Improvement Board (EIB), HWMR–7, as amended, October 21, 1992, Part I through Part VIII; Part IX, Sections 901, 902.B.1 through 902.B.6; and Part X, Section 1003. Copies of the New Mexico regulations can be obtained from the New Mexico Register, New Mexico Information Systems, P. O. Box 6703, Santa Fe, NM 87502.

[FR Doc. 95–15015 Filed 6–19–95; 8:45 am] BILLING CODE 6560–50–P

# FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 0 and 1

[ET Docket No. 93-266; FCC 95-218]

#### Pioneer's Preference Rules

**AGENCY:** Federal Communications Commission.

# ACTION: Final rule.

**SUMMARY:** By this Third Report and Order, the Commission modifies certain rules regarding its pioneer's preference program. This action is intended to address directives of the General Agreement on Tariffs and Trade (GATT) legislation and make the pioneer's preference rules better comport with the Commission's experience administering them.

EFFECTIVE DATE: August 21, 1995. FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 776-1622. SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Report and Order, adopted June 6, 1995, and released June 8, 1995. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transportation Service, Inc., (202) 857– 3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

# Summary of Third Report and Order

1. The Third Report and Order (Third R&O) addresses proposals set forth in the Further Notice of Proposed Rule Making (Further Notice) in this proceeding, 60 FR 13396 (March 13, 1995), and modifies certain rules regarding the Commission's pioneer's preference program pursuant to recent legislation. The pioneer's preference program provides preferential treatment in the Commission's licensing processes for parties that make significant contributions to the development of a new service or to the development of a new technology that substantially enhances an existing service.

2. The Further Notice proposed rules in response to the pioneer's preference directives contained in the legislation implementing domestically the GATT, as well as on the Commission's own motion. The GATT legislation requires parties to whom any licenses are awarded pursuant to the pioneer's preference program in services in which competitive bidding is used to pay 85 percent of the average price paid for comparable licenses. This payment may be made in a lump sum or in installment payments over a period of not more than five years. The GATT legislation, including the payment requirement, applies to any license issued on or after August 1, 1994 pursuant to a pioneer's preference award.

3. The legislation also directs the Commission to prescribe regulations specifying the procedures and criteria to "evaluate applications for preferential treatment in its licensing processes (by precluding the filing of mutually exclusive applications) for persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service." The legislation requires the pioneer's preference regulations to include: (1) Procedures and criteria by which the significance of a pioneering contribution will be determined, after an opportunity for review and verification by experts not employed by the Commission; and (2) such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of a pioneering contribution justifies any reduction in the amounts paid for comparable licenses. The regulations issued pursuant to this legislation must be prescribed not later than 6 months after enactment of the GATT legislation (i.e., by June 8, 1995), shall apply to pioneer's preference applications accepted for filing after September 1, 1994, and must cease to be effective on September 30, 1998, when the pioneer's preference program sunsets.

4. In the Further Notice, the Commission tentatively concluded that, with the exceptions of the two areas specifically addressed by the GATT legislation, the existing pioneer's preference rules, as modified by the Second Report and Order, 60 FR 13636 (March 14, 1995), comply with the GATT legislation's requirement to specify procedures and criteria by which to evaluate pioneer's preference applications. However, the Commission solicited comment regarding any alternatives to any aspects of these rules that might better achieve the objectives of the GATT legislation.

5. With respect to the two areas specifically set forth in the GATT legislation, the Commission noted that the GATT legislation's directive that the Commission establish a procedure for review and verification by outside experts was contemplated as an optional measure by the current pioneer's preference policies, but that such "peer review" was not mandatory. It therefore proposed to formalize this policy pursuant to the GATT legislation to provide an opportunity for review of potentially pioneering proposals by experts in the radio sciences who are not Commission employees. It sought comment on whether such review by outside experts should be required in all cases or whether pioneer's preference applicants (or other interested parties) should be given only an opportunity for such review, which may be either accepted or declined by the applicants. It tentatively concluded that it would establish a peer review process on a permanent basis. The Commission therefore proposed to delegate to the Chief of the Office of Engineering and Technology ("Chief, OET") the authority to select a panel of experts consisting of persons who are knowledgeable about the specific technology set forth in a pioneer's preference request. In addition, while the Commission sought comment on two possible interpretations of section 309(j)(13(D)(i) of the GATT legislation, which concerns possible conflicts of interest of such experts, it proposed appointing experts who are neither employed by the Commission nor by any applicant seeking a pioneer's preference in the same or similar communications service. Based on its experience with the pioneer's preference program, the Commission tentatively concluded that the outside expertise required to evaluate the claims made in pioneer's preference requests will vary greatly. Accordingly, it proposed that its staff evaluate on a case-by-case basis how much outside assistance is required and that the Chief, OET select experts from all available sources after reviewing the proposed new technology or service.

6. The Commission further proposed that the experts generally be granted a period of up to 180 days to present their findings to the Commission. It sought comment on whether it should generally seek the experts' individual opinions or their consensus (as a Federal Advisory Committee under the Federal Advisory Committee Act). The Commission