

TABLE 5 TO SUBPART TTTTT OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTTT OF PART 63—
Continued

Citation	Subject	Applies to Subpart TTTTT	Explanation
63.13–63.15	Addresses, Incorporation by Reference, Availability of Information.	Yes.	

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 25

[IB Docket No. 02–30; FCC 03–197]

Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (FCC) has adopted a Report and Order that discontinues the Alaska Bush Earth Station Policy (Alaska Bush Policy), which precludes installing or operating more than one satellite earth station in any Alaskan Bush community for competitive carriage of interstate Message Telephone Service (MTS) communications, *i.e.*, ordinary interstate, interexchange toll telephone calls. Alaska Bush communities, as defined for purposes of the policy, are rural Alaskan communities of less than 1,000 residents that are isolated from larger cities by rugged terrain and harsh weather conditions.

DATES: Effective November 10, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report in IB Docket No. 02–30, RM No. 7246, FCC 03–197, adopted August 6, 2003. The complete text of this decision 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, and also may be purchased from the Commission's copy contractor, Qualex International Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893,

facsimile (202) 863–2898, or via e-mail, qualexint@aol.com.

Summary of the Report and Order

The Federal Communications Commission has adopted a Report and Order that will discontinue the Alaska Bush Policy. This action eliminates a long-standing exception to the Commission's general policy favoring open entry for facilities-based competition in the provision of interstate MTS telecommunications services. We believe that allowing facilities-based competition of interstate MTS in Alaska Bush communities will encourage improvement in the quality of service available in those communities, promote more efficient delivery of service, and reduce incentives for overcharging for use of these facilities.

A complete history of the Alaska Bush Policy may be found in the Notice of Proposed Rulemaking in this proceeding and will not be repeated here. *See Policy for Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska*, Notice of Proposed Rulemaking, 67 FR 37750 (May 30, 2002). Briefly, the policy of licensing only one satellite earth station in each Alaska Bush community to provide conventional interexchange MTS was formulated in the Commission's *Tentative Decision* in 1982. Pursuant to the Alaska Bush Policy, Alascom, Inc. (Alascom), now a wholly owned subsidiary of AT&T Corp., alone or in partnership with United Utilities, Inc. (United), a local exchange carrier, was authorized to construct and operate the earth station facilities in the Alaska Bush communities and to provide MTS service. The Alaska Bush Policy was based on the principle that duplicative proposals for facilities in the Alaska Bush communities are mutually exclusive because one facility could provide all the services provided by either party, and there was no public interest benefit in the construction of duplicate MTS facilities.

When the Commission formally adopted the Alaska Bush Policy in 1984, no MTS competition, in any form, had been authorized in Alaska. *See Policies Governing the Ownership and*

Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska, 49 FR 9727 (March 15, 1984), Final Decision. In 1990, however, the Alaska legislature opened most of the State's telecommunications markets to facilities-based competition, but not the Alaska Bush communities. *See* Act of June 7, 1990, 1990 Alaska Sess. Laws Ch. 93; *see also Regulations Governing the Market Structure for Interstate Interexchange Telecommunications Services*, 10 APUC 407 (1990). Five years later the Regulatory Commission of Alaska (RCA) granted General Communication, Inc. (GCI), an Alaskan facilities-based interstate long distance carrier, a temporary waiver, allowing it to install earth stations in 50 Alaska Bush communities and to provide intrastate MTS in competition with Alascom on an experimental basis. The following year the FCC's International Bureau (Bureau) granted GCI's request to waive the Alaska Bush Policy in the same 50 Alaska Bush communities, thus allowing GCI to use its earth stations to provide both interstate and intrastate MTS in these 50 communities. *See Petition of General Communication, Inc. for a Partial Waiver of the Bush Earth Station Policy*, Memorandum Opinion and Order, 11 FCC Rcd 2535 (Int'l Bur. 1996) (GCI Waiver). The Bureau concluded that the potential public interest benefits of providing the 50 Alaska Bush communities with increased service options, improved quality, and lower rates outweighed a rigid adherence to a policy that does not provide for technological advancements and market changes.

In 2000, the RCA found that allowing GCI to construct duplicate earth stations in the 50 Alaska Bush communities had, in fact, led to a more efficient use of available satellite resources, resulting in consumers benefiting from lower retail rates and improved service quality. In view of its finding, the RCA eliminated Alaska's restrictions on facilities-based MTS competition in the Alaskan Bush. *See Consideration of the Reform of Intrastate Interexchange Telecommunications Market Structure and Regulations in Alaska*, Docket R–98–1, Order No. 6 (RCA, Nov. 20, 2000) (not published in the **Federal Register**).

Thus, the FCC's Bush Policy remains the only significant regulatory barrier to facilities-based MTS competition throughout Alaska.

On February 15, 2002, the Commission released the *NPRM* in this proceeding, proposing to discontinue the Alaska Bush Policy. The Commission noted in the *NPRM* that the Alaska Bush Policy is based on the proposition that applications for "duplicative" Alaska Bush earth stations are mutually exclusive. It also noted that the Alaska Bush Policy was formulated prior to the advent of MTS competition, and is based on a regulatory policy designed to prevent non-dominant carriers from investing in facilities at their own expense to compete with a carrier with an established facilities monopoly. Finally, the Commission pointed to the fact that the RCA has removed the parallel intrastate entry barrier. Consequently, the Commission tentatively concluded that the time has arrived to remove the barrier against facilities-based interstate MTS in the Alaska Bush as well. The Commission also tentatively concluded that facilities-based competition in the provision of interstate MTS in Alaska Bush communities will result in public interest benefits comparable to those that were realized in the 50 Alaska Bush communities in which GCI has been allowed to provide competitive MTS service. Accordingly, the Commission invited comment on its proposal to abolish the Alaska Bush Policy.

Three parties, Alascom and AT&T, GCI, and the RCA, have filed comments in response to the *NPRM*. All three commenters support the Commission's proposal to eliminate its prohibition on the installation or operation of more than one satellite earth station in any Alaska Bush community for the competitive carriage of interstate MTS.

The RCA submits that since 1995, when both the RCA and the FCC waived applicable Alaska Bush facility restrictions to allow GCI to construct duplicate earth stations in Bush communities, consumers have benefited from lower retail rates and improved service quality. According to the RCA, these benefits are what ultimately motivated it to eliminate the State's restrictions on facilities-based intrastate MTS competition in Bush Alaska in 2000. Moreover, the RCA says that facilities-based MTS competition in Alaska Bush communities will also establish an incentive for Alascom to operate more efficiently.

GCI provides specific examples of how competition between it and Alascom has benefited the Alaska Bush communities with improved

telecommunication efficiency and new service offerings. According to GCI, the first and perhaps most significant technological improvement was the implementation of its Demand Assigned Multiple Access (DAMA) satellite transmission system, which allows bandwidth to be used more efficiently. Before DAMA, all channels were assigned exclusively to a certain community and could not be used for other communities; DAMA also eliminated the need for a "double hop" configuration, where two satellite hops were needed to complete a call, resulting in signal delay and frequency echo, and rendering facsimile transmission unreliable and data transmission impossible. GCI states that the success it has achieved with DAMA has caused Alascom to upgrade many of its Alaska Bush earth station facilities to digital DAMA technology. GCI also states that greater facilities efficiency has enabled it to offer telemedicine in Alaska Bush communities, as well as reliable Internet connection for schools and libraries in nearly all of the Alaska Bush communities it serves. In addition, GCI says all customers in Alaska have benefited significantly from decreased long-distance rates since it entered the market.

Alascom and AT&T also support repeal of the Alaska Bush Policy, but contend that other deregulatory actions, which they requested in a March 10, 2000 Petition, "are indivisible aspects of the [Alaska] Bush Policy" and thus, must be acted upon simultaneously. See Public Notice, *Pleading Cycle Established for Comments on AT&T and Alascom Petition for Structural and Other Regulatory Relief* in DA 00-603, released March 17, 2000 [not published in the **Federal Register**]. In this Petition, Alascom and AT&T requested, among other relief, that the Commission eliminate structural separation and tariffing requirements under which Alascom has been providing certain carrier-to-carrier services in Alaska. On January 7, 2003, Alascom filed a petition for waiver from the requirement that it annually file revised cost-based rates for these carrier-to-carrier services. See also Public Notice, *Pleading Cycle Established for Comments on AT&T and Alascom Petition for Structural and Other Regulatory Relief* in DA 00-603, released March 17, 2000 (not published in the **Federal Register**). Alascom and AT&T point out in these petitions that Alascom now must disaggregate all of its service costs within Alaska by location, resulting in more than 900 separate cost points. Alascom and AT&T contend that no other carrier has ever

been forced to provide a service based upon stand-alone location-specific costs. The present tariff requirements, they submit, impose unwarranted competitive regulatory burdens that are preventing Alascom from providing its customers with improved service. These petitions are under consideration in separate dockets.

The need for the Alaska Bush Policy is over. As was noted in the *NPRM*, the "Alaska Bush Policy is an isolated exception to the Commission's interstate MTS open-entry policy." *NPRM*, 67 FR 37750 (May 30, 2002). It was based on the assumption that authorizing more than one earth station in an Alaska Bush community would be duplicative and thus needlessly expensive, since a single earth station is sufficient to accommodate all the calls placed to or from the community. The GCI experience has demonstrated that the concern underlying the Alaska Bush Policy is no longer warranted. GCI has provided us with what we believe to be a preview of the public interest benefits that will be realized by allowing open-entry, facilities-based competition in the provision of interstate MTS in Alaska Bush communities. We believe that by eliminating the Alaska Bush Policy, citizens of the Alaska Bush communities will benefit from improved telecommunications services provided by both Alascom and its competitors at lower prices. For these reasons, we eliminate the Alaska Bush Policy.

Finally, we note that this proceeding was established for the limited purpose of considering the elimination of the Alaska Bush Policy. Consequently, we decline to address at this time other potential changes to our regulatory requirements for Alaska. In particular, because, as indicated previously, eliminating the Alaska Bush Policy would promote important public interests, we decline to defer this deregulatory step pending our consideration of Alascom's and AT&T's March 2000 and January 2003 petitions.

For the reasons set forth on the record in this proceeding, we abolish the Alaska Bush Policy, thus eliminating the restriction on facilities-based competition in the Alaska Bush.

Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory

Enforcement Fairness Act of 1996, (SBREFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 605(6). In addition, the term "small business" has the same meaning as "small business concern" under the Small Business Act. [See 5 U.S.C. 605(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after the opportunity for public comment, establishes one or more definitions of such term that are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.] A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field or operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Small Business Act, 15 U.S.C. 632 (1996).

The Report and Order repeals a regulatory policy that prevented companies from obtaining licenses to operate earth stations in rural Alaska that would carry telephone calls between users in certain Alaskan communities and users in other states if such service was already available in those communities via facilities provided by an established carrier. Because the Report and Order does not impose any regulatory burden, we certify that it will not have a significant economic impact on a substantial number of small businesses. The Commission will send a copy of the Report and Order, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. See 5 U.S.C. 801(a)(1)(A). In addition, the Report and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register**.

The Alaska Bush Earth Station Policy, formally adopted by the Commission in *Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in*

Alaska, Final Decision, 49 FR 9727 (March 15, 1984) *is discontinued*.

The Commission's Consumer and Government Bureau, Reference Information Center, shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 1 and 25

Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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DEPARTMENT OF DEFENSE

48 CFR Parts 202, 204, 211, 212, 243, and 252

[DFARS Case 2003-D081]

Defense Federal Acquisition Regulation Supplement; Unique Item Identification and Valuation

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy pertaining to item identification and valuation. The rule requires contractors to uniquely identify, through the use of item identification marking, all items to be delivered to the Government. The rule also adds requirements for contracts to provide for identification of the Government's acquisition cost of items that are built or acquired by a contractor during contract performance and subsequently delivered to the Government.

DATES: *Effective date:* January 1, 2004.

Applicability date: The requirements in this rule apply to all solicitations issued on or after January 1, 2004.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before November 10, 2003, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003-D081 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Steven Cohen, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D081.

At the end of the comment period, interested parties may view public comments on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Cohen, (703) 602-0293.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule establishes requirements for contractors to furnish unique item identifiers, or other item identification, and to provide the Government's acquisition cost of items that are to be delivered under a DoD contract.

The rule requires contracting officers to include appropriate administrative requirements in contracts so that the Government's acquisition cost of the delivered items can be captured in DoD's property accountability, inventory, and financial management information systems.

The rule requires that all items delivered to the Government be delivered under a contract line item and that the Government's acquisition cost of each item be identified under a contract line item or subline item or an informational subline item.

The rule assumes that MIL-STD-130, Identification Marking of U.S. Military Property, will be revised to be compatible with this unique identification requirement no later than the implementation date of January 1, 2004.

DoD will make changes to its processes and information systems, in accordance with the requirements of this rule, necessary to comply with the financial reporting requirements imposed by the Federal Accounting Standards Advisory Board.

DoD is particularly interested in receiving comments on the following topics:

1. The use and definition of the term "item" or some more appropriate term throughout the rule.

2. The valuation portion of the rule, particularly as it applies to cost-type contracts and the treatment of non-recurring costs.

3. The statement that the rule does not impose any new information collection requirements.