Federal Communications Commission

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	GC Docket No. 97-113
Electronic Filing of Documents	)	
in Rulemaking Proceedings	)	

REPORT AND ORDER

Adopted: April 2, 1998 Released: April 6, 1998

By the Commission: Commissioner Tristani dissenting in part and issuing a statement.

I. INTRODUCTION

A In this Order, we amend Parts 0 and 1 of our Rules to allow parties to file comments and other pleadings electronically via the Internet in FCC informal notice and comment rulemaking proceedings conducted under section 553 of the Administrative Procedure Act, except for broadcast allotment proceedings. We will also permit the electronic filing of all pleadings and comments in proceedings involving petitions for rulemaking (except in broadcast allotment proceedings) and Notice of Inquiry proceedings (NOIs). We will evaluate the new rules and assess the operation of the system as we gain experience to determine whether there is any need to make modifications, and whether it is feasible to expand further the applicability of the system beyond rulemaking-related proceedings and possibly ultimately to require electronic filing. The electronic comment filing system (ECFS) is now operational and can be used to file comments electronically in individual proceedings designated by the Commission. When the rule changes adopted in this order go into effect, the ECFS may be used for electronic filing of comments as specified in this order. It is anticipated that the transition to the ECFS as the official system of record will be completed by July 1998. A Public Notice will be issued at that time.

II. BACKGROUND

B The electronic comment filing initiative was launched in early 1996, building upon prior information technology efforts such as the FCC Internet site on the World Wide Web, <http://www.fcc.gov/>. As we described in the *Notice*, the Commission is committed to taking advantage of new information technologies to serve the public.[1] The goal of the initiative is to

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[1] *In the Matter of Electronic Filing of Documents in Rulemaking Proceedings*, Notice of Proposed Rulemaking, 12 FCC Rcd 5150, 5150-51 (1997) (*Notice*). The *Notice* is available on the Internet at

implement a new ECFS that will replace the Commission's Record Image Processing System (RIPS) for maintaining public pleadings in rulemaking proceedings. The ECFS will allow members of the public to file, review, and print documents on-line through the Internet, rather than having to rely on paper copies accessible through the FCC reference room or copy contractor. The ECFS will accept electronically filed comments in rulemaking proceedings; scan in paper documents; and locate, retrieve, download and print any documents in the system. RIPS data and images from 1992 onward will be transferred to the ECFS, as urged by one commenter.[2]

C Since the beginning of the ECFS initiative, several Bureaus and Offices have pursued other electronic filing projects. For example, the Common Carrier Bureau (CCB) has initiated an electronic tariff filing system,[3] and the Wireless Telecommunications Bureau (WTB) is implementing a uniform electronic licensing system.[4] Other Bureaus are actively involved in creating electronic filing systems.[5] Adoption of the rules permitting electronic comment filing in many rulemaking and related proceedings is yet another step in the Commission's ongoing efforts

<http://www.fcc.gov/Bureaus/OGC/Notices/1997/fcc97113.wp>.

[2] New Signals Comments at 2.

[3] *See Common Carrier Bureau Implements Electronic Tariff Filing System*, Public Notice No. DA 97-2491 (Nov. 25, 1997). The system is available at <http://svartifoss.fcc.gov:8080/prod/ccb/etfs/>. CCB also electronically stores and processes written informal complaints against telephone common carriers. That system is described at <http://www.fcc.gov/Bureaus/Common_Carrier/Public_Notices/1997/da972458.html>, which also provides links to its components.

[4] *See In the Matter of Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, WT Docket No. 98-20, FCC 98-20 (rel. Mar. 18, 1998) (*ULS NPRM*). The interactive version of FCC Form 606 is available at <http://www.fcc.gov/wtb/uls/>. WTB also uses electronic filing for its Amateur Vanity Call Sign Applications (Form 610V), <http://www.fcc.gov/wtb/amateur/vntyapp.htm>, and antenna structure registration, *see* <http://www.fcc.gov/Bureaus/Wireless/Public_Notices/1996/pnwl6188.txt> and <http://www.fcc.gov/wtb/antenna/>, and the electronic filing of Forms 313R, 402R, 405, 405A, 452R, 574R, and 610R at <http:/svartifoss.fcc.gov:8080/cgi-bin/ws.exe/prod/epfa/forms/900/900_Form.HTS>.

[5] *See generally* <http://www.fcc.gov/e-file> (describing FCC Internet-based filing systems). For example, the Mass Media Bureau's Children's Television Programming Report (Form 398) is available on <http://svartifoss.fcc.gov:8080/prod/kidvid/prod/kv_info.htm>. The Office of Engineering and Technology (OET) offers a prototype of its planned system to apply for equipment authorizations electronically, *see* <http://detifoss.fcc.gov/beta/oet/index.html>, and is also planning to implement an electronic filing system for applications in the Experimental Radio Service (47 C.F.R. Part 5). The International Bureau is also currently developing the International Bureau Filing System (IBFS), a consolidated licensing system that will allow for the electronic filing of most applications, including satellite space station applications, earth station applications, and section 214 applications.

to improve the services it provides to the public in the information age and make it easier for the public to interact with the Commission.

III. DISCUSSION

A. Formal Status of Electronically Filed Comments

D In the *Notice*, we tentatively concluded that allowing comments to be filed electronically in all rulemaking proceedings (other than broadcast allotment proceedings) would serve the public interest.[6] We used the instant rulemaking proceeding as a test of the ECFS system, and numerous comments were successfully filed using the model.[7] Every commenting party supported the concept of electronic filing of comments in rulemaking proceedings.[8] We believe that the electronic transmission of comments to the Commission will make it easier for the public to participate in our proceedings, encouraging greater and more diverse public input.[9] This procedure may well reduce the cost of filing comments, because parties will no longer have to file multiple paper copies and arrange for mailing or messenger delivery if the party to be served agrees to be served electronically.[10] The ECFS will automatically catalogue all of the comments, making it easier to review comments. Electronic comment filing will also make it easier for people with disabilities to participate in our proceedings. As the National Association of the Deaf (NAD) observed, the deaf and hard of hearing community relies on the Internet as an important form of communication, and the various costs and complications of filing comments on paper has often prevented these individuals from sharing their views with the Commission.[11] Furthermore,

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[6] 12 FCC Rcd at 5153. We explained that we were not including broadcast allotment proceedings at this time in the ECFS because of our concern that electronic filings in these restricted proceedings might not be properly served on the parties, and to give us more experience with the ECFS before permitting electronic filing of the large number of broadcast allotment proceedings. 12 FCC Rcd at 5150 n.1.

[7] *See* Appendix A, listing the commenting and reply commenting parties, and the abbreviations for the parties used in this decision.

[8] *E.g.*, Edgewood Comments at 1; NECA Comments at 1-2; FCBA Comments at 1; BellSouth Comments at 2; PCIA Comments at 2; Bell Atlantic/NYNEX Comments at 1; NTCA Comments at 1; Sprint Comments at 2; CEMA Comments at 2; Crawford Comments at 1; NCD Comments at 1; GTE Comments at 1; Ameritech Comments at 1; OCC Comments at 1-2; AT&T Comments at 1; New Signals Comments at 1; NAD Reply Comments at 1; SBC Comments at 1; CBT Comments at 2.

[9] *See* AT&T Comments at 8.

[10] *See, e.g.*, SBC Comments at 2.

[11] NAD Reply Comments at 1-2; *see also* Bell Atlantic/NYNEX Comments at 2.

this procedure will allow for the on-line review of comments filed with the Commission by the staff and by the public.[12] We believe that increased public participation in our decision making process will allow us to consider a broader range of opinions and input, improving our decision making process. For all these reasons, we strongly encourage the public to use the ECFS system.

E We note that for now electronic filing procedures will be used in general rulemaking proceedings. The procedure will not be available for rules of "particular applicability" (*e.g.*, tariff investigations) unless the Commission has specifically permitted such filings in those types of proceedings.[13] Further, electronic filing may be used in general rulemaking proceedings even when the Commission has dispensed with the use of notice and comment procedures under the Administrative Procedure Act's exceptions.[14] In such rulemaking proceedings, electronic filing could be used for petitions for reconsideration, for example.[15]

F The choice of the Internet as the filing mechanism generally was supported by the commenting parties,[16] although some commenters questioned whether bandwidth limitations might affect the use of the Internet.[17] Bandwidth is not an issue here because documents will be transmitted to us electronically and even large documents will not be of a size to hamper downloading. The National Council on Disability (NCD) urged that we ensure that those not skilled in the Internet be able to use the system,[18] and our technical staff is working to ensure that the public easily be able to gain access to and use the ECFS. Some commenters made specific suggestions for the electronic filing interface and recommended that changes to the "quickstart" interface be made available for public testing.[19] We are reviewing these suggestions and the final

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[12] *See* U S West Comments at 7.

[13] 5 U.S.C. § 551(4).

[14] 5 U.S.C. §§ 553(b)(A) and 553(b)(B).

[15] *See* ¶ 10, *infra*.

[16] *See* NECA Comments at 4; FCBA Comments at 3-4; BellSouth Comments at 3; U S West Comments at 3; Crawford Comments at 6; GTE Comments at 4-5 (supporting Internet but urging use of more than one mechanism); Ameritech Comments at 2; AT&T Comments at 2; Edgewood Comments at 2; SBC Comments at 6; CBT Comments at 4.

[17] FCBA Comments at 3-4; Crawford Comments at 6.

[18] NCD Comments at 3.

[19] BellSouth Comments Att. A (listing possible changes); Bell Atlantic/NYNEX Comments, at 2, and Crawford Comments at 8 (suggesting a specific URL for each proceeding); AT&T Comments at 3 (identification of

ECFS instructions will explain the Commission's interface choices. Input from the public and FCC staff on the ECFS interface is important, and we will implement periodic reviews to consider changes to the system in the future.[20]

G Some commenters express concern that the FCC will develop multiple incompatible electronic filing systems.[21] All FCC electronic filing systems are accessible through an "electronic filing" link on the FCC home page, as well as links on Bureau World Wide Web pages. However, in some instances, it may be necessary to utilize different types of filing systems. For example, tariffs have specific legal and technical requirements not applicable to rulemaking comments that may necessitate a different filing system. In any event, Commission employees meet regularly to coordinate electronic filing efforts to ensure the Commission's electronic filing systems are not incompatible.

H As we have noted, we strongly encourage the public to utilize the ECFS system to file comments electronically. However, the public may continue to file comments by traditional means, on paper.[22] We will treat comments filed on paper and comments filed electronically the same.[23] If a party files its comments electronically, there is no need to file a paper version of the document, and we discourage parties from filing both electronically and on paper. If both electronic and paper versions are filed, we will treat the electronic version as the original, official copy, and one paper copy should be filed. As we observed in the *Notice*, electronic comments that are received before the applicable deadline and meet the necessary formalities will be treated as formal filings, and comments that are received after the deadlines, or that fail to meet the necessary formalities, will be treated as informal or *ex parte* filings.[24]

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documents); Popkin Comments (no telephone number should be required).

[20] Suggestions may be submitted directly to Sheryl Segal, <ssegal@fcc.gov> or 1919 M Street, NW, Room 242J, Washington, DC 20554.

[21] *E.g.*, BellSouth Comments at 2-3.

[22] *See* Bell Atlantic/NYNEX Comments at 2; NECA Comments at 3; CEMA Comments at 2-3; CBT Comments at 2.

[23] AT&T Comments at 5 and Reply Comments at 5; Bell Atlantic/NYNEX Comments at 2; SBC Comments at 2-3.

[24] 12 FCC Rcd at 5156-57; *see* Bell Atlantic/NYNEX Comments at 3; OCC Comments at 4; AT&T Comments at 6-7. *See also* Crawford Comments at 4 (treat electronic mail as informal comments); FCBA Comments at 2, 3 (study electronic mail).

I The amended rules are set forth in Appendix B. As suggested by some commenting parties, and as explained in this decision, we will monitor this initiative and make such adjustments as experience dictates.[25]

B. Extension to Other Related Proceedings.

J The *Notice* proposed only to permit electronic filing of comments, reply comments, and other documents filed in notice and comment rulemaking proceedings (other than broadcast allotment proceedings) prior to the applicable deadline. We asked for comments on whether electronic filing should be used for other pleadings and proceedings.[26] We agree with commenters that electronic filing should be permitted for petitions for rulemaking (except in broadcast allotment proceedings),[27] pleadings in NOIs, and petitions for reconsideration and all responsive pleadings in the foregoing proceedings and rulemaking proceedings (except broadcast allotment proceedings).[28] We see no reason to phase in these additions to our electronic comment filing initiative over time.[29] We will amend our rules accordingly. In the future, after the Commission and the public has had experience with the ECFS system, we anticipate adding other types of pleadings and documents to the electronic filing system and moving toward an all-electronic filing system.

K In the *Notice*, we observed that if we extended the ECFS to proceedings other than rulemaking proceedings, we might have to amend the signature rule, 47 C.F.R. § 1.52, which requires that "[t]he original of all petitions, motions, pleadings, briefs, and other documents filed"

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[25] *See* AT&T Comments at 8 and Reply Comments at 2; PCIA Comments at 4; U S West Comments at 4; CEMA Comments at 3.

[26] 12 FCC Rcd at 5150 n.1, 5153-54.

[27] *See Notice*, 12 FCC Rcd 5150 n.2 (explaining that broadcast allotment proceedings are not included in the ECFS at this time because of the large numbers of such proceedings and because the are restricted under the Commission's ex parte rules, 47 C.F.R. § 1.1208, which increases the chances that electronic filings might not be properly served on the parties).

[28] Bell Atlantic/NYNEX Comments at 1-2 (petitions for rulemaking, NOIs, reconsideration, motions); NTCA Comments at 2 (petitions for rulemaking and NOIs); NAD Comments at 3 (pre-NPRM matters like NOIs); NECA Comments at 6 (petitions for reconsideration); U S West Comments at 2 (preliminary phase pleadings and petitions for reconsideration); GTE Comments, at 7 (petitions for reconsideration); NAD Reply Comments at 2-3 (pre-NPRM pleadings); SBC Comments at 3 (NOIs, petitions for rulemaking, reconsideration and clarification).

[29] Bell Atlantic/NYNEX Comments at 3; U S West Comments at 2.

by counsel or by any party not represented by counsel must be signed.[30] For example, in rulemaking proceedings, petitions for reconsideration, oppositions, and replies must conform to section 1.52.[31] One commenter asserted that filing electronically results in the lack of a traceable signature.[32] The only other parties commenting on this question simply referred to electronic signatures as part of their discussion of security measures.[33]

L Sections 1.743(e) and 1.913(e) of our rules currently permit electronic signatures for applications submitted to CCB and WTB, respectively.[34] Under these rules, "the signature on an electronically filed application will consist of the electronic equivalent of the typed name of the individual."[35] We believe these procedures can be applied to documents filed electronically through the ECFS, and we will amend section 1.52 of our rules to define electronic signatures similarly for documents filed in this manner.

M SBC Communications, Inc., *et al.* (SBC), suggested that we permit the electronic filing of notices of *ex parte* contacts,[36] and Bell Atlantic/NYNEX asked that we accept electronically filed *ex parte* comments.[37] We agree that the ECFS can be used for summaries of permissible *ex parte* presentations in rulemaking proceedings (except broadcast allotment proceedings). If a party is filing a notice for the record summarizing an oral *ex parte* meeting in a permit-but-disclose rulemaking,[38] it may do so electronically or on paper. In proceedings in which electronic filing is permitted, paper filings will also be scanned into the system. The summaries of *ex parte* presentations will be available to all Commissioners and Commission staff via the FCC's Intranet.

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30 12 FCC Rcd at 5154 n.15, *citing* 47 C.F.R. § 1.52.

31 *See* 47 C.F.R. § 1.429(h).

32 PCIA Comments at 3.

33 Bell Atlantic/NYNEX Comments at 4; Ameritech Comments at 2. We address security concerns *infra* at ¶¶ 14-18.

34 47 C.F.R. §§ 1.743(e) and 1.913(e). *See also Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations*, 11 FCC Rcd 20130, 20133 (1997) (proposing a new section 5.57(e) to accommodate signatures on electronically filed OET applications).

35 *See Procedures for Electronic Filing of Applications in the Private Radio Services*, 9 FCC Rcd 174 (1994).

36 SBC Comments at 5, 10.

37 Bell Atlantic/NYNEX Comments at 2.

38 47 C.F.R. § 1.1206(b)(2).

In addition, the ECFS will, on a daily basis, generate a listing of all documents filed electronically or scanned into the ECFS which will be provided to the Commissioners, Bureaus, and Offices. Thus, Commission employees involved in oral *ex parte* presentations will receive notice of or and have immediate access to copies of the summaries of oral *ex parte* presentations. In view of this, in proceedings in which electronic filing is permitted, we are modifying the current requirement in Section 1.1206(b)(2) of our rules[39] that persons making oral *ex parte* presentations must submit copies of the summary of the presentation to the Commissioner or Commission employee involved in the oral presentation. Written *ex parte* presentations in these proceedings can be filed electronically, or, if filed on paper, will be scanned into the system by Commission personnel. We note that we are permitting electronic filings in NOIs and petition for rulemaking proceedings (except broadcast allotment proceedings). These proceedings are exempt for purposes of *ex parte* filing rules.[40] In addition, *ex parte* comments will be able to be filed electronically in these proceedings, as Bell Atlantic/NYNEX suggests.[41] We will reassess the electronic filing of summaries of *ex parte* presentations as we gain more experience with the ECFS system.

C. Implementation Issues

N ***Security***. In the *Notice* we proposed not to require any special security measures for electronically filed comments.[42] The FCC's Internet servers are protected by a "firewall" that prevents outside users from gaining access to our internal data. The ECFS has been designed to work with the firewall to keep the master database of comments secure. The parties were divided as to the need for security measures.[43] The main concern expressed is that someone could file a bogus comment, pretending to be another party. Parties concerned about security suggested security measures such as use of an ID number system, so that all users would have to register and receive a password before they could file comments with the Commission.

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[39] 47 C.F.R. § 1.1206(b)(2).

[40] 47 C.F.R. § 1.1204(b).

[41] Bell Atlantic/NYNEX Comments at 8.

[42] 12 FCC Rcd at 5155-56.

[43] *Compare* Edgewood Comments at 2-3; NECA Comments at 4-5; FCBA Comments at 1-2; PCIA Comments at 2-3; Crawford Comments at 2-3; Ameritech Comments at 2; OCC Comments at 3-4; AT&T Comments at 4-5 and Reply Comments at 3; SBC Comments at 10; CBT Comments at 5-6; and GTE Reply Comments (urging security measures) *with* Sprint Comments at 4-5; U S West Comments at 4; CEMA Comments at 3; GTE Comments at 4-5; Bell Atlantic/NYNEX Comments at 4; and New Signals Comments at 2 (suggesting that no security measures are necessary).

O Security measures make it more difficult for members of the public to use electronic filing. A major goal of the ECFS is to make it easier to file information with, and retrieve information from, the FCC. Unlike specialized FCC activities, rulemakings are open to all members of the public. Currently, we have no special security checks for paper filings. Anyone could mail or hand-deliver a set of paper comments claiming to be a certain party, and the Commission would have to rely on the real party to identify the "imposter" comments. The same standards should work just as well for electronic comments. We also note that in proceedings in which electronic filing has been permitted thus far, we have encountered no problems.

P Some parties commented that the ECFS may encourage abusive or frivolous filings.[44] In the *Notice*, we observed that we have adequate measures in place to deal with such situations.[45] We will not take further steps at this time, because we agree with commenting parties that such instances can be addressed on a case-by-case basis.[46]

Q Some parties suggested that we address issues arising from mass filings of electronic mail comments.[47] In several instances we have had literally hundreds of thousands of electronic mail comments filed. The record in this proceeding does not permit us to consider various methodologies for handling mass electronic mail comments, and we will consider implementing a proceeding to consider this issue.

R Submission of materials through the ECFS will post them to the World Wide Web. Ameritech and SBC questioned how confidential materials will be handled in the ECFS system.[48] We anticipate that parties submitting such materials (either those presumptively confidential or those for which the party seeks confidentiality[49]) will continue to do so on paper. It is

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[44] *See* AT&T Comments at 4; CBT Comments at 2.

[45] 12 FCC Rcd at 5156, *citing Commission Taking Tough Measures Against Frivolous Pleadings*, 11 FCC Rcd 3030 (1996).

[46] NECA Comments at 5; Sprint Comments at 5-6.

[47] *E.g.*, Crawford Comments at 2 (expressing concern about mass electronic mail filings).

[48] SBC Comments at 3 n.2; Ameritech Comments at 2.

[49] *See* 47 C.F.R. §§ 0.457, 0.459.

administratively difficult to deal with confidentiality requests in the rulemaking context because of the large number of parties typically involved.[50]

1. ***Filing Deadline Issues.*** In the *Notice* we proposed, at least initially, to keep the same filing deadline (5:30 p.m. eastern time) for electronic comments as we currently have for paper comments.[51] Some commenters agree that we should retain the *status quo*.[52] Other commenters suggested that because the ECFS will be accessible 24 hours a day through the Internet, the filing deadline should be pushed back until midnight.[53] Other parties indicated that the date and time electronic comments are received by the Commission, whenever that occurred, should govern,[54] that is, comments would be received at all times but if received after 5:30 p.m. on a business day, would be deemed to be filed the next business day. Electronic filing makes it technically possible for us to extend our filing deadline later in the day, and we wish to encourage electronic filing. We will therefore permit electronic comments filed via the ECFS to be made until midnight of the date due. Our rules will be amended accordingly.

S Some parties encourage the Commission to include a time stamp mechanism so that the filing date of each comment can be confirmed.[55] This function has already been built into the ECFS, along with automatic notification to the commenter of the official filing date and time.[56]

[50] We note that in another context, involving licensing proceedings, the Commission has proposed allowing confidential materials to be filed electronically. *See ULS NPRM* at ¶54. *See also Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment*, Report and Order, ET Docket No. 97-94 (adopted Apr. 2, 1998) (discussing protection for electronically filed confidential exhibits to equipment authorization applications).

[51] 12 FCC Rcd at 5156, *citing* 47 C.F.R. § 1.7.

[52] NECA Comments at 5-6. *See* AT&T Reply Comments at 5-6 (urging rejection of midnight cut-off).

[53] BellSouth Comments at 3-4; U S West Comments at 3 (suggesting midnight deadline); Crawford Comments at 8 (suggesting midnight deadline).

[54] GTE Comments at 6-7 (suggesting the date and time received); Edgewood Comments at 2 (agreeing that date received is the appropriate date); OCC Comments at 4 (day received). One commenting party suggested the date sent. Bell Atlantic/NYNEX Comments at 4-5.

[55] U S West Comments at 5; Crawford Comments at 7; Ameritech Comments at 3; OCC Comments at 4; CBT Comments at 3.

[56] *See Notice*, 12 FCC Rcd at 5156; SBC Comments at 8.

T A number of commenting parties expressed concern that technical problems with the ECFS or the Commission's Internet connection, as well as congestion if too many parties attempt to submit their comments at the last possible moment before the deadline, could lead to many comments being received late.[57] Some of these parties suggest a streamlined process for granting extensions in such cases.[58]
We will amend our rules (47 C.F.R. § 0.231(i)) to delegate to the Secretary authority to grant requests for extensions of time based on operational or congestion problems in appropriate circumstances. We will reassess these procedures after we have had some experience to determine whether congestion and outages are likely to be a significant problem.

U ***Formatting and Copy Issues.*** Commenters raised a number of formatting issues in response to our request for comments concerning the number of copies to be filed, page numbering, file formats, citation form, and service on Commissioners, Bureaus, and Offices.[59]

V Multiple browsers.[60] A "quickstart" version of the ECFS was been available for public testing in selected dockets for several months. Because an earlier version of Microsoft Internet Explorer did not support a specific technical feature necessary for uploading files into the FCC's database system, the quickstart system only allowed uploading using Netscape Navigator. Several parties expressed concern about the system being limited to one company's Internet browser.[61] Microsoft has since added the necessary feature in the current version of Internet Explorer (4.0), which is free to the public, so the final ECFS implementation will support both the major browsers. We anticipate that other browsers will be able to use the system, and will work to include necessary features as needed. Documentation for the ECFS will provide users with additional information on compatible software.

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[57] BellSouth Comments at 3-4; Bell Atlantic/NYNEX Comments at 4-5; NTCA Comments at 3-4; Sprint Comments at 6-7; GTE Comments at 4-5; AT&T Comments at 5-6 and Reply Comments at 5; SBC Comments at 8-9; CBT Comments at 3.

[58] *E.g.*, NCTA Comments at 3 (suggesting an automatic extension of time for technological problems).

[59] *Notice*, 12 FCC Rcd at 5154, 5157.

[60] A "browser" is essentially an interface between an individual computer and the Internet. It is a software application that allows users to access, retrieve, and view material on the Internet.

[61] FCBA Comments at 3; Crawford Comments at 6; OCC Comments at 5; AT&T Comments at 2-3; White Comments; Crawford Reply Comments at 1-3; AT&T Reply Comments at 3-4; NCD Comments at 2.

W Electronic formats. Several commenting parties expressed concern about the format of documents submitted electronically.[62] The ECFS has been designed to accept filings created in the following major word processing formats -- Microsoft Word, WordPerfect, Adobe Acrobat, and ASCII text -- as well as Microsoft Excel for spreadsheets. These formats represent the overwhelming majority of the market today, and virtually every other word processor will export files in these formats. For viewing and printing, the ECFS will automatically convert files into Adobe Acrobat Portable Document Format (PDF) so that users can access the formatted files even if they do not have the word processor used to create the document.[63] The ECFS documentation and on-line help will specify the acceptable formats. We encourage electronic filers to utilize sufficiently large fonts to ensure ease of reading documents. Over time, as users' needs change and technology advances, we will consider adding additional file formats if technically feasible.

X Bell Atlantic/NYNEX and U S West expressed concern about filing non-electronic attachments to electronic filings.[64] Should this occur, the non-electronic filing should be filed the same day as the electronic filing. We encourage parties to scan their attachments as PDF files and submit them electronically. If parties cannot do so, we will attempt to scan the non-electronic portion of the filing into the ECFS. If it is not possible to scan the materials, the party submitting such material should reference it in the pleading and the materials will be included in the record.

Y We agree with SBC that documents filed electronically should be self-contained.[65] No hyperlinks to other sites on the Internet will be permitted in electronically-filed documents. To allow hyperlinks would permit parties to expand, perhaps endlessly, the materials submitted to us for consideration. It also could conceivably result in linkage to inappropriate sites. We will, however, consider this issue as part of our evaluation of the ECFS.

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[62] Edgewood Comments at 2 (ASCII universally understood but divided opinion by student body); NECA Comments at 7 (use many formats); PCIA Comments at 4; Sprint Comments at 7; U S West Comments at 6; Crawford Comments at 5; GTE Comments at 7; Crawford Reply Comments at 3; AT&T Reply Comments at 4 n.10 (ASCII or other easily readable format); CBT Comments at 3-4; SBC Comments at 3-4, 10 (various file formats and applications).

[63] This resolves SBC's fear (Comments at 4) that some participants might have trouble reading other participants' filings.

[64] Bell Atlantic/NYNEX Comments at 7-8; U S West Comments at 7.

[65] SBC Comments at 8.

Z We sought comment in the *Notice* as to whether we should permit the use of other filing media such as CD-ROMs and bulletin board systems.[66] Commenters generally supported adoption of alternative media, although this option was not without objection.[67] We prefer that parties utilize the ECFS system, but paper filings can continue to be made accompanied by diskettes. As the system matures, we will consider whether a bulletin board system should be added and whether acceptance of CD-ROM is advisable.

AA Page limits. In response to our inquiry about whether we need to adjust our rules concerning page limits,[68] some commenting parties observed that the number of pages is a less relevant measure when documents are filed electronically.[69] Therefore, some parties suggest that if the Commission imposes page limits on filings, it should express them in terms of other measures such as file size or word count.[70] The ECFS is designed to convert automatically all filings into Adobe Acrobat (PDF) format. PDF preserves document formatting and pagination when viewed on different systems, although in some cases there may be slight differences between the paper and on-line version.[71] Because there may be deviations from the paper and on-line versions, a word limit makes sense, since all major word processors include a word count feature. Also, this measurement is more consistent than file size, which may vary with the word processor and may change during electronic transmission. One double-spaced page is roughly 250 words. Therefore, we will modify our rules to allow either a maximum number of pages or a maximum number of words (calculated at 250 words per page).

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[66] 12 FCC Rcd at 5155. A computer bulletin board system allows computer users to subscribe to the bulletin board, dial in using a modem, then use the system to send and receive messages via e-mail, access the Internet, utilize on-line databases, and download or upload software.

[67] *Compare* New Signal Comments at 2; Crawford Comments at 3; and SBC Comments at 7 (supporting alternative media) *with* CBT Comments at 3, 7 (strongly opposing alternative media).

[68] 12 FCC Rcd at 5157.

[69] NECA Comments at 7; Crawford Comments at 6; SBC Comments at 10.

[70] NECA Comments at 6-7 (number of pages); Edgewood Comments at 2 (suggesting 5 page limit due to transmission errors); Bell Atlantic/NYNEX Comments at 7 (suggesting word count); Crawford Comments at 6; Sprint Comments at 7 (suggesting file size); U S West Comments at 6 (suggesting certification of word count); OCC Comments at 5 (suggesting byte count); AT&T Comments at 8, 9 (urging no limit to pages submitted and suggesting certification of page numbers submitted).

[71] *See* Ameritech Comments at 3 (urging use of PDF); AT&T Reply Comments at 4 (supporting PDF not submission of documents in PDF); CBT Comments at 6-7 (urging adoption of PDF); Crawford Reply Comments at 3 (suggesting not requiring PDF). NCD notes that there are problems using PDF with adaptive equipment. NCD Comments at 2. Our technical staff will work to resolve any such problems.

BB Paragraph numbering. Several commenters suggest that we mandate paragraph numbering in comments filed electronically because pagination may change when comments are viewed on different systems and with different fonts.[72] On the other hand, as we observed previously in this decision, the ECFS is designed to convert documents into PDF format, which generally preserves formatting and pagination. Additionally, paragraph numbers would make it easier for FCC staff to reference specific arguments in comments, especially when filed electronically, and therefore it would make sense to ask parties to include them in all comments. For this reason, we encourage parties filing on paper to number their paragraphs. However, we will not require paragraph numbering and failure to include paragraph numbers will not be a reason for us to disregard a comment.

CC Number of electronic copies. The *Notice* proposed that instead of the current requirement that parties file five paper copies of formal comments, only one electronic copy be required.[73] Because electronic submissions will be available simultaneously to the staff via the FCC Intranet, there is no need for filing multiple copies. Only one official copy of an electronic filing is necessary, unless the Commission has specified that additional electronic copies must be filed, and we will amend our rules accordingly.[74] Commission staff will handle internal distribution of documents if such distribution is required.[75] However, we do not anticipate this will be necessary because the ECFS provides all Commission staff, including the Commissioners, with almost immediate access to pleadings filed electronically. As we previously noted, the ECFS will also generate on a daily basis a listing of documents filed electronically with or scanned into the system. This listing will be distributed to all Commissioners, Bureaus, and Offices. The ECFS thus makes it unnecessary for parties to provide courtesy copies of pleadings directly to Commissioners, Bureaus, and Offices. Although we will not prohibit courtesy filings, we strongly discourage the filing of excessive copies of documents. If a party wishes to make the additional effort and expenditure of providing one courtesy copy of a pleading directly to a Commissioner, Bureau, or Office, they may do so. Courtesy copies, however, may only be provided on paper. Parties must mark such copies "Courtesy Copy" on the title page to avoid confusion as to whether

[72] NECA Comments at 7; Bell Atlantic/NYNEX Comments at 7; Sprint Comments at 7; U S West Comments at 6; Crawford Comments at 6; SBC Comments at 9. *See* GTE Comments at 8 (suggesting experience is needed with paragraph numbering); OCC Comments at 5; AT&T Comments at 9 & n.8.

[73] 12 FCC Rcd at 5154.

[74] CBT Comments at 5 (if distribution to a Bureau or Office is required, electronic filing should satisfy that requirement).

[75] *See* GTE Comments at 3, 8 (suggesting staff routing of comments for distribution internally); SBC Comments at 10 (FCC should be responsible for internal distribution); OCC Comments at 5 (FCC should be responsible for internal distribution); NTCA Comments at 4 (suggesting automatic distribution to Bureaus and Offices); Sprint Comments at 3 (same); NECA Comments at 3-4 (same); Bell Atlantic/NYNEX Comments at 6; U S West Comments at 2-3.

a document is an original or copy. We will continue regularly to reassess our internal distribution methods as we gain more experience with this system.

DD Availability of copies. The ECFS was designed to allow an FCC staff person to verify comments after they have been filed electronically and before they are made available for viewing and downloading by the public through the Internet. This intermediate step is designed to ensure that parties have provided essential information, such as the docket number. Paper documents must still be scanned into the system, as with the current RIPS system, which will take slightly longer for them to be available electronically. In addition, determinations may need to be made as to whether a pleading is late filed, *ex parte*, confidential correspondence, or filed within the Sunshine Period. Other than these processing steps, electronically-submitted comments can be made available to the public immediately after filing. It seems reasonable to commit to having comments available on-line through the FCC's World Wide Web site for downloading the day after the filing deadline (except materials that must be scanned into the ECFS or in extraordinary cases), and we will endeavor to do so.[76]
Some parties ask that comments be available from the Commission's copy contractor by 8:30 a.m. following the filing deadline.[77] This would seem to be an overly stringent standard. The copy contractor will receive an electronic mail notification list of all filings at the same time as the Bureaus and copies will be available as soon as they are processed by the Secretary's Office.

EE ***Electronic Service***. In some cases, parties must serve copies of their filings on all other participants in a proceeding. Specifically, in rulemaking proceedings, oppositions to petitions for reconsideration and replies to such oppositions must be served on certain parties.[78] The *Notice* proposed that, even when comments were filed electronically with the FCC, service on other parties would have to be on paper unless those parties stated that they would accept electronic service.[79] Commenters generally agreed.[80] A party must agree to accept electronic service at their premises before service may be accomplished in that manner. We are exploring adding a field on the ECFS to allow parties to check whether they will accept electronic service. In the

[76] *See also* Bell Atlantic/NYNEX Comments at 8 (ensure comments available quickly); NTCA Comments at 3 (comments should be available the next day).

[77] GTE Comments at 3; AT&T Comments at 4; CBT Comments at 4.

[78] *See* 47 C.F.R. § 1.429(f), (g).

[79] *See* 12 FCC Rcd at 5157.

[80] Bell Atlantic/NYNEX Comments at 6; NECA Comments at 6; U S West Comments at 5; Crawford Comments at 8 (too early to require electronic service on parties); GTE Comments at 7; Ameritech Comments at 3 (service in paper form); AT&T Comments at 7; SBC Comments at 9; CBT Comments at 5.

meantime, parties should indicate their willingness to accept electronic filing in their pleadings. We may explore other approaches in the future, but it is important to gain experience with the practice of electronic filing before attempting to do so.[81]

FF Bell Atlantic/NYNEX urges that when a party has agreed to electronic service of a document, the three-day mailing rule for computation of time purposes is inappropriate.[82] We agree. When parties agree to electronic service, service in that manner will be considered the same as facsimile service. We will amend the rule accordingly.

D. Final Regulatory Flexibility Act Certification.

1. In the *Notice*, we certified that the proposed rules "[would] not, if promulgated, have a significant economic impact on a substantial number of small entities."[83] No comments were received concerning this certification. Our purpose in granting electronically filed comments comparable legal treatment to comments filed on paper is to simplify and clarify the existing rules, and to give parties additional options for filing comments. The modifications do not impose any additional compliance burden on persons dealing with the Commission, including small entities. All parties will still be permitted to file comments on paper, exactly as they do today. We anticipate that the revisions we adopt here will make it somewhat easier for small entities as well as others that wish to file and review comments electronically to do so. Accordingly, we certify that the rules will not have a significant economic impact on a substantial number of small entities.[84] In addition, the Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this certification will also be published in the Federal Register.

IV. CONCLUSION

2. We believe that allowing parties to file comments and all other pleadings and submissions (including *ex parte* submissions) electronically in FCC notice and comment rulemaking proceedings (other than broadcast allotments), NOIs, and petition for rulemaking

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[81] *See* AT&T Comments at 8 (suggesting that we consider eliminating service requirement if the pleading is posted on the Internet).

[82] Bell Atlantic/NYNEX Comments at 3 n.3, *citing* 47 C.F.R. § 1.4(h), which provides that if a document is required to be served on other parties, and is served by mail, an additional three days (excluding holidays) is allowed for filing a response.

[83] *Notice*, 12 FCC Rcd at 5158 *citing* 5 U.S.C. § 605(b).

[84] 5 U.S.C. § 605(b).

proceedings (other than in broadcast allotment proceedings), will enhance the public's ability to participate in our proceedings and will serve the public interest. We amend our rules accordingly.

V. ORDERING CLAUSES

3. Accordingly, IT IS ORDERED that pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303(r), Parts 0 and 1 of the Commission's Rules are AMENDED as set forth in the Appendix.

4. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, 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.

5. IT IS FURTHER ORDERED that the rules adopted herein ARE EFFECTIVE [60 days after publication in the Federal Register].

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A

Parties Filing Comments:

Edgewood Senior High School Student Council (Edgewood)
National Exchange Carrier Association, Inc. (NECA)
Federal Communications Bar Association (FCBA)
BellSouth Corporation and BellSouth Telecommunications, Inc. (BellSouth)
Personal Communications Industry Association (PCIA)
Bell Atlantic/NYNEX
National Telephone Cooperative Association (NTCA)
Sprint Corporation (Sprint)
U S West, Inc. (U S West)
Consumer Electronics Manufacturers Association (CEMA)
Law Offices of Henry E. Crawford (Crawford)
National Council on Disability (NCD)
GTE Service Corporation (GTE)
Ameritech (Ameritech)
Ohio Consumers' Counsel (OCC)
AT&T Corp. (AT&T)
David B. Popkin (Popkin)
New Signals Press, Inc. (New Signals)
Eric J. White (White)
SBC Communications, Inc., Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell (SBC)
Cincinnati Bell Telephone Company (CBT)

Parties Filing Reply Comments:

National Association of the Deaf (NAD)
Law Offices of Henry E. Crawford (Crawford)
AT&T Corporation (AT&T)
GTE Service Corporation (GTE)

APPENDIX B

AMENDMENT TO RULES
(AMENDED SECTIONS HIGHLIGHTED)

Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 0 -- COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, unless otherwise noted.

47 CFR Part 0 is amended to read as follows:

2. Section 0.231 is amended by revising paragraph (i) to read as follows:

§ 0.231 Authority Delegated

* * * * *

(i) The Secretary, acting under the supervision of the Managing Director, serves as the official custodian of the Commission's documents and shall have authority to appoint a deputy or deputies for the purposes of custody and certification of documents located in Gettysburg, Pennsylvania or other established locations. **The Secretary is delegated authority to rule on requests for extensions of time based on operational problems associated with the Commission's electronic comment filing system. See § 1.46.**

3. Section 0.401 is amended by adding (a)(1)(iii) to read as follows:

§ 0.401 Location of Commission Offices.

* * * * *

(iii) Electronic filings, where permitted, must be transmitted as specified by the Commission or relevant Bureau or Office.

* * * * *

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 1 -- PRACTICE AND PROCEDURE

4. The authority citation for Part 1 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154, 207, 303 and 309(j) unless otherwise noted.

47 CFR Part 1 is amended to read as follows:

5. Section 1.4 is amended by revising paragraphs (f) and (h) to read as follows:

§ 1.4 Computation of Time

* * * * *

(f) Except as provided in § 0.401(b) of the Rules, all petitions, pleadings, tariffs or other documents not required to be accompanies by a fee and which are hand-delivered must be tendered for filing in complete form before 5:30 p.m. in the Office of the Secretary, wither in Washington or Gettysburg, as directed by the Rules. The Secretary will determine whether a tendered document meets the pre-5:30 deadline. **Documents filed electronically pursuant to § 1.49(f) of the Rules must be received by the Commission's electronic comment filing system before midnight.**

(h) If a document is required to be served upon other parties by statute or Commission regulation and the document is in fact served by mail (see § 1.47(f)), and the filing period for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed to all parties in the proceeding for filing a response. This paragraph (§ 1.4(h)) shall not apply to documents filed pursuant to § 1.89, § 1.120(d), § 1.315(b) or § 1.316. For purposes of this paragraph service by facsimile **or by electronic means** shall be deemed equivalent to hand delivery.

6. Section 1.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.46 Motions for extension of time.

* * * * *

(b) Motions for extension of time in which to file responses to petitions for rulemaking, replies to such responses, comments filed in response to notice of proposed rulemaking, replies to such comments and other **filings** in rulemaking proceedings conducted under Subpart C of this part shall be filed at least 7 days before the filing date. If a timely motion is denied, the responses and comments, replies thereto, or other **filings** need not be filed until 2 business days after the Commission acts on the motion. In emergency situations, the Commission will consider a late-

filed motion for a brief extension of time related to the duration of the emergency and will consider motions for acceptance of comments, reply comments or other **filings made** after the filing date.

* * * * *

(c) If a motion for extension of time in which to **make filings** in proceedings other than notice and comment rule making proceedings is filed less than 7 days prior to the filing **day,** the party filing the motion shall (in addition to serving the motion on other parties) orally notify other parties and Commission staff personnel responsible for acting on the motion that the motion has been (or is being) filed.

* * * * *

7. Section 1.47 is amended by revising paragraph (d) to read as follows:

§1.47 Service of documents and proof of service.

(d) Documents may be served upon a party, its attorney, or other duly constituted agent by delivering a copy or by mailing a copy to the last known address. When a party is represented by an attorney of record in a formal proceeding, service shall be made upon such attorney. **Documents that are required to be served must be served in paper form, even if documents are filed in electronic form with the Commission, unless the party to be served agrees to accept service in some other form.**

* * * * *

8. Section 1.49 is amended by revising paragraph (a) and adding new paragraph (f) to read as follows:

§ 1.49 Specifications as to pleadings and documents.

(a) All pleadings and documents filed **in paper form** in any Commission proceeding shall be typewritten or prepared by mechanical processing methods, and shall be filed on A4 (21 cm. x 29.7 cm.) or on 8 1/2 x 11 inch (21.6 cm. x 27.9 cm.) paper with the margins set so that the printed material does not exceed 6 1/2 x 9 1/2 inches (16.5 cm. x 24.1 cm.). The printed material may be in any typeface of at least 12-point (0.42333 cm. or 12/72 ") in height. The body of the text must be double spaced with a minimum distance of 7/32 of an inch (0.5556 cm.) between each line of text. Footnotes and long, indented quotations may be single spaced, but must be in type that is 12-point or larger in height, with at least 1/16 of an inch (0.158 cm.) between each line of text. Counsel are cautioned against employing extended single spaced passages or excessive footnotes to evade prescribed pleading lengths. If single-spaced passages or footnotes

are used in this manner the pleading will, at the discretion of the Commission, either be rejected as unacceptable for filing or dismissed with leave to be refiled in proper form. Pleadings may be printed on both sides of the paper. Pleadings that use only one side of the paper shall be stapled, or otherwise bound, in the upper left-hand corner; those using both sides of the paper shall be stapled twice, or otherwise bound, along the left-hand margin so that it opens like a book. The foregoing shall not apply to printed briefs specifically requested by the Commission, official publications, charted or maps, original documents (or admissible copies thereof) offered as exhibits, specially prepared exhibits, or if otherwise specifically provided. All copies shall be clearly legible.

* * * * *

(f) In the following types of proceedings, all pleadings, including permissible ex parte submissions, notices of ex parte presentations, comments, reply comments, and petitions for reconsideration and replies thereto, may be filed in electronic format: (i) general rulemaking proceedings other than broadcast allotment proceedings; (ii) notice of inquiry proceedings; and (iii) petition for rulemaking proceedings (except broadcast allotment proceedings). For purposes of section (b) and (c) of this section, and any prescribed pleading lengths, the length of any document filed in electronic form shall be equal to the length of the document if printed out and formatted according to the specifications of section (a) of this section, or shall be no more that 250 words per page.

9. Section 1.51 is amended by changing paragraph (e) to read as follows:

§ 1.51 Numbers of copies of pleadings, briefs and other papers.

* * * * *

(e) The parties to any proceeding may, on notice, be required to file additional copies of any or all **filings made** in that proceeding.

10. Section 1.52 is amended to read as follows:

§ 1.52 Subscription and verification.

The original of all petitions, motions, pleadings, briefs, and other documents filed by any party represented by counsel shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign and verify the document and state his address. Either the original document, or an electronic reproduction of such original document containing the facsimile signature of the attorney or unrepresented party is acceptable for filing. If a facsimile copy of a document is filed, the signatory shall retain the original until the Commission's decision is final and no longer subject to

judicial review. **If pursuant to § 1.429(h) a document is filed electronically, a signature will be considered any symbol executed or adopted by the party with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.** Except when otherwise specifically provided by rule or statute, documents signed by the attorney for a party need not be verified or accompanied by affidavit. The signature or electronic reproduction thereof by an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If the original of a document is not signed or is signed with intent to defeat the purpose of this section, or an electronic reproduction does not contain a facsimile signature, it may be stricken as sham and false, and the matter may proceed as though the document had not been filed. An attorney may be subjected to appropriate disciplinary action, pursuant to §1.24, for a willful violation of this rule or if scandalous or indecent matter is inserted.

11. Section 1.401 is amended by changing paragraph (b) to read as follows:

* * * * *

(b) The petition for rulemaking shall conform to the requirements of §§ 1.49, 1.52 and 1.419(b) (or § 1.420(e), if applicable), and shall be submitted or addressed to the Secretary, Federal Communications Commission, Washington, DC 20554**, or (except in broadcast allotment proceedings) may be submitted electronically.**

12. Section 1.403 is amended to read as follows:

§ 1.403 Notice and availability

All petitions for rule making (other than petitions to amend the FM, Television, and Air-Ground Tables of Assignments) meeting the requirements of s 1.401 will be given a file number and, promptly thereafter, a "Public Notice" will be issued (by means of a Commission release entitled "Petitions for Rule Making Filed") as to the petition, file number, nature of the proposal, and date of filing. Petitions for rule making are available at the Commission's Dockets Reference Center (1919 M Street NW., Room 239, Washington, DC), **and may also be available electronically over the Internet at <http://www.fcc.gov/>.**

13. Section 1.419 is amended by adding a new paragraphs (d) and (e) to read as follows:

§1.419 Form of comments and replies; number of copies.

* * * * *

(d) Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments.

(e) Comments and replies filed in electronic form by a party represented by an attorney shall include the name, street address, and telephone number of at least one attorney of record. Parties not represented by an attorney that file comments and replies in electronic form shall provide their name, street address, and telephone number.

* * * * *

14. Section 1.429 is amended by changing paragraphs (d), (e), (f), (g) and (h) to read as follows:

§ 1.429 Petitions for reconsideration

* * * * *

(d) The petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of public notice of such action, as that date is defined in s 1.4(b) of these rules. No supplement to a petition for reconsideration filed after expiration of the 30 day period will be considered, except upon leave granted pursuant to a separate pleading stating the grounds for acceptance of the supplement. The petition for reconsideration shall not exceed 25 double-spaced typewritten pages. **See also § 1.49(f).**

(e) Except as provided in §1.420(f), petitions for reconsideration need not be served on parties to the proceeding. (However, where the number of parties is relatively small, the Commission encourages the service of petitions for reconsideration and other pleadings, and agreements among parties to exchange copies of pleadings. **See also § 1.47(d) regarding electronic service of documents.**) When a petition for reconsideration is timely filed in proper form, public notice of its filing is published in the Federal Register. The time for filing oppositions to the petition runs from the date of public notice. See § 1.4(b).

(f) Oppositions to a petition for reconsideration shall be filed within 15 days after the date of public notice of the petition's filing and need be served only on the person who filed the petition. **See also §§ 1.49(d).** Oppositions shall not exceed 25 double-spaced typewritten pages. **See § 1.49(f).**

(g) Replies to an opposition shall be filed within 10 days after the time for filing oppositions has expired and need be served only on the person who filed the opposition. Replies shall not exceed 10 double-spaced typewritten pages. **See also § 1.49(d) and § 1.49(f).**

(h) Petitions for reconsideration, oppositions and replies shall conform to the requirements of §§ 1.49 and 1.52, except that they need not be verified. Except as provided in § 1.420(e), an original and 11 copies shall be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554. **Parties filing in electronic form need only submit one copy.**

15. Section 1.1206 is amended by changing paragraphs (b)(1) and (b)(2) to read as follows:

§ 1.1206 Permit-but-disclose proceedings.

* * * * *

(b) The following disclosure requirements apply to ex parte presentations in permit but disclose proceedings:

(1) *Written presentations.* A person who makes a written ex parte presentation subject to this section shall, no later than the next business day after the presentation, submit two copies of the presentation to the Commission's secretary under separate cover for inclusion in the public record. The presentation (and cover letter) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that two copies have been submitted to the Secretary, and must be labeled as an ex parte presentation. If the presentation relates to more than one proceeding, two copies shall be filed for each proceeding. **Alternatively, in rulemaking proceedings governed by § 1.49(f), the person making the presentation may file one copy of the presentation electronically; no additional paper copies need to be filed.**

(2) *Oral presentations.* A person who makes an oral ex parte presentation subject to this section that presents data or arguments not already reflected in that person's written comments, memoranda or other filings in that proceeding shall, no later than the next business day after the presentation, submit to the Commission's Secretary, an original and one copy of a memorandum which summarizes the new data or arguments. **Except in proceedings subject to § 1.49(f) in which pleadings are filed electronically, a copy of the memorandum must also be submitted to the Commissioners or Commission employees involved in the oral presentation. In proceedings governed by § 1.49(f), the person making the presentation may, alternatively, electronically file one copy of the memorandum, which will be available to Commissioners and Commission employees involved in the presentation through the Commission's electronic comment filing system.** Memoranda must contain a summary of the substance of the ex parte presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. The memorandum (and cover letter) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that an original and one copy have been submitted to the Secretary **or that one copy has been filed electronically**, and must be labeled as an ex parte

presentation. If the presentation relates to more than one proceeding, two copies of the memorandum (or an original and one copy) shall be filed for each proceeding.

* * * * *

PARTIAL DISSENT OF COMMISSIONER GLORIA TRISTANI

In the Matter of Electronic Filing of Documents in Rulemaking Proceedings
(GC Docket No. 97-113)

I strongly support the thrust of today's action to permit parties to file documents with the Commission electronically. Electronic filing should make our processes more open and accessible and enhance the public's ability to actively participate in rulemaking proceedings.

There is one aspect of today's Order, however, that I cannot support. The Order establishes a midnight deadline for electronic filings rather than the 5:30 p.m. deadline that applies to paper filings. This six and a half hour extension will give electronic filers an advantage over paper filers. Indeed, the Order (at para. 19) states that it is adopting a midnight deadline because it "wish[es] to encourage electronic filing." To the extent that a midnight deadline provides an incentive for parties to file electronically who otherwise would file on paper, the extra filing time must provide them with a clear benefit.

Moreover, the advantage for electronic filers could be far more substantial than simply the additional time involved. Under current Commission practice, paper filers may provide courtesy copies to ITS, the Commission's transcription service, when they file with the Secretary's office. Outside parties can obtain copies of these documents from ITS that same evening. Also, it is not uncommon (at least it has not been up to now) for parties to serve courtesy copies directly on other parties at the time they file their comments with the Commission. Thus, it is quite possible that electronic filers will be able to obtain copies of paper filings by early evening and incorporate responses by the midnight deadline. Essentially, this would give electronic filers an additional reply opportunity, permitting them to address arguments raised by the paper filers that they had not anticipated.

Were electronic filing an option available to everyone, these concerns may not be significant. But millions of Americans do not have Internet access. These are the people who will be most disadvantaged by the midnight filing deadline. Meanwhile, those with the resources to file electronically, and especially those Washington insiders who know how to quickly obtain copies of paper filings, will be the biggest winners. It is already difficult enough for average citizens to make their voices heard at the Commission. I believe that today's decision establishing different deadlines for electronic and paper filings only increases that difficulty. I therefore dissent from this aspect of the Order.