

22.875(d)(5), 22.929(b)(2), 80.21, 80.33, 80.53, 80.469, 80.511, 80.513, 80.553, 80.605, 87.215, 87.347, 90.625, 90.683, 90.763, 101.61, and 101.701, to the extent that these rules contained information collection requirements that required approval by OMB. On January 21, 1999, OMB approved the public information collection associated with these rules via OMB Control No. 3060-0865. The Commission published a Notice in the **Federal Register** at 64 FR 9510, (Feb. 26, 1999), announcing OMB's approval. OMB Control No. 3060-0865 subsequently was modified and extended until March 31, 2007.

2. The Commission published a Notice in the **Federal Register** at 64 FR 68904, (Oct. 1, 1999), of its Memorandum Opinion and Order and Order on Reconsideration (*Memorandum Opinion and Order and Order on Reconsideration*) in the Universal Licensing System proceeding (WT Docket Nos. 98-20 and 96-188, RM-8677 and RM-9107; FCC 99-139), wherein the Commission modified certain rules. In that Notice, the Commission stated that it would publish a document in the **Federal Register** announcing the effective date of certain rules adopted in the *Memorandum Opinion and Order and Order on Reconsideration*—specifically §§ 22.529(c), 22.709(f), 22.803(c), and 22.929(d), to the extent that these rules contained information collection requirements that required approval by OMB. On September 30, 1999, OMB approved the public information collection associated with these rules via OMB Control No. 3060-0865. OMB Control No. 3060-0865 subsequently was modified and extended until March 31, 2007.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[IB Docket No. 01-185, FCC 05-30]

### Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document is a summary of the *Memorandum Opinion and Order*

and *Second Order on Reconsideration* adopted by the Commission in this proceeding. The Commission reaffirmed its decision to allow satellite operators to integrate Ancillary Terrestrial Components (ATC) to existing Mobile Satellite Service (MSS) systems and amended the service rules governing ATC to provide greater flexibility for MSS operators to design and deploy ATC, while protecting other users in the bands. The new rules will further the Commission's goals of development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, and efficient and intensive use of the electromagnetic spectrum.

**DATES:** Effective May 13, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sean O'More, Howard Griboff, or Paul Locke, Policy Division, International Bureau, (202) 418-1460.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order and Second Order on Reconsideration* in IB Docket No. 01-185, FCC No. 05-30, adopted February 10, 2005 and released on February 25, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257). The document is also available for download over the Internet at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-05-30A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-30A1.doc). The complete text may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) located in Room CY-B402, 445 12th Street, SW., Washington, DC 20554. Customers may contact BCPI at their web site: <http://www.bcpweb.com> or call 1-800-378-3160.

### Summary of Memorandum Opinion and Order and Second Order on Reconsideration

On February 10, 2003, the Commission released a Report and Order (*MSS Flexibility R&O*) in this proceeding (68 FR 33640, June 5, 2003). The *MSS Flexibility R&O* permitted MSS operators to provide integrated ATC within their assigned MSS spectrum, and adopted rules pertaining to the licensing and operation of ATC systems. The Commission established a set of prerequisites, known as "gating criteria," that MSS operators would have to satisfy in order to add ATC to their systems. The Commission also established technical rules to ensure that ATC did not interfere with other MSS operators' systems or with other services. Finally, the Commission

concluded that ATC authority would be granted by modifying MSS operators' current licenses, and that ATC authority would not be granted by competitive bidding. On July 3, 2003, the Commission released an *Order on Reconsideration (Sua Sponte Order)* (68 FR 47856, August 12, 2003), which clarified certain aspects of the *MSS Flexibility R&O*.

On February 10, 2005, the Commission adopted the *Memorandum Opinion and Order and Second Order on Reconsideration* in this proceeding. The *Memorandum Opinion and Order and Second Order on Reconsideration* amends the licensing and service rules for ATC in the 2000-2020 and 2180-2200 MHz bands (the 2 GHz MSS band), the 1525-1559 MHz and 1626.5-1660.5 MHz bands (the L-band), and the 1610-1626.5 MHz and 2483.5-2500 MHz bands (the Big LEO band). MSS can provide mobile communications at any location in the United States, including rural and remote areas and offshore maritime areas where communications by terrestrial mobile systems are often unavailable. In some areas, however, particularly urban areas, the communications signal from the MSS satellite can be blocked by tall buildings. For this reason, there are areas where MSS communications are not available. ATC will provide integrated communications coverage in these areas, allowing MSS/ATC to offer ubiquitous service to consumers.

The *Memorandum Opinion and Order and Second Order on Reconsideration* responded to petitions for reconsideration of the *MSS Flexibility R&O* and *Sua Sponte Order* in four major areas: (1) Gating criteria, (2) uplink interference, (3) downlink interference, and (4) licensing rules.

**Gating Criteria.** The *Memorandum Opinion and Order and Second Order on Reconsideration* considered requests to change the gating criteria which MSS operators must meet in order to provide ATC. The Commission declined to require that a percentage of MSS/ATC system capacity must be reserved for MSS operations. The Commission also declined to require MSS/ATC user terminals, such as handsets, to attempt to contact the satellite before communicating through the ATC. The Commission also clarified the meaning of the term "dual-mode device," the prohibition on offering ATC-only service, and the requirement that an MSS operator must satisfy the gating criteria in each band in which it seeks to offer ATC.

**Uplink Interference.** The *Memorandum Opinion and Order and Second Order on Reconsideration*

changes the basis of the uplink interference rules in the L-band. Previously, the technical rules designed to limit uplink interference to the MSS/ATC operator's own satellite and the satellites of other MSS operators were a detailed set of restrictions on ATC base stations and handsets. The Commission reconsidered these rules, and replaced them with limits on the overall amount of interference an MSS/ATC system, as a whole, may cause to other MSS systems in the L-band.

**Downlink Interference.** The *Memorandum Opinion and Order and Second Order on Reconsideration* increased the maximum power of ATC base stations in the L-band. The power limits on ATC base stations in the *MSS Flexibility R&O* were based on an assumed MSS user terminal receiver tolerance level for interference of -60 dBm. The Commission staff tested representative MSS user terminals and determined that the correct tolerance level for interference of these terminals is -52 dBm. This justifies an 8 dB increase in the maximum power of ATC base stations, and in the power flux density (PFD) that ATC base stations may produce near airports and waterways. In order to provide extra interference protection for the 1544–1545 MHz sub-band, which is used for distress and safety communications, the Commission retained the former ATC base station power limits in the 1541.5–1547.5 MHz sub-band, based on measurements that demonstrate lower MSS terminal tolerance for interference from interfering signals close to the desired signal. The Commission also required MSS/ATC operators to coordinate with other MSS operators when there was a likelihood that third-order intermodulation from ATC base stations could cause harmful interference to MSS terminals. In addition, the Commission noted that grant of future ATC applications will be coordinated with the National Telecommunications and Information Administration, pursuant to the general notification process, to assure adequate protection of the Radionavigation Satellite Service (RNSS) signals in the 1559–1610 MHz band.

**Licensing Rules.** The *Memorandum Opinion and Order and Second Order on Reconsideration* reconsidered the licensing rules for ATC, and amended the rules to allow non-operational MSS operators to demonstrate that they would soon meet the gating criteria. Upon a substantial showing, the Commission will grant ATC authorization to these non-operations MSS operators so they may begin ATC operations at the same time they begin

MSS operations. The Commission also reconsidered and reaffirmed its decision that ATC authority is not eligible for assignment by competitive bidding.

#### Procedural Matters

##### *Paperwork Reduction Act Analysis*

The *Memorandum Opinion and Order and Second Order on Reconsideration* does not contain information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13. It also, therefore, does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law No. 107–198, *see* 44 U.S.C. 3506(c)(4).

##### *Final Regulatory Flexibility Act Certification*

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” (*See* 5 U.S.C. 601–612; the RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996)). The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. (*See* 5 U.S.C. 601(3), incorporating by reference the definition of “small-business concern” in the Small Business Act, (15 U.S.C. 632)). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *MSS Flexibility*

*Notice*, (68 FR 33666, June 5, 2003) and no parties responded to the IRFA. After a review of the policies and rules adopted in the *MSS Flexibility R&O*, the Commission determined that there would be no significant impact on a substantial number of small entities. Thus, a Final Regulatory Flexibility Certification was included in the *MSS Flexibility R&O*.

In addressing the issues raised by the parties seeking reconsideration of the *MSS Flexibility R&O*, no parties commented on the regulatory flexibility certification. We certify that the policies and rules adopted in the *Memorandum Opinion and Order and Second Order on Reconsideration* will not have a significant impact on a substantial number of small entities.

We are incorporating the Final Regulatory Analysis Certification contained in the *MSS Flexibility R&O* into this proceeding. In our reconsideration of the petitions in this proceeding, we modify our rules that permit the addition of ATC to MSS systems. We change certain technical standards for ATC in the L-band, in order to permit MSS/ATC licenses flexibility in designing and operating their ATC while at the same time preventing harmful interference from ATC to co-primary MSS licensees in the L-band. In addition, we will allow certain increases in ATC base station power. We also modify the rules for authorizing MSS operators to add ATC to their networks. We expect that these changes will facilitate the development of MSS/ATC. We believe that all entities, both large and small, will have the flexibility to design their systems to meet their customers' needs. The policies and rules adopted in this proceeding are essentially technical changes that will provide equal opportunity for operational and non-operational MSS systems to add ATC without undue delay.

We believe that the policies and rules adopted in this proceeding—which bring additional flexibility to existing MSS licensees—will not affect a substantial number of small entities. There are currently five 2 GHz MSS licensees, two Big LEO MSS licensees and three L-band MSS licensees authorized to provide service in the United States. Although at least one of the 2 GHz MSS system licensees and one of the Big LEO licensees are small businesses, small businesses often do not have the financial ability to become MSS system operators because of the high implementation costs associated with satellite systems and services. We expect that, by the time of MSS ATC system implementation, these current

small businesses will no longer be considered small due to the capital requirements for launching and operating a proposed system.

Therefore, we certify that the requirements of the *Memorandum Opinion and Order and Second Order on Reconsideration* will not have a significant economic impact on a substantial number of small entities.

The Commission will send a copy of the *Memorandum Opinion and Order and Second Order on Reconsideration*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act (see 5 U.S.C. 801(a)(1)(A)).

**Ordering Clauses**

Pursuant to sections 4(i), 7, 302, 303(c), 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157, 302, 303(c), 303(e), 303(f) and 303(r), this *Memorandum Opinion and Order and Second Order on Reconsideration* is adopted and that part 25 of the Commission's rules is amended, as specified in the Final rule, effective May 13, 2005.

The Petitions for Reconsideration of the *MSS Flexibility R&O* filed by Cingular Wireless LLC, the Society of Broadcast Engineers, Inc., and Cellular Telecommunications & Internet Association are granted in part and denied in part.

The Petitions for Reconsideration of the *MSS Flexibility R&O* filed by Mobile Satellite Ventures Subsidiary LLC and Inmarsat Ventures PLC are granted in part, dismissed as moot in parte, and denied in part.

The Petition for Reconsideration of the *MSS Flexibility R&O* filed by the Boeing Co. is granted in part and denied in part.

The Petition for Reconsideration of the *Sua Sponte Order* filed by the Boeing Co. is granted in part and denied in part.

The Final Regulatory Flexibility Certification, as required by section 604 of the Regulatory Flexibility Act, is adopted.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Memorandum Opinion and Order and Second Order on Reconsideration*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 25**

Radio, Satellites, Telecommunications.

Federal Communications Commission.

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

**Final Rule**

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 25 as follows:

**PART 25—SATELLITE COMMUNICATIONS**

■ 1. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309, 332, unless otherwise noted.

■ 2. Section 25.149 is amended by adding a note to paragraph (a)(1) and by revising paragraph (b)(1)(i) to read as follows:

**§ 25.149 Application requirements for ancillary terrestrial components in the mobile-satellite service networks operating in the 1.5/1.6 GHz, 1.6/2.4 GHz and 2 GHz mobile-satellite service.**

- (a) \* \* \*
- (1) \* \* \*

**Note to paragraph (a)(1):** An L-band MSS licensee is permitted to apply for ATC authorization based on a non-forward-band mode of operation provided it is able to demonstrate that the use of a non-forward-band mode of operation would produce no greater potential interference than that produced as a result of implementing the rules of this section.

- \* \* \* \* \*
- (b) \* \* \*
- (1) \* \* \*

(i) For the 2 GHz MSS band, an applicant must demonstrate that it can provide space-segment service covering all 50 states, Puerto Rico, and the U.S. Virgin Islands one-hundred percent of the time, unless it is not technically possible, consistent with the coverage requirements for 2 GHz MSS GSO operators.

\* \* \* \* \*

■ 3. Section 25.201 is amended by revising the definition of “Ancillary terrestrial component” to read as follows:

**§ 25.201 Definitions.**

\* \* \* \* \*

*Ancillary terrestrial component.* The term “ancillary terrestrial component” means a terrestrial communications network used in conjunction with a qualifying satellite network system authorized pursuant to these rules and the conditions established in the Orders issued in IB Docket No. 01–185,

*Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band.*

\* \* \* \* \*

■ 4. Section 25.216 is amended by revising paragraph (i) to read as follows:

**§ 25.216 Limits on emissions from mobile earth stations for protection of aeronautical radionavigation-satellite service.**

\* \* \* \* \*

(i) The e.i.r.p density of carrier-off state emissions from mobile earth stations manufactured more than six months after **Federal Register** publication of the rule changes adopted in FCC 03–283 with assigned uplink frequencies between 1 and 3 GHz shall not exceed -80 dBW/MHz in the 1559–1610 MHz band averaged over any two millisecond interval.

\* \* \* \* \*

■ 5. Section 25.252 is amended by revising paragraphs (a)(7) and (b)(3) to read as follows:

**§ 25.252 Special requirements for ancillary terrestrial components operating in the 2000–2020 MHz/2180–2200 MHz bands.**

(a) \* \* \*

(7) Generate EIRP density, averaged over any two millisecond active transmission interval, greater than -70 dBW/MHz in the 1559–1610 MHz band. The EIRP, measured over any two millisecond active transmission interval, of discrete out-of-band emissions of less than 700 Hz bandwidth from such base stations, shall not exceed -80 dBW in the 1559–1610 MHz band. A root-mean-square detector function with a resolution bandwidth of one megahertz or equivalent and no less video bandwidth shall be used to measure wideband EIRP density for purposes of this rule, and narrowband EIRP shall be measured with a root-mean-square detector function with a resolution bandwidth of one kilohertz or equivalent.

\* \* \* \* \*

(b) \* \* \*

(3) Not generate EIRP density, averaged over any two-millisecond active transmission interval, greater than -70 dBW/MHz in the 1559–1610 MHz band. The EIRP, measured over any two-millisecond active transmission interval, of discrete out-of-band emissions of less than 700 Hz bandwidth from such mobile terminals shall not exceed -80 dBW in the 1559–1610 MHz band. The EIRP density of carrier-off-state emissions from such mobile terminals shall not exceed -80 dBW/MHz in the 1559–1610 MHz band, averaged over a two-millisecond interval. A root-mean-square detector

function with a resolution bandwidth of one megahertz or equivalent and no less video bandwidth shall be used to measure wideband EIRP density for purposes of this rule, and narrowband EIRP shall be measured with a root-mean-square detector function with a resolution bandwidth of one kilohertz or equivalent.

\* \* \* \* \*

■ 6. Section 25.253 is revised to read as follows:

**§ 25.253 Special requirements for ancillary terrestrial components operating in the 1626.5–1660.5 MHz/1525–1559 MHz bands.**

(a) An ancillary terrestrial component in these bands shall:

(1) In any band segment coordinated for the exclusive use of an MSS applicant within the land area of the U.S., where there is no other L-Band MSS satellite making use of that band segment within the visible portion of the geostationary arc as seen from the ATC coverage area, the ATC system will be limited by the in-band and out-of-band emission limitations contained in this section and the requirement to maintain a substantial MSS service.

(2) In any band segment that is coordinated for the shared use of the applicant's MSS system and another MSS operator, where the coordination agreement existed prior to February 10, 2005 and permits a level of interference to the other MSS system of less than 6%  $\Delta T/T$ , the applicant's combined ATC and MSS operations shall increase the system noise level of the other MSS to no more than 6%  $\Delta T/T$ . Any future coordination agreement between the parties governing ATC operation will supersede this paragraph.

(3) In any band segment that is coordinated for the shared use of the applicant's MSS system and another MSS operator, where a coordination agreement existed prior to February 10, 2005 and permits a level of interference to the other MSS system of 6%  $\Delta T/T$  or greater, the applicant's ATC operations may increase the system noise level of the other MSS system by no more than an additional 1%  $\Delta T/T$ . Any future coordination agreement between the parties governing ATC operations will supersede this paragraph.

(4) In a band segment in which the applicant has no rights under a coordination agreement, the applicant may not implement ATC in that band.

(b) ATC base stations shall not exceed an out-of-channel emissions measurement of -57.9 dBW/MHz at the edge of a MSS licensee's authorized and internationally coordinated MSS frequency assignment.

(c) An applicant for an ancillary terrestrial component in these bands shall:

(1) Demonstrate, at the time of application, how its ATC network will comply with the requirements of footnotes US308 and US315 to the table of frequency allocations contained in § 2.106 of this chapter regarding priority and preemptive access to the L-band MSS spectrum by the aeronautical mobile-satellite en-route service (AMS(R)S) and the global maritime distress and safety system (GMDSS).

(2) Coordinate with the terrestrial CMRS operators prior to initiating ATC transmissions when co-locating ATC base stations with terrestrial commercial mobile radio service (CMRS) base stations that make use of Global Positioning System (GPS) time-based receivers.

(3) Provide, at the time of application, calculations that demonstrate the ATC system conforms to the  $\Delta T/T$  requirements in paragraphs (a)(2) and (a)(3) of this section, if a coordination agreement that incorporates the ATC operations does not exist with other MSS operators.

(d) Applicants for an ancillary terrestrial component in these bands must demonstrate that ATC base stations shall not:

(1) Exceed a peak EIRP of  $31.9 - 10 \cdot \log$  (number of carriers) dBW/200kHz, per sector, for each carrier in the 1525–1541.5 MHz and 1547.5–1559 MHz frequency bands;

(2) Exceed an EIRP in any direction toward the physical horizon (not to include man-made structures) of  $26.9 - 10 \cdot \log$  (number of carriers) dBW/200 kHz, per sector, for each carrier in the 1525–1541.5 MHz and 1547.5–1559 MHz frequency bands;

(3) Exceed a peak EIRP of  $23.9 - 10 \cdot \log$  (number of carriers) dBW/200 kHz, per sector, for each carrier in the 1541.5–1547.5 MHz frequency band;

(4) Exceed an EIRP toward the physical horizon (not to include man-made structures) of  $18.9 - 10 \cdot \log$  (number of carriers) dBW/200 kHz, per sector, for each carrier in the 1541.5–1547.5 MHz frequency band;

(5) Exceed a total power flux density level of -56.8 dBW/m<sup>2</sup>/200 kHz at the edge of all airport runways and aircraft stand areas, including takeoff and landing paths from all carriers operating in the 1525–1559 MHz frequency bands. The total power flux density here is the sum of all power flux density values associated with all carriers in a sector in the 1525–1559 MHz frequency band, expressed in dB(Watts/m<sup>2</sup>/200 kHz). Free-space loss must be assumed if this

requirement is demonstrated via calculation;

(6) Exceed a total power flux density level of -56.6 dBW/ m<sup>2</sup>/200 kHz at the water's edge of any navigable waterway from all carriers operating in the 1525–1541.5 MHz and 1547.5–1559 MHz frequency bands. The total power flux density here is the sum of all power flux density values associated with all carriers in a sector in the 1525–1541.5 MHz and 1547.5–1559 MHz frequency bands, expressed in dB(Watts/m<sup>2</sup>/200 kHz). Free-space loss must be assumed if this requirement is demonstrated via calculation;

(7) Exceed a total power flux density level of -64.6 dBW/ m<sup>2</sup>/200 kHz at the water's edge of any navigable waterway from all carriers operating in the 1541.5–1547.5 MHz frequency band. The total power flux density here is the sum of all power flux density values associated with all carriers in a sector in the 1541.5–1547.5 MHz frequency band, expressed in dB(Watts/m<sup>2</sup>/200 kHz). Free-space loss must be assumed if this requirement is demonstrated via calculation;

(8) Exceed a peak antenna gain of 16 dBi;

(9) Generate EIRP density, averaged over any two-millisecond active transmission interval, greater than -70 dBW/MHz in the 1559–1605 MHz band or greater than a level determined by linear interpolation in the 1605–1610 MHz band, from -70 dBW/MHz at 1605 MHz to -46 dBW/MHz at 1610 MHz. The EIRP, averaged over any two-millisecond active transmission interval, of discrete out-of-band emissions of less than 700 Hz bandwidth from such base stations shall not exceed -80 dBW in the 1559–1605 MHz band or exceed a level determined by linear interpolation in the 1605–1610 MHz band, from -80 dBW at 1605 MHz to -56 dBW at 1610 MHz. A root-mean-square detector function with a resolution bandwidth of one megahertz or equivalent and no less video bandwidth shall be used to measure wideband EIRP density for purposes of this rule, and narrowband EIRP shall be measured with a root-mean-square detector function with a resolution bandwidth of one kilohertz or equivalent.

(e) Applicants for an ancillary terrestrial component in these bands must demonstrate, at the time of the application, that ATC base stations shall use left-hand-circular polarization antennas with a maximum gain of 16 dBi and overhead gain suppression according to the following:

Angle from direction of maximum gain, in vertical plane, above antenna (degrees)	Antenna discrimination pattern (dB)
0 .....	Gmax
5 .....	Not to Exceed Gmax - 5
10 .....	Not to Exceed Gmax - 19
15 to 55 .....	Not to Exceed Gmax - 27
55 to 145 .....	Not to Exceed Gmax - 30
145 to 180 .....	Not to Exceed Gmax - 26

Where: Gmax is the maximum gain of the base station antenna in dBi.

(f) Prior to operation, ancillary terrestrial component licensees shall:

(1) Provide the Commission with sufficient information to complete coordination of ATC base stations with Search-and-Rescue Satellite-Aided Tracking (SARSAT) earth stations operating in the 1544–1545 MHz band for any ATC base station located either within 27 km of a SARSAT station, or within radio horizon of the SARSAT station, whichever is less.

(2) Take all practicable steps to avoid locating ATC base stations within radio line of sight of Mobile Aeronautical Telemetry (MAT) receive sites in order to protect U.S. MAT systems consistent with ITU-R Recommendation ITU-R M.1459. MSS ATC base stations located within radio line of sight of a MAT receiver must be coordinated with the Aerospace and Flight Test Radio Coordinating Council (AFTRCC) for non-Government MAT receivers on a case-by-case basis prior to operation. For government MAT receivers, the MSS licensee shall supply sufficient information to the Commission to allow coordination to take place. A listing of current and planned MAT receiver sites can be obtained from AFTRCC for non-Government sites and through the FCC's IRAC Liaison for Government MAT receiver sites.

(g) ATC mobile terminals shall:

(1) Be limited to a peak EIRP level of 0 dBW and an out-of-channel emissions of - 67 dBW/4 kHz at the edge of an MSS licensee's authorized and internationally coordinated MSS frequency assignment.

(2) Be operated in a fashion that takes all practicable steps to avoid causing interference to U.S. radio astronomy service (RAS) observations in the 1660–1660.5 MHz band.

(3) Not generate EIRP density, averaged over any two-millisecond active transmission interval, greater than - 70 dBW/MHz in the 1559–1605 MHz band or greater than a level determined by linear interpolation in the 1605–1610 MHz band, from - 70 dBW/MHz at 1605 MHz to - 46 dBW/MHz at 1610 MHz. The EIRP, averaged over any two-millisecond active

transmission interval, of discrete out-of-band emissions of less than 700 Hz bandwidth from such mobile terminals shall not exceed - 80 dBW in the 1559–1605 MHz band or exceed a level determined by linear interpolation in the 1605–1610 MHz band, from - 80 dBW at 1605 MHz to - 56 dBW at 1610 MHz. The EIRP density of carrier-off-state emissions from such mobile terminals shall not exceed - 80 dBW/MHz in the 1559–1610 MHz band, averaged over a two-millisecond interval. A root-mean-square detector function with a resolution bandwidth of one megahertz or equivalent and no less video bandwidth shall be used to measure wideband EIRP density for purposes of this rule, and narrowband EIRP shall be measured with a root-mean-square detector function with a resolution bandwidth of one kilohertz or equivalent.

(h) When implementing multiple base stations and/or base stations using multiple carriers, where any third-order intermodulation product of these base stations falls on an L-band MSS band coordinated for use by another MSS operator with rights to the coordinated band, the MSS ATC licensee must notify the MSS operator. The MSS operator may request coordination to modify the base station carrier frequencies, or to reduce the maximum base station EIRP on the frequencies contributing to the third-order intermodulation products. The threshold for this notification and coordination is when the sum of the calculated signal levels received by an MSS receiver exceeds - 70 dBm. The MSS receiver used in these calculations can be assumed to have an antenna with 0 dBi gain. Free-space propagation between the base station antennas and the MSS terminals can be assumed and actual signal polarizations for the ATC signals and the MSS system may be used.

■ 7. Section 25.254 is amended by revising paragraphs (a)(4) and (b)(4) as follows:

**§ 25.254 Special requirements for ancillary terrestrial components operating in the 1610–1626.5 MHz/2483.5–2500 MHz bands.**

(a) \* \* \*

(4) Base stations operating in frequencies above 2483.5 MHz shall not generate EIRP density, averaged over any two-millisecond active transmission interval, greater than - 70 dBW/MHz in the 1559–1610 MHz band. The EIRP, averaged over any two-millisecond active transmission interval, of discrete out-of-band emissions of less than 700 Hz bandwidth from such base stations shall not exceed - 80 dBW in the 1559–1610 MHz band. A root-mean-square detector function with a resolution bandwidth of one megahertz or equivalent and no less video bandwidth shall be used to measure wideband EIRP density for purposes of this rule, and narrowband EIRP shall be measured with a root-mean-square detector function with a resolution bandwidth of one kilohertz or equivalent.

\* \* \* \* \*

(b) \* \* \*

(4) ATC mobile terminals operating in assigned frequencies in the 1610–1626.5 MHz band shall not generate EIRP density, averaged over any two-millisecond active transmission interval, greater than -70 dBW/MHz in the 1559–1605 MHz band or greater than a level determined by linear interpolation in the 1605–1610 MHz band, from - 70 dBW/MHz at 1605 MHz to - 10 dBW/MHz at 1610 MHz. The EIRP, averaged over any two-millisecond active transmission interval, of discrete out-of-band emissions of less than 700 Hz bandwidth from such mobile terminals shall not exceed - 80 dBW in the 1559–1605 MHz band or exceed a level determined by linear interpolation in the 1605–1610 MHz band, from - 80 dBW at 1605 MHz to - 20 dBW at 1610 MHz. The EIRP density of carrier-off-state emissions from such mobile terminals shall not exceed - 80 dBW/MHz in the 1559–1610 MHz band, averaged over a two-millisecond interval. A root-mean-square detector function with a resolution bandwidth of one megahertz or equivalent and no less video bandwidth shall be used to measure wideband EIRP density for purposes of this rule, and narrowband EIRP shall be measured with a root-mean-square detector function with a

resolution bandwidth of one kilohertz or equivalent.

\* \* \* \* \*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

[CC Docket No. 92-105; FCC 05-59]

### The Use of N11 Codes and Other Abbreviated Dialing Arrangements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** In this document, the Commission designates 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002 (the Pipeline Safety Act). This Order implements the Pipeline Safety Act, which provides for the establishment of a nationwide toll-free abbreviated dialing arrangement to be used by state One Call notification systems.

**DATES:** Effective May 13, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Regina Brown, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400, TTY (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Sixth Report and Order*, in CC Docket No. 92-105, FCC 05-59, released March 14, 2005. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

#### I. Introduction

1. In this *Sixth Report and Order* (6th R&O), released on March 14, 2005, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Act. This Order implements the Pipeline Safety Act, which provides for the establishment of a nationwide toll-free abbreviated dialing arrangement to be used by state One Call notification systems. A One

Call notification system is a communication system established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities. We also address various implementation issues in this Order. Specifically, we:

- Require One Call Centers to notify carriers of the toll-free or local number the One Call Center uses in order to ensure that callers do not incur toll charges, as mandated by the statute;
- Allow carriers to use either the Numbering Plan Area (NPA)-NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed;
- Require the use of 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators within two years after publication of this Order in the **Federal Register**; and
- Delegate authority to the states, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of the 811 code.

2. The 811 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless, and payphone service providers that provide access to state One Call Centers. This designation shall be effective May 13, 2005.

#### II. Discussion

##### A. Abbreviated Dialing Arrangements

1. Designation of 811 as a National Abbreviated Dialing Code

3. *Background.* In the *Notice of Proposed Rulemaking*, (NPRM), 69 FR 31930, June 8, 2004, we sought comment on whether to use an N11 code for access to One Call Centers. Specifically, we sought comment on the North American Numbering Council's (NANC) recommendation to assign 811 for this purpose. We also asked commenters to address whether we should incorporate the One Call access service into an existing N11 code, such as 311 or 511, to preserve the remaining unassigned N11 codes. The NANC expressed concern that shared use could cause caller confusion, misrouted calls, and deployment delay. We requested commenters that advocated shared use of an existing N11 code to propose solutions to mitigate the concerns expressed by the NANC.

4. *Discussion.* In this Order, we conclude that an N11 code is the best

solution, within the framework of the statute, for access to One Call Centers. Thus, consistent with the statutory mandate, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act. In so doing, we reject the other options considered by the NANC and posed in the *NPRM*. We agree with commenters that other alternatives—codes using a leading star or number sign, e.g. \*344 or #344 and an Easily Recognizable Code (ERC), such as 344—are impractical, costly to implement, and could delay the availability of a national One Call number for years. Moreover, dialing arrangements in the format of \*XXX or #XXX, in as much as these codes include three digits following the leading star or number sign, do not comply with the statute's requirement to utilize a nationwide "three-digit number" to access One Call Centers. We believe that 811 will have less impact on customer dialing patterns and can be implemented without the substantial cost and delay of switch development required with the other proposed alternatives. We also agree with the U.S. Department of Transportation (DOT) that the special nature of an N11 code makes the 811 code amenable to a public education campaign linking it to One Call Centers. We reject APCC's request to exempt payphone service providers from this requirement. In contrast to the Act's clear mandate of a *nationwide* toll-free three-digit code for access to One Call Centers, APCC provides no credible argument for an exemption. The Act does not provide any exemptions from this requirement, and we decline to do so here.

5. Although we recognize that using 811 depletes the quantity of remaining N11 codes assignable for other purposes, using an N11 code to access One Call Centers will consume fewer numbering resources than certain other alternative abbreviated dialing arrangements. Additionally, the use of an N11 code to access One Call services follows the existing conventions for abbreviated dialing already familiar to customers. The N11 architecture is an established abbreviated dialing plan that is recognized by switch manufacturers and the public at large. Most significantly, using an N11 code such as 811 satisfies the legislative mandate for a three-digit nationwide number.

6. We share the concerns of commenters regarding the shared use of an existing N11 code, such as 511 (which is currently used for travel and