

**§ 320.2 Definitions.**

(a) *Lacking federal deposit insurance* means the depository institution is not an insured depository institution as defined in 12 U.S.C. 1813(c)(2), or is not an insured credit union, as defined in section 101 of the Federal Credit Union Act, 12 U.S.C. 1752.

(b) *Depository institution* means any bank or savings association as defined under 12 U.S.C. 1813, or any credit union organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, which laws provide for the organization of credit unions similar in principle and objectives to federal credit unions.

**§ 320.3 Disclosures in periodic statements and account records.**

Depository institutions lacking federal deposit insurance must include in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice disclosing conspicuously that the institution is not federally insured, and that if the institution fails, the federal government does not guarantee that depositors will get back their money. For example, a notice would comply with the requirement if it conspicuously stated the following: “[Institution’s name] is not federally insured. If it fails, the federal government does not guarantee that you will get your money back.”

**§ 320.4 Disclosures in advertising and on the premises.**

Depository institutions lacking federal deposit insurance must include conspicuously a notice disclosing that the institution is not federally insured:

(a) At each location where the depository institution’s account funds or deposits are normally received, including, but not limited to, its principal place of business, its branches, its automated teller machines, and credit union centers, service centers, or branches servicing more than one credit union or institution; and

(b) In all advertisements, including, but not limited to, advertising in print, electronic, webpage, or broadcast media.

**§ 320.5 Disclosure acknowledgment.**

Except as provided in § 320.6, depository institutions lacking federal deposit insurance are prohibited from receiving any deposit for the account of a new or existing depositor unless the depositor has signed a written acknowledgment indicating that the

institution is not federally insured and, if the institution fails, the federal government does not guarantee that the depositor will get back the depositor’s money.<sup>1</sup>

**§ 320.6 Exception for certain depository institutions.**

The requirements of this part do not apply to any depository institution lacking federal deposit insurance and located within the United States that does not receive initial deposits of less than \$100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

**§ 320.7 Enforcement.**

Compliance with the requirements of this part shall be enforced under the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 05–5218 Filed 3–15–05; 8:45 am]

**BILLING CODE 6750–01–P**

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Chapter I**

[WC Docket No. 05–68; FCC 05–41]

**Regulation of Prepaid Calling Card Services**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this Notice of Proposed Rulemaking (NPRM), the Federal Communications Commission (Commission) commences a proceeding to consider comprehensively the appropriate classification of and its jurisdiction over prepaid calling card services that provide users with the ability to do more than merely place a phone call. The Commission also seeks comment on ways in which it can ensure that prepaid calling cards continue to be available at reasonable rates to soldiers and their families.

**DATES:** Comments are due on or before April 15, 2005 and reply comments are due on or before May 16, 2005.

<sup>1</sup> Depository institutions lacking federal deposit insurance may receive deposits from members who were depositors before June 19, 1994 without obtaining a signed written acknowledgment, if the depository institution followed the procedures set forth in 12 U.S.C. 1831t(b)(3)(C). If the institution followed such procedures, the statute does not require the institution to provide another separate written acknowledgment to the depositor.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 05–68, by any of the following methods:

- Federal Communications Commission’s Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-Mail: To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message: “get form.”

- U.S. Postal Service Mail: 445 12th Street, SW., Washington, DC 20554.

- Commercial Overnight Mail: 9300 East Hampton Drive, Capitol Heights, MD 20743.

- Hand-Delivery or Messenger-Delivery: 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

For detailed instructions for submitting comments, other filing methods, and additional information on the rulemaking process, see the “Comment Filing Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Fred Campbell, Pricing Policy Division, Wireline Competition Bureau, via telephone: (202) 418–1553 or e-mail: [Fred.Campbell@fcc.gov](mailto:Fred.Campbell@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission released an Order and NPRM addressing prepaid calling card services on February 23, 2005. See *AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services; Regulation of Prepaid Calling Card Services*, WC Docket Nos. 03–133 & 05–68, Order & Notice of Proposed Rulemaking, FCC 05–41 (rel. Feb. 23, 2005) (*Order & NPRM*). This is a summary of the NPRM portion of the *Order & NPRM*. Copies of the *Order & NPRM* and any subsequently filed documents in this matter are or will be available on the Commission’s Internet site at <http://www.fcc.gov> and for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. at the FCC Reference Information Center, Portals II, 445 12th St. SW., Room CY–A257, Washington, DC 20554. Copies of any such documents may also be purchased from the Commission’s copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). Accessible formats (computer diskettes, large print, audio

recording and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau, at (202) 418-0531, TTY (202) 418-7365, or at [fcc504@fcc.gov](mailto:fcc504@fcc.gov).

### Background

Prepaid calling cards provide consumers with the ability to place long-distance calls without presubscribing to an interexchange carrier (IXC) or using a credit card. A calling card customer typically dials a number to reach the service provider's centralized switching platform and the platform requests the unique personal identification number associated with the card for purposes of verification and billing. When prompted by the platform, the customer dials the destination number and the platform routes the call to the intended recipient.

To date, calling card services have been regulated by the Commission as telecommunications services because they provide transmission of information, without a change in form or content, for a fee directly to the public. Consistent with this classification, the Commission requires carriers to report revenues from prepaid calling cards on the forms submitted to the Universal Service Administrative Company for purposes of universal service contributions.

Calling cards have been considered "jurisdictionally mixed" telecommunications services because they enable the caller to make interstate and intrastate calls. For purposes of determining the jurisdiction of calling card calls, the Commission has applied an "end-to-end" analysis, classifying long-distance calls as jurisdictionally interstate or intrastate based on the endpoints, not the actual path, of each complete communication. Under the Commission's end-to-end analysis, intrastate access charges apply when customers use prepaid calling cards to make interexchange calls that originate and terminate within the same State, even if the centralized switching platform is located in a different State.

In the *Order & NPRM*, the Commission held that these same rules apply to AT&T's "enhanced" prepaid calling card service that transmits an advertisement to the customer during call setup. AT&T had requested that the Commission declare that its "enhanced" prepaid calling card service is an "information service" within the meaning of the Communications Act and the Commission's rules, and that calls between persons in the same State are jurisdictionally interstate so long as the prepaid calling card platform delivering the advertising message is in

another State. The Commission denied AT&T's petition based on its finding that AT&T's "enhanced" calling card service is a telecommunications service and the location of the calling card platform used in that service is irrelevant to the jurisdictional analysis.

On November 22, 2004, prior to adoption of the *Order & NPRM*, AT&T filed an *ex parte* letter amending its petition to request an additional ruling on two new variants of its "enhanced" prepaid calling card service. In the first variant, rather than immediately sending the advertising message, the platform provides the caller with a series of options other than making a call (e.g., "press 1 to learn more about specials at ABC stores; press 2 to add minutes to your card"). AT&T recently added this type of capability to cards it offers through a partnership with Wal-Mart Stores, Inc., including an option for customers to donate minutes to troops serving overseas. When the chosen option is completed, or if no option is chosen, the caller is directed to dial the destination number and at that point the platform transmits the advertising message in the same manner as the original version of the service.

In the second variant, the service provided to the customer may be the same as the service ruled upon in the *Order & NPRM* or the variant described above, but some of the transport is provided over AT&T's Internet backbone using Internet Protocol technology. AT&T states that these calls are not dialed on a 1+ basis and therefore are not covered by the Commission's prior determination that "IP-in-the-middle" calls are telecommunications services, and not information services. See *Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361, Order, 19 FCC Rcd 7457 (2004) (*AT&T IP Telephony Order*). According to AT&T, the *AT&T IP Telephony Order* is inapplicable because it was expressly limited to calls that utilize 1+ dialing.

### Discussion

In the *Order & NPRM*, the Commission found that AT&T's original, "enhanced" prepaid calling card service does not meet the statutory definition of an information service because: (1) AT&T does not offer any capability to the customer with respect to the advertising message; and (2) the advertising message is incidental to the underlying telecommunications service. We seek comment on how to apply this analysis to the first variant on AT&T's "enhanced" calling card service

described above. Does offering the caller a menu of options to access information satisfy the definition of an information service, or must the information made available be more integral to the underlying telecommunications service? How should we distinguish between incidental information and information that is essential to the service? Is there any evidence that any of these cards are being marketed as providing a service other than making telephone calls? Is there any evidence that customers purchase these cards for any reason other than making telephone calls? Is the customer's purpose in buying the card relevant to this inquiry? How relevant is the frequency with which customers use any such additional features? We seek comment on the manner in which these cards are marketed, the types of features they offer, and the frequency with which customers use those features.

We also seek comment on the extent to which the use of IP technology to deliver calls placed using prepaid calling cards is a relevant factor in determining its classification under the Act. In the *AT&T IP Telephony Order*, we concluded that an AT&T voice service utilizing 1+ dialing from a regular telephone that is converted into IP format for transport over AT&T's network and converted back into analog format for delivery through local exchange carrier lines is a telecommunications service. We stated that this conclusion applies to all services that (1) use ordinary customer premises equipment with no enhanced functionality, (2) originate and terminate on the public switched telephone network, and (3) undergo no net protocol conversion and provide no enhanced functionality to end users due to the provider's use of IP technology. Are prepaid calling card services that use "IP-in-the-middle" and meet these same criteria also telecommunications services? Does it matter, as AT&T argues, whether 1+ dialing or 8YY dialing is used to originate the call? AT&T has asserted that other prepaid calling card providers are using IP to transport prepaid calling card services and are treating such calls as information services. If other providers are offering such services, are they treating them as information services? If so, how are those services similar or dissimilar to the "IP-in-the-middle" service we classified as a telecommunications service in the *AT&T IP Telephony Order*?

In addition to services similar to the variants described above, we seek comment on how we might distinguish between telecommunications and

information services for other existing or potential prepaid calling card services that incorporate features not specifically addressed in this item. Are there other existing prepaid calling cards that offer capabilities in addition to the ability to place a phone call? What capabilities do these other cards offer, and how are they different from the prepaid calling cards offered or proposed by AT&T? In what other ways is IP technology being used to provide prepaid calling services? What other features are relevant to the classification of any existing or potential prepaid calling cards?

To the extent the variant services described by AT&T or other existing or potential prepaid calling card services are classified as information services, they presumably would be subject solely to Federal jurisdiction. If any such services are classified as telecommunications services, we seek comment on the circumstances, if any, under which we should assert exclusive Federal jurisdiction, even if the calls originate and terminate in the same State. What factors would be relevant in deciding whether the Commission should assert exclusive jurisdiction? Does the Commission's recent *Vonage Order* have any relevance in this circumstance? See *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Memorandum Opinion and Order, FCC 04-267 (rel. Nov. 12, 2004).

The record developed in the *Order & NPRM* proceeding made clear that prepaid calling cards are a vital communications tool for members of the armed services and their families. We seek comment on whether there are steps this Commission can take to ensure that prepaid calling cards continue to be available to soldiers and their families at reasonable rates. Specifically, are there any circumstances in which soldiers and their families would be negatively impacted if prepaid calling cards were subject to universal service and access charges? If there would be any such negative impact, are there steps the Commission can take, consistent with the requirements of the Telecommunications Act of 1934, as amended, to ameliorate it? In this respect, would it be within our authority to exempt calling cards sold at military exchanges or other military retail outlets from universal service or access charges, or within our authority to forbear from applying such charges? Even if it is within our authority, is it

technically feasible for vendors to differentiate such cards?

#### Comment Filing Procedures

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together

with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be sent to 445 12th Street, SW., Washington DC 20554.

People with Disabilities may contact the FCC to request materials in accessible formats (braille, large print, electronic files, audio format, etc.) by e-mail at [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (TTY).

#### Ex Parte Requirements

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 CFR 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules. 47 CFR 1.1206(b).

#### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines indicated in the **DATES** section of this document. The Commission will send a copy of the NPRM and IRFA to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

#### Need for, and Objectives of, the NPRM

In the past, the Commission has treated prepaid calling cards as jurisdictionally mixed telecommunications services subject to State and Federal regulation. As companies introduce "enhanced" prepaid calling cards, questions arise as

to whether these new services should be subject to the same regulatory treatment. In the NPRM, the Commission seeks comment on two types of "enhanced" prepaid calling card services offered or planned by AT&T as well as other existing or potential prepaid calling card services incorporating features that are not currently addressed by our rules. Specifically, the Commission seeks comment on the classification of such services as telecommunications services or information services and whether, or under what circumstances, the Commission should exercise exclusive Federal jurisdiction over such services. The Commission also seeks comment on whether there are steps it can take to ensure that prepaid calling cards continue to be available to soldiers and their families at reasonable rates.

#### *Legal Basis*

This rulemaking action is supported by sections 4(i), 4(j), 201, 202, 203, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), (j), 201, 202, 203, 254.

#### *Description and Estimate of the Number of Small Entities to Which the Notice Will Apply*

The RFA, 5 U.S.C. 603, directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 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 SBA.

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 and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers, Paging, and Cellular and Other Wireless Telecommunications. Under these categories, 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.

We have included small incumbent LECs 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 LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

*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.

*Local Exchange Carriers:* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,310 carriers reported that they were incumbent local exchange service providers. Of these 1,310 carriers, an estimated 1,025 have 1,500 or fewer employees and 285 have more than 1,500 employees. In addition, according to Commission data, 563 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 563 companies, an estimated 472 have 1,500 or fewer employees and 91 have more than 1,500 employees. In addition, 37 carriers reported that they were "Other Local Exchange Carriers." Of the 37 "Other Local Exchange Carriers," an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most

providers of local exchange service, competitive local exchange service, competitive access providers, and "Other Local Exchange Carriers" are small entities that may be affected by the rules and policies proposed herein.

*Telecommunications Resellers:* The SBA has developed a size standard for a small business within the category of Telecommunications Resellers. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 32 companies reported that they were engaged in the provision of prepaid calling cards. Of these 32 companies, an estimated 31 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the great majority of prepaid calling card providers are small entities that may be affected by the rules and policies proposed herein.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

In the NPRM, we are seeking comment on, among other things, the appropriate classification of certain prepaid calling card services and the scope of Federal jurisdiction over such services. If we determine that particular prepaid calling card services are telecommunications services, providers of any such services that have not complied with applicable regulatory requirements in the past would be subject to additional reporting or recordkeeping burdens related to those requirements. If the Commission determines that it should exercise exclusive Federal jurisdiction over prepaid calling card services, any current reporting and recordkeeping burdens related to state regulation likely would be reduced.

#### *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 reaching its proposed 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 or reporting requirements under the rule for 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 small entities.

In this NPRM, the Commission seeks comment on the classification of prepaid calling card services, the scope of Federal jurisdiction over such services, and whether the Commission should take steps to ensure that prepaid calling cards remain affordable to members of the military and their families. The Commission's resolution of these issues will affect not only small providers of prepaid cards, but also small LECs that exchange traffic with these providers and small IXC's that compete with these providers. Options that reduce burdens for one type of small entity may increase the burden on another type of small entity. We therefore seek comment on the types of burdens small entities could face if the Commission alters its treatment of prepaid calling card providers as proposed in the NPRM. Entities, especially small businesses, are encouraged to quantify, if possible, the costs and benefits of potential reporting, recordkeeping, and other compliance requirements. We will consider any proposals made to minimize significant economic impact on small entities.

*Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

None.

**Paperwork Reduction Act**

This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995, 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).

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-5167 Filed 3-15-05; 8:45 am]

BILLING CODE 6712-01-P?≤

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 05-566; MB Docket No. 04-248, RM-10990]

**Radio Broadcasting Services; Big Pine Key, FL**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal.

**SUMMARY:** The Audio Division dismisses a Petition for Rule Making filed by Call Communications Group, requesting the reservation of vacant Channel 239A at Big Pine Key, Florida for noncommercial educational use. See 69 FR 43552, July 21, 2004. Call Communications Group, or no other party, filed comments supporting the reservation of vacant Channel 239A at Big Pine Key for noncommercial educational use. It is the Commission's policy to refrain from making a new allotment or reservation to a community absent an expression of interest.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 04-248, adopted March 2, 2005, and released March 4, 2005. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20054, telephone 1-800-378-3160 or [www.BCPIWEB.com](http://www.BCPIWEB.com). This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05-5169 Filed 3-15-05; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 05-577; MB Docket No. 05-88; RM-11173, RM-11177]

**Radio Broadcasting Services; Lost Hills, Maricopa, and San Luis Obispo, CA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The first proposal, filed by GTM San Luis Obispo, licensee of Station KLRM(FM), San Luis Obispo, California, proposes the substitution of Channel 245B1 for Channel 246B1 at San Luis Obispo, California, reallocation of Channel 245B1 from San Luis Obispo to Lost Hills, California, as its second local service, and modification of the Station KLRM(FM) license. The second proposal, filed by 105 Mountain Air, Inc. requests the allotment of Channel 245A at Maricopa, California, as its second local service. Channel 245B1 can be reallocated to Lost Hills, California in conformity with the Commission's rules, provided there is a site restriction of 16.6 kilometers (10.3 miles) south at coordinates 35-28-00 NL and 119-41-00 WL. Alternatively, Channel 245A can be allotted to Maricopa, consistent with the minimum distance separation requirements of Section 73.207(b) of the Commission's rules, provided there is a site restriction of 2.9 kilometers (1.8 miles) southwest at coordinates 35-02-41 NL and 119-25-25 WL. In accordance with the provisions of Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest pertaining to the use of Channel 245B1 at Lost Hills.

**DATES:** Comments must be filed on or before April 25, 2005, and reply comments on or before May 10, 2005.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Lewis J. Paper, Esq., Andrew S. Kersting, Esq., Counsel, GTM San Luis Obispo, Dickstein, Shapiro, Morin & Oshinsky, LLP, 2101 L Street, NW., Washington, DC 20037-1526 and Robert Eurich, President, 105 Mountain Air, Inc., 7179 N. Van Ness, Fresno, California 93711.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 05-88, adopted March 2, 2005, and released March 4, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402,