

rebuttable presumption have been rendered moot by the removal of the presumption language in rule Section 22.903(f). The *Part 22 Rewrite Order* 59 FR 59502, November 17, 1992 transferred most of the language of former Section 22.903(f) to current rule Section 22.911(d) and changed some of the introductory language in the new rule. Section 22.911(d)(2)(i) expressly prohibits non-consensual contour extensions from one cellular system into the CGSA of another cellular system. The first sentence of Section 22.911(d)(2)(i) states: "Subscriber traffic is captured if an SAB of one cellular system overlaps the CGSA of another operating cellular system"—(emphasis added). The new rule removes any suggestion of a presumption created by the prior rule.

47. We observe that current Section 22.911(d)(2)(i) of our rules is based upon predicted service areas as defined by an expert agency and is designed to avoid litigation over the exact location of actual interference. The idea of "interference free" service areas is a constant in Part 22 of our rules. See, e.g., Sections 22.351, 22.537, 22.567, and 22.912(a) of our rules. 47 CFR 22.351, 22.537, 22.567 and 22.912(a). In order to ensure uniformity and simplicity in administering our rules, and to prevent potentially endless litigation, we must rely on objective, rather than subjective standards for the protection of services. Section 22.911(d)(2)(i) provides a simple, objective standard to determine when capture occurs, and encourages parties to reach agreement on the resulting effects of SAB overlap.

48. We also reject CIS's request that Section 22.903(d)(1) [now 22.912(a)] of the rules be modified to allow a cellular licensee to extend service contour into an adjoining market to compensate for the adjoining licensee's extension into the licensee's market. Absent agreement between the affected parties, licensees are entitled to operate in their service areas free from co-channel and first adjacent channel interference and from capture of subscriber traffic by adjacent systems on the same channel block. 47 CFR 22.911(d) (formerly 22.903(f)).

49. Our goal is to provide nationwide seamless cellular service to the public. As we indicated in the *Memorandum Opinion and Order*, 58 FR 11799, March 1, 1993 rather than require the total elimination of SAB extensions, or mandate reciprocal SAB extensions as suggested by CIS, a better result in most cases is some degree of SAB overlap between systems with the location of

balanced signal strengths negotiated informally between the adjacent licensees on the same channel block. We believe informal negotiations between parties in determining mutually agreeable arrangements between adjacent systems will achieve the most expeditious and effective resolution of service boundary issues. Thus, promoting negotiation between parties eliminates possible protracted administrative and court proceedings, and provides incentives for cellular providers to come to agreement on boundary issues arising from the convergence of expanding systems. In sum, permitting market forces to drive resolution of these issues will effectuate seamless cellular service nationwide more quickly than the proposals offered by petitioners.

IV. Ordering Clause

50. Accordingly, pursuant to Sections 4(i), 303(r) and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 405(a), *It is ordered* that the petitions for reconsideration and partial reconsideration of the *Third Report and Order and Memorandum Opinion and Order on Reconsideration* 58 FR 27213, May 7, 1993 in this docket, and the *Memorandum Opinion and Order on Reconsideration*, 58 FR 11799, March 1, 1993 *Are denied*, and the "Request to Expedite Action and Comments in Support of Cellular Information Systems, Inc." *Is dismissed* as moot.

List of Subjects in 47 CFR Part 22

Communications common carriers, Radio.

Federal Communications Commission,
William F. Caton,
Acting Secretary.

[FR Doc. 97-4870 Filed 2-27-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1319

[STB Ex Parte No. 598]

Exemption of Freight Forwarders in the Noncontiguous Domestic Trade From Rate Reasonableness and Tariff Filing Requirements

AGENCY: Surface Transportation Board.

ACTION: Final rules.

SUMMARY: The Board exempts freight forwarders in the noncontiguous

domestic trade from tariff filing requirements. This action eliminates an unnecessary regulatory burden and should provide freight forwarders with additional flexibility to meet the needs of their customers.

EFFECTIVE DATE: These rules are effective March 30, 1997.

FOR FURTHER INFORMATION CONTACT: James W. Greene, (202) 927-5612. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: The Board's decision adopting these regulations is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289-4357.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities. The rule removes an unnecessary regulatory burden and, to the extent that it affects small entities, the effect should be favorable.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1319

Exemptions, Freight forwarders, Tariffs.

Decided: February 13, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, the Board adds a new part 1319 to title 49, chapter X, of the Code of Federal Regulations to read as follows:

PART 1319—EXEMPTIONS

Sec.

1319.1 Exemption of freight forwarders in the noncontiguous domestic trade from tariff filing requirements.

Authority: 49 U.S.C. 721(a) and 13541.

§ 1319.1 Exemption of freight forwarders in the noncontiguous domestic trade from tariff filing requirements.

Freight forwarders subject to the Board's jurisdiction under 49 U.S.C. 13531 are exempted from the tariff filing requirements of 49 U.S.C. 13702.

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