loops. However, the Commission also finds that just as overbuild FTTH deployments "merit[] slightly different treatment than greenfield FTTH deployments," so, too, do overbuild FTTC deployments. Thus, in the overbuild context, the Commission finds that competitive LECs face impairment to a limited extent, and requires that competitive LECs should have continued access to either a copper loop or a 64 kbps transmission path in those situations.

3. Second, the Commission utilizes its discretion under the section 251(d)(2) "at a minimum" authority to consider the statutory goals of section 706 which requires the Commission to encourage the deployment of advanced telecommunications capability to all Americans. The Commission concludes that subjecting FTTC loops to the same unbundling framework adopted for FTTH loops furthers the goals of section 706. The Commission finds that the record in this case demonstrates that further reducing the unbundling obligations associated with FTTC loops would eliminate disincentives to invest in broadband facilities and, therefore, furthers section 706's goals. The Commission, therefore, reconsiders its determination in the *Triennial Review Order* that FTTC loops should be characterized as hybrid loop architecture for the purpose of the unbundling regulations, and revises its broadband loop unbundling rules to regulate FTTC loops in the same manner as adopted for FTTH loops in the *Triennial Review Order*.

4. This Order tailors unbundling relief by defining a FTTC loop as a fiber transmission facility connecting to copper distribution plant that is not more than 500 feet from the customer's premises, and further specifying that the fiber transmission facility in a FTTC loop must connect to copper distribution plant at a serving area interface from which every other copper

distribution subloop also is not more than 500 feet from the respective customer's premises.

5. Petitions by BellSouth and SureWest also sought clarification whether the Commission's existing unbundling rules require incumbent LECs to build time division multiplexing (TDM) capabilities into networks at the request of competitive LECs. Consequently, this Order clarifies that incumbent LECs are not required to add TDM capabilities into new packet-based networks or into existing packet-based networks that never had TDM capability. In addition, the Order also clarifies that where an incumbent LEC has deployed new FTTH or FTTC loops using packet-based equipment, and they nevertheless need to hand off a signal to some customers in TDM format in order to be compatible with an end user's customer premises equipment, this "TDM handoff" does not change the scope of unbundling relief.

### Final Paperwork Reduction Act Analysis

6. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any 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).

### Supplemental Final Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM*. 67 FR 1947, January 15, 2002. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. In the *Triennial Review Order*, the Commission issued a Final Regulatory Flexibility Analysis (FRFA) addressing comments submitted with regard to the IRFA. This present Order addresses issues raised by two petitions for reconsideration of the *Triennial Review Order*. Specifically, the Order modifies the unbundling rules governing fiber-to-the-curb (FTTC) loops in response to a petition from BellSouth. The Order also clarifies existing rules regarding network modifications in response to petitions from BellSouth and SureWest. This present Supplemental FRFA (Supplemental FRFA) conforms to the RFA.

8. *Need for, and Objectives of, the Rules.* In response to BellSouth's petition for reconsideration of the *Triennial Review Order*, this Order promotes investment in broadband facilities through the implementation of the unbundling requirements of section 251 of the Act. Specifically, the Order concludes that the fiber-to-the-home (FTTH) rules, which relieve the incumbent LECs from certain unbundling obligations, will also apply to FTTC loops. Specifically, a FTTC loop is a fiber transmission facility connecting to copper distribution plant that is not more than 500 feet from the customer's premises. The Commission further specifies that the fiber transmission facility in a FTTC loop must connect to copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises. In the *Triennial Review Order* released last year, the Commission concluded that the broadband capabilities of FTTH loops would be relieved from unbundling under section 251 of the Act. Today's action builds on the broadband principles of the *Triennial Review Order* by further extending the unbundling relief to FTTC loops. In this Order, the Commission concludes that, as with FTTH, competitors are not impaired without access to FTTC loops in new build ("greenfield") situations. While requesting carriers may face limited impairment in overbuild ("brownfield") situations, that is addressed by requiring unbundled access to a 64 kbps channel or unbundled access to spare copper facilities. Based on this analysis of impairment and the section 706 balancing of investment incentives against the costs of unbundling for FTTC, the Commission concludes that FTTC loops should have the same unbundling relief as FTTH loops.

9. Petitions by BellSouth and SureWest also sought clarification whether the Commission's existing unbundling rules require incumbent LECs to build time division multiplexing (TDM) capabilities into networks at the request of competitive LECs. Consequently, this Order clarifies that incumbent LECs are not required to add TDM capabilities into new packetized transmission facilities. In addition, the Order also clarifies that where an incumbent LEC has deployed FTTH or FTTC loops using packet-based equipment, and they nevertheless need to hand off a signal to some customers in TDM format in order to be compatible with an end user's customer premises

equipment, this "TDM handoff" does not change the scope of unbundling relief.

10. *Summary of Significant Issues Raised by the Public.* The subject petitions for reconsideration were not submitted in response to the previous FRFA, and did not address the FRFA.

11. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Would Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

12. In this section, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the revised rule adopted in this Order. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its *Trends in Telephone Service* report. The SBA has developed small business size standards for wireline small businesses within the commercial census category of Wired Telecommunications Carriers. Under this category, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

13. We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we

emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

14. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

15. *Incumbent Local Exchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,337 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our proposed action.

16. *Cable and Other Program Distribution.* In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating \$12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under \$10 million, and an additional 52 firms had receipts of \$10 million or more but less than \$25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the proposed rules and policies.

17. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* In this Order, we conclude that FTTC loops will be subject to the same unbundling obligations as FTTH loops. This rule modification will relieve the providers of such broadband loops from unbundling obligations under section 251 of the Act. This relieved a section

251 unbundling requirement currently placed on such providers.

18. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered:* The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

19. In this Order, we conclude that FTTC loops should be governed by the FTTH loop rules. The Order considered, and rejected, the alternative of retaining the existing unbundling obligations for FTTC. The Order reached this conclusion by applying principles established in the *Triennial Review Order* to more precisely calibrate the Commission’s policy for broadband loops. In response to petitions for reconsideration requesting that the Commission look more closely at the unbundling requirements for FTTC loops, the Order considers potential impairment faced by requesting carriers and weighs section 706’s broadband deployment goals, and concludes that the record demonstrates that FTTC loops should have the same unbundling relief as FTTH loops. Although this rule will deny unbundling to competitive carriers seeking to serve customers served by FTTC loops, the Commission concluded that requesting carriers face no impairment in greenfield situations and only limited impairment in brownfield situations, which is addressed through access to a 64 kbps channel or a spare copper facility. Further, such unbundling relief was necessary to remove disincentives for incumbent LECs to deploy FTTC facilities. Alternatives considered, including the denial of such unbundling relief to FTTC, were not adopted because they do not accomplish the Commission’s objectives in this proceeding of promoting broadband deployment.

20. *Report to Congress:* The Commission will send a copy of the Order, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including this

Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

#### Ordering Clauses

21. *It is ordered* that, pursuant to the authority contained in sections 2, 4(i)–4(j), 10(d), 201, 251, 303(r), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–4(j), 160(d), 201, 251, 303(r), 706 this Order on Reconsideration *is adopted*, and that part 51 of the Commission’s rules, 47 CFR part 51, is amended as set forth in Appendix B of the Order. The requirements of this Order shall become effective 30 days after publication in the **Federal Register**.

22. *It is further ordered* that, pursuant to the authority contained in sections 2, 4(i)–4(j), 10(d), 201, 251, 303(r), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–4(j), 160(d), 201, 251, 303(r), and 706, the petitions for reconsideration filed by BellSouth and SureWest *are granted in part*.

23. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 51

Interconnection, Unbundling Requirements.

Federal Communications Commission.

**Marlene H. Dortch**,  
*Secretary*.

#### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

#### PART 51—INTERCONNECTION

■ 1. The authority citation for part 51 continues to read:

**Authority:** Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 256, 271, 303(r), 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 256, 271, 303(r), 332, 47 U.S.C. 157 note, unless otherwise noted.

■ 2. Section 51.319 is amended by revising paragraph (a)(3) to read as follows:

#### § 51.319 Specific unbundling requirements.

(a) \* \* \*

(3) *Fiber loops.* (i) *Definitions.* (A) *Fiber-to-the-home loops.* A fiber-to-the-

home loop is a local loop consisting entirely of fiber optic cable, whether dark or lit, serving an end user’s customer premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the multiunit premises’ minimum point of entry (MPOE).

(B) *Fiber-to-the-curb loops.* A fiber-to-the-curb loop is a local loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer’s premises or, in the case of predominantly residential MDUs, not more than 500 feet from the MDU’s MPOE. The fiber optic cable in a fiber-to-the-curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer’s premises.

(ii) *New builds.* An incumbent LEC is not required to provide nondiscriminatory access to a fiber-to-the-home loop or a fiber-to-the-curb loop on an unbundled basis when the incumbent LEC deploys such a loop to an end user’s customer premises that previously has not been served by any loop facility.

(iii) *Overbuilds.* An incumbent LEC is not required to provide nondiscriminatory access to a fiber-to-the-home loop or a fiber-to-the-curb loop on an unbundled basis when the incumbent LEC has deployed such a loop parallel to, or in replacement of, an existing copper loop facility, except that:

(A) The incumbent LEC must maintain the existing copper loop connected to the particular customer premises after deploying the fiber-to-the-home loop or the fiber-to-the-curb loop and provide nondiscriminatory access to that copper loop on an unbundled basis unless the incumbent LEC retires the copper loops pursuant to paragraph (a)(3)(iv) of this section.

(B) An incumbent LEC that maintains the existing copper loops pursuant to paragraph (a)(3)(iii)(A) of this section need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals prior to receiving a request for access pursuant to that paragraph, in which case the incumbent LEC shall restore the copper loop to serviceable condition upon request.

(C) An incumbent LEC that retires the copper loop pursuant to paragraph (a)(3)(iv) of this section shall provide nondiscriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the

fiber-to-the-home loop or fiber-to-the-curb loop on an unbundled basis.

(iv) Retirement of copper loops or copper subloops. Prior to retiring any copper loop or copper subloop that has been replaced with a fiber-to-the-home loop or a fiber-to-the-curb loop, an incumbent LEC must comply with:

(A) The network disclosure requirements set forth in section 251(c)(5) of the Act and in § 51.325 through § 51.335; and

(B) Any applicable state requirements.

\* \* \* \* \*

■ 3. Section 51.325 is amended by revising paragraph (a)(4) to read as follows:

**§ 51.325 Notice of network changes: Public notice requirement.**

(a) \* \* \*

(4) Will result in the retirement of copper loops or copper subloops, and the replacement of such loops with fiber-to-the-home loops or fiber-to-the-curb loops, as those terms are defined in § 51.319(a)(3).

\* \* \* \* \*

■ 4. Section 51.331 is amended by revising paragraph (c) to read as follows:

**§ 51.331 Notice of network changes: Timing of notice.**

\* \* \* \* \*

(c) Competing service providers may object to incumbent LEC notice of retirement of copper loops or copper subloops and replacement with fiber-to-the-home loops or fiber-to-the-curb loops in the manner set forth in § 51.333(c).

■ 5. Section 51.333 is amended by revising paragraphs (b) and (c) introductory text, and by revising paragraph (f) to read as follows:

**§ 51.333 Notice of Network Changes: Short term notice, objections thereto and objections to retirement of copper loops or copper subloops.**

\* \* \* \* \*

(b) *Implementation date.* The Commission will release a public notice of filings of such short term notices or notices of replacement of copper loops or copper subloops with fiber-to-the-home loops or fiber-to-the-curb loops. The effective date of the network changes referenced in those filings shall be subject to the following requirements:

(1) *Short term notice.* Short term notices shall be deemed final on the tenth business day after the release of the Commission's public notice, unless an objection is filed pursuant to paragraph (c) of this section.

(2) *Replacement of copper loops or copper subloops with fiber-to-the-home*

*loops or fiber-to-the-curb loops.* Notices of replacement of copper loops or copper subloops with fiber-to-the-home loops or fiber-to-the-curb loops shall be deemed approved on the 90th day after the release of the Commission's public notice of the filing, unless an objection is filed pursuant to paragraph (c) of this section. Incumbent LEC notice of intent to retire any copper loops or copper subloops and replace such loops or subloops with fiber-to-the-home loops or fiber-to-the-curb loops shall be subject to the short term notice provisions of this section, but under no circumstances may an incumbent LEC provide less than 90 days notice of such a change.

(c) *Objection procedures for short term notice and notices of replacement of copper loops or copper subloops with fiber-to-the-home loops or fiber-to-the-curb loops.* An objection to an incumbent LEC's short term notice or to its notice that it intends to retire copper loops or copper subloops and replace such loops or subloops with fiber-to-the-home loops or fiber-to-the-curb loops may be filed by an information service provider or telecommunications service provider that directly interconnects with the incumbent LEC's network. Such objections must be filed with the Commission, and served on the incumbent LEC, no later than the ninth business day following the release of the Commission's public notice. All objections filed under this section must:

\* \* \* \* \*

(f) *Resolution of objections to replacement of copper loops or copper subloops with fiber-to-the-home loops or fiber-to-the-curb loops.* An objection to a notice that an incumbent LEC intends to retire any copper loops or copper subloops and replace such loops or subloops with fiber-to-the-home loops or fiber-to-the-curb loops shall be deemed denied 90 days after the date on which the Commission releases public notice of the incumbent LEC filing, unless the Commission rules otherwise within that time. Until the Commission has either ruled on an objection or the 90-day period for the Commission's consideration has expired, an incumbent LEC may not retire those copper loops or copper subloops at issue for replacement with fiber-to-the-home loops or fiber-to-the-curb loops.

[FR Doc. 04-28531 Filed 12-28-04; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 04-3821, MB Docket No. 04-31, RM-10852]

**Television Broadcast Service; Gainesville, FL**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Gainesville Channel 61 Associates, LLC, substitutes channel 29 for channel 61+ at Gainesville. See 69 FR 9791, March 2, 2004. TV channel 29 can be allotted to Gainesville with a zero offset consistent with the principle community coverage requirements of Section 73.610 at coordinates 29-37-47 N. and 82-34-24 W. With this action, this proceeding is terminated.

**DATES:** Effective January 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 04-31, adopted December 2, 2004, and released December 14, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 301-816-2820, facsimile 301-816-0169, or via e-mail [joshir@erols.com](mailto:joshir@erols.com).

This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any 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, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this Report & Order in a report to be sent to Congress and the General Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Television broadcasting.