

roaming subscriber accomplishes this in the course of attempting to originate a call by giving a valid credit card number to the carrier providing the roaming service.

\* \* \* \* \*

■ 3. Section 20.12 is amended by revising paragraphs (a) and (c) and adding paragraph (d) as follows:

**§ 20.12 Resale and roaming.**

(a)(1) *Scope of Manual Roaming and Resale.* Paragraph (c) of this section is applicable to providers of Broadband Personal Communications Services (part 24, subpart E of this chapter), Cellular Radio Telephone Service (part 22, subpart H of this chapter), and specialized Mobile Radio Services in the 800 MHz and 900 MHz bands (included in part 90, subpart S of this chapter) if such providers offer real-time, two-way switched voice or data service that is interconnected with the public switched network and utilizes an in-network switching facility that enables the provider to re-use frequencies and accomplish seamless hand-offs of subscriber calls. The scope of paragraph (b) of this section, concerning the resale rule, is further limited so as to exclude from the requirements of that paragraph those Broadband Personal Communications Services C, D, E, and F block licensees that do not own and control and are not owned and controlled by firms also holding cellular A or B block licenses.

(2) *Scope of Automatic Roaming.* Paragraph (d) of this section is applicable to CMRS carriers if such carriers offer real-time, two-way switched voice or data service that is interconnected with the public switched network and utilizes an in-network switching facility that enables the carrier to re-use frequencies and accomplish seamless hand-offs of subscriber calls. Paragraph (d) of this section is also applicable to the provision of push-to-talk and text-messaging service by CMRS carriers.

\* \* \* \* \*

(c) *Manual Roaming.* Each carrier subject to paragraph (a)(1) of this section must provide mobile radio service upon request to all subscribers in good standing to the services of any carrier subject to paragraph (a)(1) of this section, including roamers, while such subscribers are located within any portion of the licensee's licensed service area where facilities have been constructed and service to subscribers has commenced, if such subscribers are using mobile equipment that is technically compatible with the licensee's base stations.

(d) *Automatic Roaming.* Upon a reasonable request, it shall be the duty of each host carrier subject to paragraph (a)(2) of this section to provide automatic roaming to any technologically compatible home carrier, outside of the requesting home carrier's home market, on reasonable and nondiscriminatory terms and conditions.

[FR Doc. E7-17122 Filed 8-29-07; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 07-3425; MB Docket No. 06-97; RM-11254]

**Radio Broadcasting Services; Dundee and Odessa, NY**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; dismissal.

**SUMMARY:** The staff dismisses a counterproposal filed by Bible Broadcasting Network, Inc. to allot Channel 238A to Savona, New York, as a first local aural service. The Media Bureau also modifies its Consolidated Data Base System to reflect Channel 238A at Odessa, New York, as the reserved assignment for Station WFLR-FM in lieu of Channel 238A at Dundee, New York in response to a proposal filed by Finger Lakes Radio Group, Inc., and modifies Station WFLR-FM's license and construction permit accordingly. The reference coordinates for Channel 238A at Odessa, NY, are 42-20-38 NL and 76-53-03 WL. With this action, the proceeding is terminated. See **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 06-97, adopted July 25, 2007, and released July 27, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445

12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

Finger Lakes Radio Group, Inc.'s proposal was formerly a rule change to Section 73.202(b), the FM Table of Allotments. See 71 FR 30856 (May 31, 2006). As a result of changes to the Commission's processing rules, modifications of FM channels for existing stations are no longer listed in Section 73.202(b) and are instead reflected in the Media Bureau's Consolidated Data Base System (CDBS). See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212 (December 20, 2006). Nevertheless, a summary of the Report and Order in the instant proceeding is being published in the **Federal Register** because the counterproposal involved a proposed amendment to Section 73.202(b). Although the Report and Order set forth an effective date of September 10, 2007, Station WFLR-FM's license and construction permit will be modified effective 30 days after publication of this summary in the **Federal Register** in compliance with Sections 1.427 and 1.429 of the Commission's rules.

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 counterproposal was dismissed.)

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

Radio, Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-17021 Filed 8-29-07; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 76**

[CS Docket No. 95-184; MM Docket No. 92-260; FCC 07-111]

**Telecommunications Services Inside Wiring Customer Premises Equipment, Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission eliminates barriers to competitive entry in multiple dwelling units (MDUs) and in multiunit premises, when a new entrant seeks to compete against an incumbent provider. The Commission concluded that cutting and repairing sheet rock adds significantly to the physical difficulty and cost of wiring an MDU. In this document, the Commission again concludes that cable wiring located behind sheet rock qualifies as physically inaccessible under the Commission's rules for purposes of determining the demarcation point between home wiring and home run wiring. This ruling will facilitate competition in video distribution markets by clarifying the circumstances under which the existing cable home run wiring in MDUs can be made available to alternative video service providers.

**DATES:** Effective August 30, 2007.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Karen Kosar, [Karen.Kosar@fcc.gov](mailto:Karen.Kosar@fcc.gov) of the Media Bureau, Policy Division, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of that portion of the Commission's *Report and Order and Declaratory Ruling*, FCC 07-111, adopted on May 31, 2007, and released on June 8, 2007, which addresses the Commission's adoption in 2003 of the note to 47 CFR 76.5(mm) (4) and the subsequent remand by the U.S. Court of Appeals. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

## I. Summary of the Final Rule

1. In this *Order*, the Commission eliminates barriers to competitive entry

in multiple dwelling units (MDUs) and in multiunit premises, when a new entrant seeks to compete against an incumbent provider. An MDU is a building or buildings with two or more residences, such as an apartment building, condominium building, or cooperative. See 47 CFR 76.800. This *Order* responds to a decision issued by the United States Court of Appeals for the District of Columbia Circuit regarding amendment of the Commission's cable television inside wiring rules. In the 2003 order reviewed by the court, the Commission had modified its rules to provide that "home run wiring" located behind sheet rock is considered physically inaccessible for purposes of determining the demarcation point between home wiring and home run wiring. Cable home run wiring in a MDU is the wiring that runs from the demarcation point to the point at which the multichannel video programming distributor's (MVPD) wiring becomes devoted to an individual subscriber or individual loop. See 47 CFR 76.800(d). In contrast, "cable home wiring" is the internal wiring contained within the premises of a subscriber, which begins at the demarcation point and runs to the subscriber's television set or other customer premises equipment. See 47 CFR 76.5(l). The Commission concluded in 2003 that cutting and repairing sheet rock adds significantly to the physical difficulty and cost of wiring an MDU. In this *Order*, the Commission concludes that cable wiring located behind sheet rock qualifies as physically inaccessible under the Commission's rules for purposes of determining the demarcation point between home wiring and home run wiring. The record shows that accessing such wiring causes significant damage or modification to a preexisting structural element and generally adds significantly to the physical difficulty and/or cost of accessing the subscriber's home wiring. This ruling will facilitate competition in video distribution markets by clarifying the circumstances under which the existing cable home run wiring in MDUs can be made available to alternative video service providers.

2. The *Order* takes important steps to ensure that the pro-competitive, deregulatory goals of the 1996 Act are realized. The Commission actions here remove both economic and operational barriers to infrastructure investment in the communications market. New entrants to the video services market should not be foreclosed from competing for consumers in MDUs

based on regulatory technicalities or costly and inefficient industry practices. By removing these obstacles, the Commission furthers the opportunities for consumers living in MDUs to enjoy the social and economic benefits of communication services competition.

3. In 1993, the Commission first promulgated rules for cable home wiring and for the disposition of that wiring after termination of service. In 1996, the Commission addressed certain cable home wiring issues and sought comment regarding how the Commission should revise these rules to reflect new developments, and how to promote competition by ensuring that the Commission's rules would facilitate the use of new and diverse services. In 1997, the Commission sought further comment on and addressed issues regarding procedures for the disposition of home run wiring in MDUs when an MDU owner decides to terminate service for the entire building and when an MDU owner is willing to permit two or more video service providers to compete for subscribers in the MDU on a unit-by-unit basis. In 2003, the Commission resolved the issues presented on reconsideration in that proceeding. See 18 FCC Rcd at 1342 (2003).

4. Central to any discussion on cable home wiring or cable home run wiring is the matter of the MDU demarcation point, which is the point at which a consumer's home wiring becomes the network's home run wiring. The Commission had previously stated that the cable wiring demarcation point serves such multiple purposes as defining (1) the location at which the subscriber may control the internal home wiring if he or she owns it; (2) the point at which an alternative multichannel video programming distributor (MVPD) would attach its wiring to the subscriber's wiring in order to provide service; and (3) the point from which the customer has the right to purchase cable home wiring upon termination of service. For purposes of this proceeding, a critical component of our discussion involves the location of the demarcation point because it is where a competing provider may access existing cable home wiring in an MDU building. The demarcation point for MDUs is set at (or about) twelve inches outside of where the cable wire enters the subscriber's individual dwelling unit. The demarcation point for single unit installations is the same. See 47 CFR 76.5(mm)(1). The presumptive demarcation point was adopted in the *Cable Wiring Order*, 8 FCC Rcd 1435 (1993). In the event that the cable

demarcation point is “physically inaccessible” to an alternative MVPD, the demarcation point moves away from the individual dwelling unit to a point at which it first becomes physically accessible. The Commission has concluded that, for the cable demarcation point to be “physically inaccessible,” access to the wiring must (1) require significant modification or damage to preexisting structural elements, and (2) add significantly to the physical difficulty and/or cost of accessing the subscriber’s home wiring.

5. The Appeals Court decision remanded that portion of the 2003 order that amended the Note to § 76.5(mm)(4) of the Commission’s rules to indicate that wiring embedded in sheet rock would be considered physically inaccessible. Previously, the Commission provided examples of wiring that would be considered “physically inaccessible,” including wiring embedded in brick, metal conduit, and cinder blocks with limited or no access openings. Wiring simply enclosed within hallway molding would not be considered inaccessible. The Court found that the Commission offered no reasoned basis for expanding the Note to include sheet rock and remanded the case to the Commission for further consideration. In response, the Commission sought comment on its conclusions in the 2003 order with regard to § 76.5(mm)(4) of the rules and the amendment of the applicable Note.

6. The Court asserted that the Commission did not adequately support its conclusion that wiring behind sheet rock is “physically inaccessible” for purposes of the inside wiring rules. The Court found that the Commission had not explained why or how accessing wiring behind sheet rock requires “significant modification of, or significant damage to” the sheet rock. The Court also found that the Commission failed to explain the relative nature of the “damage” or “modification” related to accessing wiring behind sheet rock, and therefore that the Commission’s conclusion regarding physical inaccessibility lacked adequate evidentiary support.

7. The Court also criticized the Commission’s assessment of whether accessing cable wire behind sheet rock would “add significantly to the physical difficulty and/or cost” of accessing the subscriber’s home wiring. The Court stated that while the Commission acknowledged that cutting through sheet rock is easier than boring through brick, metal, or cinder block, it did not support the conclusion that the lesser physical difficulty and cost are “significant.”

8. In response, the Commission sought additional comment with respect to whether cable wiring behind sheet rock should be considered physically inaccessible. The Commission set forth its premise that what preexisting structural elements should be included for purposes of determining the demarcation point and what is considered to be an accessible or inaccessible location should be based on practicality. In the 2003 order, the Commission incorporated its response to a *Request for Letter Ruling from RCN-BeCoCom, L.L.C.* asking the Commission to address the issue of whether cable wiring behind sheet rock is “physically inaccessible,” such that the demarcation point should be located not at the twelve inch mark, but rather at the operator’s junction box. Based on the *RCN Request for Letter Ruling* and responses to that request, the Commission incorporated sheet rock as one of the examples of materials to be considered as a “preexisting structural element” in its definition of physical inaccessibility.

9. In this *Order*, the Commission finds that sheet rock is a preexisting structural element and that accessing inside wiring behind sheet rock would cause significant modification and damage to that structural element. Sheet rock is a preexisting structural element and not merely a surface finish or decorative finish like molding. Sheet rock is not added after a building is completed. Sheet rock is a fundamental component of the construction of the building. Thus, sheet rock is more like “brick or cinder block” because it is commonly used to form ceilings and walls in MDUs and other structures. We believe that ceilings and walls are an integral and permanent part of the building structure of MDUs, and therefore, sheet rock used to form ceilings and walls qualifies as a preexisting structural element for purposes of the Commission’s rules.

10. The Commission concludes that the record supports the conclusion that accessing inside wiring behind sheet rock causes significant modification and damage to structural elements, i.e., walls and ceilings, albeit modification and damage that may be repairable. MDU resident owners and their managers are not only concerned with the condition of individually-owned units or apartments, but also with the condition of the common elements in these structures. For example, the record reveals that MDU resident owners and their managers will sometimes require an entire wall or ceiling to be repainted or re-wallpapered even where the hole cut in

the sheet rock is significantly smaller than the wall or ceiling in order to restore the area to its original appearance. Requiring such extensive repair is a strong indication that there has been significant modification or damage to the pre-existing structural area. Unlike with single family residences, MDU residents share common walls and ceilings and have an interest in the condition and treatment of those common elements. With regard to the issues of fire safety and possible degradation of a building’s resistance to moisture, we take a conservative approach and give credence to the commenters who argue that cutting into sheet rock may pose a safety risk or affect a building’s resistance to moisture and thus may lead to significant modification or damage to such structural elements. Consequently, the Commission concludes that penetration of sheet rock for purposes of accessing inside wiring constitutes significant modification and damage to structural elements under the Commission’s rules.

11. The Commission also finds that accessing the demarcation point behind sheet rock adds significantly to the physical difficulty and/or cost of accessing the subscriber’s home wiring. The Commission notes that a finding of “physical difficulty” is not required because our rule requires that we find that cutting through the sheet rock would add significantly to the physical difficulty and/or costs of accessing the subscriber’s home wiring. Nevertheless, the Commission concludes that the record supports a finding of significant physical difficulty in accessing the subscriber’s home wiring. Accessing such wiring requires some level of physical harm to the property—i.e., access holes cut in the sheet rock—and that the property be restored to its original integrity and appearance. As the Commission has recognized throughout this decision, the repair is not always limited to the hole(s) cut; it can include repainting and/or re-wallpapering necessary to restore the premises. Those tasks can add significantly to the physical difficulty involved in accessing the wiring, certainly as compared to accessing wiring behind hallway molding (the example in the Commission’s rules of wiring that is not physically inaccessible), *See* note to 47 CFR 76.5(mm)(4). In any event, the Commission needs only find that cutting through sheet rock significantly increases the physical difficulty or cost of accessing the wiring and, as described below, the Commission finds

that the additional costs are typically significant.

12. The Commission concludes that the cost of accessing wiring behind sheet rock is significant. In analyzing the costs involved in accessing wiring behind sheet rock, the Commission recognizes that the record reveals a wide divergence among the estimates offered by commenters—ranging from \$25 to \$1,000—as the appropriate sum needed to accomplish the job. Although the Commission finds that it cannot pick a precise monetary figure that fairly reflects the costs associated with accessing cable inside wiring, we believe it is reasonable that costs estimates could include factors such as how difficult it may be to satisfy the MDU owner and manager with repair work and whether a single unit or many units are worked on in one time period. Although the Commission does not have specific quotes for restoration work, it seems likely that repainting and/or re-wallpapering entire ceilings and walls can, at a minimum, run into the hundreds of dollars, particularly for more high-end MDUs that use more expensive surface finishes. These figures appear significant, especially when compared to the estimates we received for accessing wiring behind hallway molding.

13. The Commission is persuaded that removing and replacing molding is generally less intrusive and less expensive than cutting into sheet rock, locating the wiring, and then repairing the wall or ceiling to the satisfaction of MDU owners and managers. While there may be cases in which the cost of accessing wiring behind sheet rock may be comparable to removable molding the record demonstrates that the cost for sheet rock generally will be higher, and often significantly so.

14. The Commission finds that that cable wiring located behind sheet rock qualifies as physically inaccessible under Commission rules for purposes of determining the demarcation point between home wiring and home run wiring. Specifically, the Commission concludes that (1) accessing such wiring causes significant damage or modification to a preexisting structural element, and (2) accessing wiring behind sheet rock generally adds significantly to the physical difficulty and/or cost of accessing the subscriber's home wiring. The Commission's cable inside wiring rules are intended to facilitate competition in video distribution markets. This ruling will foster opportunities for competing MVPDs to provide service in MDUs by clarifying the circumstances under which the existing cable home run

wiring in MDUs can be made available to alternative video service providers.

#### Procedural Matters

15. *Final Regulatory Flexibility Act.* As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Further Notice* in this proceeding. The Commission sought written public comment on the possible significant economic impact on small entities regarding the proposals addressed in the *Further Notice*, including comments on the IFRA. Pursuant to the RFA, a Final Flexibility Analysis is contained in Appendix C.

16. *Paperwork Reduction Act Analysis.* This Order 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 burdens 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).

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

#### II. Ordering Clauses

18. Accordingly, *it is ordered* that, pursuant to authority found in sections 1, 4(i), 601, 623, 624, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 521, 543, 544 and 552, the Commission's amendment of the Note to Section 76.5(mm)(4) of the Commission's rules to include sheet rock as an example of one of the materials that would likely be considered physically inaccessible for purposes of the Commission's cable television inside wiring rules *is affirmed*.

19. *It is further ordered*, that in light of the United States Court of Appeals for the District of Columbia's Circuit's decision in *NCTA v. FCC*, No. 03–1140, 2004 WL 335201, which remanded but did not vacate the decision adopted in *Telecommunications Services Inside Wiring, Customer Premises Equipment; Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring*, 18 FCC Rcd 1342 (2003) (“Home Wiring Decision”), the note to 47 CFR 76.5(mm)(4) adopted in the Home Wiring Decision shall remain in effect.

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

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. E7–17206 Filed 8–29–07; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 544

[Docket No.: NHTSA–2006–27240]

RIN 2127–AJ98

#### Insurer Reporting Requirements; List of Insurers Required to File Reports

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule amends regulations on insurer reporting requirements. The appendices list those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices must file three copies of its report for the 2004 calendar year before October 25, 2007. If the passenger motor vehicle insurers remain listed, they must submit reports by each subsequent October 25.

**DATES:** This final rule becomes effective on October 1, 2007, given the date of submission. Insurers listed in the appendices are required to submit reports before October 25, 2007.

If you wish to submit a petition for reconsideration of this rule, your petition must be received by October 15, 2007.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Room W41–307, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Rosalind Proctor, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 1200 New Jersey Avenue, SE., West Building, Room W43–302, Washington, DC 20590, by