

amount of traffic carried by the U.S. carrier in correspondence with the foreign carrier. The Commission additionally considered adopting a reciprocal affiliation standard. Based on the record, the Commission has modified its definition of affiliation and will now consider affiliated any U.S. carrier with either: (1) A greater than 25 percent interest (or a controlling interest at any level) held by a foreign carrier; or (2) a greater than 25 percent interest in, or control of, a foreign carrier.

The Commission will apply its effective competitive opportunities analysis to the first category of affiliated U.S. carriers on routes where the affiliated foreign carrier has market powers in the destination country. It will apply its dominant carrier safeguards to all affiliated U.S. carriers on routes where the affiliated foreign carrier has market power. These safeguards will also now apply to U.S. carriers on routes for which they have formed a non-exclusive co-marketing arrangement or other joint venture with a dominant foreign carrier, where such arrangements present a substantial risk of anticompetitive effects.

The Commission has eliminated the requirement that dominant, foreign-affiliated carriers file cost support with their tariffs. This will reduce burdensome filing requirements. The Commission also adopts its proposed 14-day notice period (currently 45 days) for the filing of international service tariffs by dominant, foreign-affiliated carriers. The Commission adopts a new recordkeeping requirement that a dominant, foreign-affiliated carrier maintain complete records of the provisioning and maintenance of network facilities and services it procures from its foreign affiliate or ally. The Commission found that although this requirement is a minor burden, its benefit in preventing anticompetitive conduct outweighs such a burden. The Commission adopts new rules related to the provision of switched services using international private lines. These rules will enhance opportunities for U.S. carriers to serve U.S. consumers more efficiently. The Commission also adopts a definition of "U.S. international facilities-based carrier" that may facilitate the ability of smaller U.S. carriers to obtain operating agreements.

#### Ordering clauses

Accordingly, it is ordered that the policies, rules, and requirements adopted herein, except those needing OMB approval, will become effective January 29, 1996.

Matters subject to OMB approval, pursuant to the Paperwork Reduction

Act of 1995, Public Law 104-13, will become effective upon such approval.

This action is taken pursuant to sections 4, 214, 219, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 214, 219, 303(r) and 403.

*It is further ordered* That this proceeding is hereby terminated.

#### List of Subjects in 47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission,  
LaVera Marshall,  
*Acting Secretary.*

#### Final Rules

Part 63 of Title 47 of the Code of Federal Regulations is amended as follows:

### **PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS**

1. The authority citation for part 63 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201-205, 218, and 403 of the Communications Act of 1934, as amended, and sec. 613 of the Cable Communications Policy Act of 1984, 47 U.S.C. secs. 151, 154(i), 15(j), 201-205, 218, 403, and 533 unless otherwise noted.

2. Section 63.01 is amended by revising paragraphs (k)(5) and (r), redesignating paragraph (k)(6) as paragraph (k)(7), and adding new paragraphs (k)(6), (s) and Notes 1 through 4 to paragraph (r) to read as follows:

#### **§ 63.01 Contents of applications.**

\* \* \* \* \*

(k) \* \* \*

(5) The procedures set forth in this section are subject to Commission policies on resale of international private lines in CC Docket No. 90-337 as amended in IB Docket No. 95-22. If proposed facilities are to be acquired through the resale of private lines for the purpose of providing international switched basic services, applicant shall demonstrate for each country to which it seeks to provide such services that the country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall:

(i) State whether the Commission has previously determined that equivalent resale opportunities exist between the United States and the subject country; or

(ii) Include other evidence demonstrating that equivalent resale opportunities exist between the United States and the subject country, including any relevant bilateral agreements between the administrations involved. Parties must demonstrate that the foreign country at the other end of the private line provides U.S. carriers with:

(A) The legal right to resell international private lines, interconnected at both ends, for the provision of switched services;

(B) Nondiscriminatory charges, terms and conditions for interconnection to foreign domestic carrier facilities for termination and origination of international services, with adequate means of enforcement;

(C) Competitive safeguards to protect against anticompetitive and discriminatory practices affecting private line resale; and

(D) Fair and transparent regulatory procedures, including separation between the regulator and operator of international facilities-based services.

(6) Except as otherwise provided in this paragraph, any carrier authorized under this part to acquire and operate international private line facilities other than through resale shall, for each country for which it seeks to provide switched basic service over its authorized private lines facilities, request such authority by formal application. Such application shall be accompanied by a demonstration that that country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall include the information required by paragraph (k)(5) of this section.

(i) No formal application is required under this paragraph in circumstances where the carrier's previously authorized private line facility is interconnected to the public switched network only on one end—either the U.S. or the foreign end—and where the carrier is not operating the facility in correspondence with a carrier that directly or indirectly owns the private line facility in the foreign country at the other end of the private line.

\* \* \* \* \*

(r) A certification as to whether or not the applicant is, or has an affiliation with, a foreign carrier.

(1) The certification shall state with specificity each foreign country in which the applicant is, or has an affiliation with, a foreign carrier. For purposes of this certification:

(i) Affiliation is defined to include;

(A) A greater than 25% ownership of capital stock, or controlling interest at