

sought clarification of the application of the BNA requirements.

**EFFECTIVE DATE:** April 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Steven Spaeth, Tariff Division, Common Carrier Bureau, (202) 418-1530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Third Order on Reconsideration adopted February 1, 1996, and released February 9, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street NW., Washington, DC 20037.

#### Regulatory Flexibility Analysis

The Commission has determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), does not apply to these rules because they do not have a significant economic impact on a substantial number of small entities. The definition of a "small entity" in Section 3 of the Small Business Act excludes any business that is dominant in its field of operation. Although some of the local exchange carriers that will be affected are very small, local exchange carriers do not qualify as small entities because each of them has a monopoly on ubiquitous access to the subscribers in their service area. The Commission has also found all exchange carriers to be dominant in its competitive carrier proceeding. See 85 FCC 2d 1, 23-24 (1980). To the extent that small telephone companies will be affected by these rules, the Commission hereby certifies that these rules will not have a significant effect on a substantial number of "small entities."

#### Summary of Report and Order

In the Second Report and Order in this Docket, 58 FR 36143, July 6, 1993, the Commission required local exchange carriers (LECs) to provide their customers' BNA information to interexchange carriers and other telecommunications service providers on a common carrier basis. Because widespread disclosure of BNA information could conflict with customers' reasonable expectations of privacy, the Commission also limited BNA disclosure, thus safeguarding these expectations. In particular, the Commission prohibited parties obtaining BNA information from using it for marketing purposes. In the Second Order on Reconsideration in this docket,

58 FR 65669, December 16, 1993, the Commission revised some of its privacy protections, but again expressly forbade parties from using BNA information for marketing purposes.

In its petitions for reconsideration, US West argued that the record did not adequately demonstrate the need for any privacy protections, that adopting these rules violated US West's due process rights, that these rules were inconsistent with rules we adopted in a different proceeding, and that the restriction against marketing was an unconstitutional restriction on BNA purchasers' freedom of speech. The Commission found that none of these arguments warranted revision of the BNA privacy protections.

US West also claimed that the previous Orders in this proceeding did not explain whether the rules applied to all BNA information, or only to BNA information associated with calling card, third party, and collect calls. The Commission explained which of its rules apply to all BNA information, and which apply only to BNA information associated with calling card, third party, and collect calls. The Commission also revised Section 64.1201(e)(3) of its rules, to make its application more clear.

#### Ordering Clauses

Accordingly, *It is ordered*, Pursuant to Section 1.429(i) of the Commission's Rules, 47 CFR § 1.429(i), that the petition for reconsideration of the First BNA Reconsideration Order filed by US West Communications, Inc. *is dismissed as repetitious*.

*It is further ordered*, Pursuant to Section 1.429(i) of the Commission's Rules, 47 CFR § 1.429(i), that the petition for reconsideration of the Second BNA Reconsideration Order filed by US West Communications, Inc. *is granted* to the extent indicated above, and otherwise *is denied*.

*It is further ordered*, That the policies, rules and requirements set forth herein *are adopted*.

#### List of Subjects in 47 CFR Part 64

Communications common carriers.  
Federal Communications Commission.  
William F. Caton,  
*Acting Secretary*.

Title 47 of the CFR, Part 64, is amended as follows:

### **PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

#### Rule Changes

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted.

2. Section 64.1201(e)(3) is revised to read as follows:

#### **§ 64.1201 Restrictions on billing name and address disclosure.**

\* \* \* \* \*

(e) \* \* \*

(3) No local exchange carrier shall disclose the billing name and address information associated with any calling card call made by any subscriber who has affirmatively withheld consent for disclosure of BNA information, or for any third party or collect call charged to any subscriber who has affirmatively withheld consent for disclosure of BNA information.

[FR Doc. 96-5189 Filed 3-5-96; 8:45 am]

BILLING CODE 6712-01-P

### **47 CFR Part 73**

[MM Docket No. 87-433; RM-5994 and RM-6181]

#### **Radio Broadcasting Services; Punxsutawney, PA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Chief, Policy and Rules Division denied the petition for reconsideration, filed by Renda Radio, Inc., licensee of Station WPXZ-FM, Punxsutawney, Pennsylvania, of the letter decision by the Chief, Allocations Branch, to return as procedurally defective Renda's petition for rule making. With this action, the proceeding is terminated.

**EFFECTIVE DATE:** March 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** J. Bertron Withers, Jr., Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, MM Docket No. 87-433, adopted February 16, 1996 and released February 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Federal Communications Commission.  
Douglas W. Webbink,  
Chief, Policy and Rules Division, Mass Media  
Bureau.  
[FR Doc. 96-5191 Filed 3-5-96; 8:45 am]  
BILLING CODE 6712-01-F

#### 47 CFR Part 73

[MM Docket No. 89-594, RM-7142, RM-7318]

#### Radio Broadcasting Services; Harrisburg and Albemarle, NC

AGENCY: Federal Communications  
Commission.

ACTION: Final rule.

**SUMMARY:** The Chief, Policy and Rules Division denied the petition for reconsideration, filed by Piedmont Crescent Communications, Inc., of the *Report and Order* in this proceeding, 56 FR 1650, published January 15, 1992. The *Report and Order* granted RM-7142 to allot Channel 224A to Harrisburg and partially denied another proposal, treated as a counterproposal and filed by Piedmont, to substitute Channel 264A for Channel 265A at Albemarle, North Carolina, to reallocate Channel 264A to Harrisburg, North Carolina, and to modify the license of Albemarle Station WABZ-FM accordingly, and also to allot Channel 224A to Harrisburg. With this action, the proceeding is terminated.

**EFFECTIVE DATE:** March 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** J. Bertron Withers, Jr., Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, MM Docket No. 89-594, adopted February 16, 1996 and released February 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Federal Communications Commission.  
Douglas W. Webbink,  
Chief, Policy and Rules Division, Mass Media  
Bureau.  
[FR Doc. 96-5190 Filed 3-5-96; 8:45 am]  
BILLING CODE 6712-01-F

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 229

[FRA Docket No. RSGC-2, Notice No. 10]

RIN 2130-AA80

#### Locomotive Visibility; Minimum Standards for Auxiliary Lights

AGENCY: Federal Railroad  
Administration (FRA), Department of  
Transportation (DOT).

ACTION: Final rule.

**SUMMARY:** FRA amends the locomotive safety standards to increase train visibility. This action requires that certain locomotives be equipped with auxiliary lights to enable motorists, railroad employees and pedestrians to recognize approaching trains at a greater distance. The rule requires that locomotives operated over public highway-rail crossings at greater speeds than 20 miles per hour be equipped with auxiliary lights.

**EFFECTIVE DATE:** May 6, 1996.

**ADDRESSES:** Petitions for reconsideration should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Room 8201, Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:** Gordon Davids, Bridge Engineer, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202-366-0507); Grady Cothen, Jr., Deputy Associate Administrator for Safety Standards, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202-366-0897); or Kyle M. Mulhall, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202-366-0635).

**SUPPLEMENTARY INFORMATION:** On August 28, 1995, FRA published a notice of proposed rulemaking (NPRM) that would change headlight regulations for locomotives by requiring two auxiliary lights that would be placed on the front of the locomotive to form a triangle with the headlight. 60 FR 44457. Publication of this final rule was required by section 14 of the Amtrak Authorization and Development Act (Pub. L. 102-533). This legislation added a new subsection (u) to § 202 of the Federal Railroad Safety Act of 1970 (FRSA) [45 U.S.C. 431(u)], to address locomotive visibility. On July 5, 1994, § 202(u) of the FRSA, together with all the other general and permanent Federal railroad safety laws, was simultaneously repealed, revised

and reenacted without substantive change, and recodified as positive law at 49 U.S.C. 20143. As recodified, the section now reads as follows:

#### Locomotive Visibility

(a) *Definition.*—In this section, “locomotive visibility” means the enhancement of day and night visibility of the front end locomotive of a train, considering in particular the visibility and perspective of a driver of a motor vehicle at a grade crossing.

(b) *Interim Regulations.*—Not later than December 31, 1992, the Secretary of Transportation shall prescribe temporary regulations identifying ditch, crossing, strobe, and oscillating lights as temporary locomotive visibility measures and authorizing and encouraging the installation and use of those lights. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation or to an amendment to a temporary regulation.

(c) *Review of Regulations.*—The Secretary shall review the Secretary's regulations on locomotive visibility. Not later than December 31, 1993, the Secretary shall complete the current research of the Department of Transportation on locomotive visibility. In conducting the review, the Secretary shall collect relevant information from operational experience by rail carriers using enhanced visibility measures.

(d) *Regulatory Proceeding.*—Not later than June 30, 1994, the Secretary shall begin a regulatory proceeding to prescribe final regulations requiring substantially enhanced locomotive visibility measures. In the proceeding, the Secretary shall consider at least—

(1) Revisions to the existing locomotive headlight standards, including standards for placement and intensity;

(2) Requiring the use of reflective material to enhance locomotive visibility;

(3) Requiring the use of additional alerting lights, including ditch, crossing, strobe, and oscillating lights;

(4) Requiring the use of auxiliary lights to enhance locomotive visibility when viewed from the side;

(5) The effect of an enhanced visibility measure on the vision, health, and safety of train crew members; and

(6) Separate standards for self-propelled, push-pull, and multiple unit passenger operations without a dedicated head end locomotive.

(e) *Final Regulations.*—(1) Not later than June 30, 1995, the Secretary shall prescribe final regulations requiring enhanced locomotive visibility measures. The Secretary shall require that not later than December 31, 1997,