

By Order of the Maritime Administrator.  
Murray A. Bloom,  
Assistant Secretary.  
[FR Doc. 84-8925 Filed 4-3-84; 8:45 am]  
BILLING CODE 4910-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Ch. I

[CC Docket No. 78-72; Phase I]

#### MTS and WATS Market Structure

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for reconsideration; Order granting waiver.

**SUMMARY:** The Federal Communications Commission, by its Common Carrier Bureau, has granted a motion filed by American Telephone and Telegraph Company ("AT&T") in which they requested permission to file a supplemental petition for reconsideration, in addition to AT&T's 25-page emergency petition for reconsideration, of the Commission order on further reconsideration in CC Docket No. 78-72, 49 FR 7810 (March 2, 1984). Absent a waiver, § 1.429(d) of the Commission's Rules precludes the filing of AT&T's supplemental petition. The Bureau found the request to be in the public interest in light of the importance of this proceeding and the unique circumstances under which this request was made. AT&T was granted a waiver allowing it to file a supplemental petition for reconsideration not in excess of 15 pages.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** William Kirsch, Common Carrier Bureau, (202) 632-9342.

#### Order Granting Waiver

In the matter of MTS and WATS Market Structure; CC Docket No. 78-72, Phase I.

Adopted: March 27, 1984.

Released: March 28, 1984.

By the Chief, Common Carrier Bureau.

1. On March 23, 1984, American Telephone and Telegraph Company ("AT&T") filed in the above-captioned proceeding a Conditional Motion to File a Supplemental Petition for Reconsideration in Excess of the Page Limitation of § 1.429(d) of the Commission's Rules. Earlier, on February 27, 1984, AT&T filed an Emergency Petition for Reconsideration which was 25 pages in length. AT&T filed the present motion conditionally because it does not believe that the 25-

page limitation contained in Section 1.429(d) constrains it from filing a Supplemental Petition. It asks the Commission to act on this motion only to the extent considered necessary.

2. AT&T states that the Emergency Petition addressed the issue of the potentially confiscatory result caused by the interplay of the Commission's recent Orders in CC Dockets 78-72 and 83-1145.<sup>1</sup> In AT&T's view, the question is whether the 25-page limitation of § 1.429(d) could be construed to prevent any supplement to AT&T's 25-page Emergency Petition. AT&T argues that it would be inappropriate to construe the rule in this manner in view of the fact that the Emergency Petition raised issues not limited solely to this proceeding. AT&T argues that its Emergency Petition raising the single issue of the interplay of the two Orders should not preclude AT&T from raising further issues in each Docket in the normal course.

3. Section 1.429(d) clearly applies to the AT&T Emergency Petition and, absent a waiver, AT&T is precluded from filing a supplementary petition. We recognize, however, the importance of this proceeding and the unique circumstances under which this request has been made. As a result we find that it is in the public interest to allow AT&T to have the opportunity to file a supplementary petition for reconsideration of other issues. Therefore, we will waive the page limitation for AT&T in this instance and permit AT&T to file a supplementary petition not to exceed 15 pages.<sup>2</sup> Other parties will not be prejudiced by our waiver for AT&T because AT&T will still be required to file in a timely manner. In addition, the Emergency Petition has already been available for review for a considerable period of time.

4. For those parties which have already filed an opposition to the AT&T Emergency Petition, we will allow them to file in a timely manner a supplementary opposition subject to the page limitation contained in § 1.429(f) of the Commission's Rules. This page limitation does not include the initial filing in opposition.

5. Accordingly, it is ordered that the Conditional Motion of American Telephone and Telegraph Company to File a Supplemental Petition for Reconsideration in Excess of the Page

<sup>1</sup>Memorandum Opinion and Order, CC Docket No. 78-72, 49 FR 7810 (Mar. 2, 1984); Memorandum Opinion and Order, CC Docket No. 83-1145, 49 FR 9174 (Mar. 12, 1984).

<sup>2</sup>AT&T stated that its supplementary petition will be no more than 15 pages and requested that we permit it to file such a petition with this limitation.

Limitation of § 1.429(d) of the Commission's Rules is granted.

6. It is further ordered that such filing may not exceed 15 pages in length.

7. This Order is issued under § 0.291 of the Commission's Rules and is effective on its adoption date.

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-8925 Filed 4-3-84; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 0

#### Amendment of the Commission's Rules To Update Regulations Dealing With the Freedom of Information Act and the Privacy Act

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action updates Part 0 of the Commission's rules dealing with provisions of the Freedom of Information Act and the Privacy Act.

This action is taken by the Commission to incorporate changes to the titles and organizational structure of the Commission's Bureaus and Offices and in the location of Commission offices. Editorial changes were also made to simplify language where possible.

**DATE:** Effective May 7, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Fagan, Office of Managing Director, (202) 632-6390.

#### List of Subjects in 47 CFR Part 0:

Freedom of information, Organization and functions (Gov't agencies), Privacy. Order

In the matter of amendment of Part 0 of the Commission's Rules to Update Regulations dealing with the Freedom of Information Act and the Privacy Act.

Adopted: March 28, 1984.

Released: March 29, 1984.

The Managing Director has reviewed certain sections of Part 0 of the Commission's rules and regulations and has determined that several revisions are required.

Editorial changes were made to incorporate changes in organizational titles, changes in office location and to update outdated information. Some changes in grammar and organization of materials were also made.

Since these changes are procedural in nature and represent no substantive

changes in the Commission's rules, there is no need for public notice and comments thereon (See 5 U.S.C. 553(b)). Authority for this action is contained in Section 4(i) and (303(n) of the Communications Act of 1934, as amended, 147 U.S.C. 154(i) and 202(n) and § 0.23(d) of the Commission's rules and regulations. (47 CFR 0.231(d)).

Accordingly, Part 0 of the Commission's rules and regulations is amended as set forth in the attached Appendix, effective May 7, 1984.

Federal Communications Commission.  
Edward J. Minkel,  
Managing Director.

**PART 0—[AMENDED]**

In Title 47, Code of Federal Regulations, Part 0 is amended to read as follows:

1. In § 0.461, paragraphs (b)(1), (d) (1) and (2), (e), (f)(4), (g) and (g)(3), (h) (2), (3), and (4), (k), and the undesignated paragraph following (k)(3), are revised to read as follows:

§ 0.461 Requests for inspection of materials not routinely available for public inspection.

\* \* \* \* \*

(a) \* \* \*  
(b)(1) Requests shall be captioned "Freedom of Information Act Request," shall be dated, shall list the telephone number (if any) of the person making the request and, for each document requested, shall set out all information known to the person making the request which would be helpful in identifying and locating the document.

\* \* \* \* \*

(d)(1) Requests shall be delivered or mailed to the Managing Director. (For purposes of this section, the custodian of the records is the Chief of the appropriate Bureau or Office.)

(2) If the request is enclosed in an envelope, the envelope shall be marked, "Freedom of Information Act Request."

\* \* \* \* \*

(e) When the request is received by the Managing Director, it will be assigned to the Freedom of Information Act (FOIA) Control Office, where it will be date-stamped and assigned to the custodian of the records.

(f) \* \* \*

(4) If it is determined that the Commission does have authority to withhold the records from public inspection, the considerations favoring disclosure and non-disclosure will be weighed in light of the facts presented, and the request will be granted, either conditionally or unconditionally, or denied.

\* \* \* \* \*

(g) The custodian of the records will make every effort to act on the request within 10 working days after it is received by the FOIA Control Office.

(1) \* \* \*

(2) \* \* \*

(3) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the Commission. If these circumstances are not present or if it is not possible to locate the records and make the determination within the extended period, the person or persons who made the request will be advised of their rights and asked to consent to an extension or further extension. If the requestor agrees to an extension, the custodian of the records will confirm the agreement in a letter specifying the length of the agreed-upon extension. If he does not agree to an extension, the request will be denied, on the grounds that the custodian has not been able to locate the records and/or to make the determination within the period for a ruling mandated by the Freedom of Information Act, 4 U.S.C. 552. \* \* \*

(h)(1) \* \* \*

(2) If the request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is partially granted and partially denied, the person who submitted the records to the Commission and the person who filed the request for inspection of those records may file an application for review within the 10 working days after the date of the written ruling. The application for review and the envelope containing it (if any) shall be captioned "REVIEW OF FREEDOM OF INFORMATION ACTION." The application for review shall be delivered or mailed to the General Counsel. If either person files an application for review, it shall be served upon the other person.

(3) If the application for review filed by either person is denied, that person will be notified in writing and advised of their rights.

(4) If an application for review filed by the person who submitted the records to the Commission is denied, or if the records are made available on review which were not initially made available, the person who submitted the records to the Commission will be afforded 10 working days from the date of the written ruling in which to move for a judicial stay of the Commission's action. If a motion for stay is not made within this period, the record will be produced for inspection.

\* \* \* \* \*

(i) \* \* \*

(j) \* \* \*

(k) The Commission will make every effort to act on an application for review of an action on a request for inspection of records within 20 working days after it is filed. See, however, paragraph (h)(2) of this section. If it is not possible to locate the records and to determine whether they should be made available for inspection within 20 working days, the General Counsel may, in the following circumstances and to the extent time has not been extended under paragraphs (g) (1) (2) (3) of this section, extend the time for action up to 10 working days. (The total period of extensions taken under this paragraph and under paragraph (g) of this section without the consent of the person who submitted the request shall not exceed 10 working days.):

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

If these circumstances are not present or if it is not possible to locate the records and make the determination within the extended period, the person who made the request will be advised of his/her rights and asked to consent to an extension or further extension. If the requester or person who made the request agrees to an extension, the General Counsel will confirm the agreement in a letter specifying the length of the agreed-upon extension. If the requestor or person who made the request does not agree to an extension, the Commission will continue to search for and/or assess the record and will advise the person who made the request of further developments; but that person may file a complaint in an appropriate United States district court.

\* \* \* \* \*

2. In § 0.463, paragraphs (a) and (b) are revised to read as follows:

§ 0.463 Demand by competent authority for the production of documents or testimony concerning information contained therein.

(a) In the event that a demand (subpoena, order or other demand) is made by a court or other competent authority outside the Commission for the production of records or files or for testimony concerning information contained therein, the Managing Director shall promptly be advised of such demand, the nature of the papers or information sought, and all other relevant facts and circumstances. The Commission will thereupon issue such instructions as it may deem advisable.

(b) Unless specifically authorized to produce such records or files or to

testify with respect thereto, any officer or employee of the Commission who is served with a demand for the production of records or files or testimony concerning the same, shall appear in response to the demand and respectfully decline to produce such records or files or to testify concerning them, basing the refusal upon this rule.

3. In § 0.465, paragraph (a), including the note following (a), the address for the current contractor in (b), the last sentence in (c)(2), paragraphs (d) (1) and (3) are revised to read as follows:

§ 0.465 Request for copies of materials which are available, or made available, for public inspection.

(a) The Commission awards a contract to a commercial duplication firm to make copies of Commission records and offer them for sale to the public. The contract is awarded on the basis of lowest overall cost and best service to the public. In addition to the cost of copying, the contractor may charge a search fee for extracting the requested documents from the Commission's files. The search fee charged by the contractor shall be that price set forth in the latest contract.

Note.—Currently, the Contractor is International Transcription Services, Inc., 4006 University Drive, Fairfax, VA, 22030 (Tel. 703 532-2400). The current contract specifies a search fee of \$12.00 per hour. The duplication fee for 8½×11 inch documents is .049 cents per page; the coin-operated copying machines are set at 5 cents per page (August 1983). Copies of the FCC Telephone Directory are also available from the Contractor.

(b) \* \* \* Requests for copies of the transcript of current proceedings should be directed to the current contractor, International Transcription Services, Inc., 4006 University Drive, Fairfax, VA 22030 (Tel. 703 352-2400).

(c)(1) \* \* \*

(2) \* \* \* Coin-operated photocopy machines are available for use by the public in various reference rooms for the duplication of records available for inspection at those locations.

(3) \* \* \*

(4) \* \* \*

(d)(1) Copies of computer maintained data bases produced by the Commission may be obtained from the National Technical Information Service (NTIS), Department of Commerce, in the form of computer tapes, or as microfiche. These materials are not available directly from the Commission. Data bases produced by the Commission are listed in two catalogs which may be obtained from NTIS. Extracts from these catalogs pertaining to the Commission are

available without charge, from the Commission's Consumer Assistance and Small Business Division. The materials describe the data base, state the estimated fee for providing it, and specify ordering information.

(2) \* \* \*

(3) Copies of computer source programs and associated documentation produced by the Commission may be obtained from the Computer Applications Division, Office of Managing Director. Requests shall be limited to computer source programs and associated documentation in existence when the request is submitted;

4. In § 0.466, paragraph (a), the second paragraph of the note, and paragraph (g) are revised to read as follows:

§ 0.466 Search fee.

(a) Subject to the provisions of this section, an hourly fee may be charged for recovery of the direct costs of searching for records requested under § 0.460(d) or § 0.461. The fee is based on the grade level of the employee(s) who makes the search, as specified in the following schedule:

Grade	Hourly fee
GS-2	5.89
GS-3	6.64
GS-4	7.45
GS-5	8.34
GS-6	9.30
GS-7	10.33
GS-8	11.44
GS-9	12.64
GS-10	13.92
GS-11	15.28
GS-12	18.32
GS-13	21.79
GS-14	25.75
GS-15	30.29

Note.—\* \* \* The above fees were computed at Step 5 of each grade (based on the General Schedule effective January 1984) and include 11.0 percent for personnel benefits.

(g) The fee shall be paid to the Financial Management Division, Office of Managing Director, or as otherwise directed by the Commission.

5. Section 0.475 is revised to read as follows:

§ 0.475 Applications for employment.

Persons who wish to apply for employment should communicate with the Associate Managing Director-Personnel Management.

6. In § 0.551, paragraph (b)(2) is revised to read as follows:

§ 0.551 Purpose and scope; definitions.

(a) \* \* \*

(b) \* \* \*

(2) "Record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including but not limited to, such individual's education, financial transactions, medical history, and criminal or employment history, and that contains such individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

7. In § 0.552, the introductory paragraph is revised to read as follows:

§ 0.552 Notice identifying Commission systems of records.

The Commission publishes in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, including for each system of records.

8. In § 0.554, the first sentence of paragraph (a), paragraph (b)(1), the last sentence of paragraph (b)(2), and paragraph (c) are revised to read as follows:

§ 0.554 Procedures for requests pertaining to individual records in a system of records.

(a) Upon request, the Commission will notify individuals as to whether it maintains information about them in a system of records and, subject to the provisions of § 0.555(b), will disclose the substance of such information to that individual.

(b) \* \* \*

(1) Individuals who choose to register a request for information in person may verify their identity by showing any two of the following: social security card; drivers license; employee identification card; medicare card; birth certificate; bank credit card; or other positive means of identification. Documents incorporating a picture and/or signature of the individual shall be produced if possible. If an individual cannot provide suitable documentation for identification, that individual will be required to sign an identity statement stipulating that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

(2) \* \* \* If the record contains no signatures and if positive identification cannot be made on the basis of other information submitted, the requestor will be required to sign an identity statement and stipulate that knowingly

or willfully seeking or obtaining access to records about another person under false pretense is punishable by a fine of up to \$5,000.

(3) \* \* \*

(c) All requests for notification of the existence of record information or for access to such information shall be delivered to the business address of the system manager responsible for the system of records in question, except that requests relating to official personnel records shall be addressed to the Associate Managing Director—Personnel Management. Such addresses can be found in the Federal Register Notice described in § 0.552.

9. In § 0.555, paragraph (a), the last two sentences in paragraph (a)(1), paragraph (a)(3), and the introductory text of (e) are revised to read as follows:

**§ 0.555 Disclosure of record information to individuals.**

(a) Individuals having been notified that the Commission maintains a record pertaining to them in a system of records may request access to such record in one of three ways: by in person inspection at the system location; by transfer of the record to a nearer location; or by mail.

(1) \* \* \* Verification of identity is required as in § 0.554(b)(1) before access will be granted an individual appearing in person. Individuals may be accompanied by a person of their own choosing when reviewing a record. However, in such cases, a written statement authorizing discussion of their record in the presence of a Commission representative having physical custody of the records.

(2) \* \* \*

(3) Individuals may request that copies of records be sent directly to them. In such cases, individuals must verify their identity as § 0.554(b)(2) and provide an accurate return address. Records shall be sent only to that address.

(b) \* \* \*

(e) In the event that a determination is made denying an individual access to records pertaining to that individual for any reason, such individual may either:

10. In § 0.556, paragraphs (a) and (c), the introductory text of (c)(1), paragraphs (c)(2), (c)(2) (i) and (ii), and the last sentence of (d), are revised to read as follows:

**§ 0.556 Request to correct or amend records.**

(a) An individual may request the amendment of information contained in their record. Except as otherwise

provided in this paragraph, the request to amend should be submitted in writing to the system manager responsible for the records. Requests to amend the official personnel records of active FCC employees should be submitted to the Associate Managing Director—Personnel Management, Office of Managing Director, 1919 M Street, NW., Washington, D.C. 20554. Requests to amend official personnel records of former FCC employees should be sent to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415. Any request to amend should contain as a minimum:

(c) The responsible system manager, or in the case of official personnel records of active FCC employees, the Associate Managing Director—Personnel Management, shall (normally within 30 days) take one of the following actions regarding a request to amend:

(1) If the system manager agrees that an amendment to the record is warranted, the system manager shall:

(2) If the system manager, after an initial review, does not agree that all or any portion of the record merits amendment, the system manager shall:

(i) Notify the individual in writing of such refusal to amend and the reasons therefore;

(ii) Advise the individual that further administrative review of the initial decision by the full Commission may be sought pursuant to the procedures set forth in § 0.557. (In cases where the request to amend involves official personnel records, review is available exclusively from the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, D.C. 20415; and

(d) \* \* \* Moreover, the system manager shall adjudge the merits of any request to delete information based on whether or not the information in controversy is both relevant and necessary to accomplish a statutory purpose required of the Commission by law or executive order of the President.

11. In § 0.557, paragraphs (a), (d) (2) and (4) are revised to read as follows:

**§ 0.557 Administrative review of an initial decision not to amend a record.**

(a) Individuals have 30 days from the date of the determination not to amend a record consistent with their request to seek further administrative review by

the full Commission. Such a request shall be in writing and should be addressed to either the system manager who made the initial adverse decision, or, in the case of official personnel records of active FCC employees, to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, D.C. 20415. Any request for administrative review must:

(d) \* \* \*

(2) Advise the individual that a concise statement of the reasons for disagreeing with the decision of the Commission may be filed;

(3) \* \* \*

(4) Advise the individual that judicial review of the Commission's decision not to amend the record in any district court of the United States is available.

12. In § 0.558, the second paragraph and address are revised to read as follows:

**§ 0.558 Advice and assistance.**

Individuals who request clarification of the Notice described in § 0.552 or who have questions concerning the characterization of specific systems of records as set forth therein, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission,  
Records Management Branch, Office of  
Managing Director, 1200 19th Street, NW,  
Room BB-325, Washington, D.C. 20554

13. In § 0.561, paragraph (a), the introductory portion of paragraph (b), and paragraphs (c), (d), and (e) are revised to read as follows:

**§ 0.561 Exemptions.**

(a) *System Name:* Radio Operator Records—FCC/FOB-1. Parts of this system of records are exempt pursuant to Section (k)(2) of the Act because they contain investigatory material compiled solely for law enforcement purposes.

(b) *System Name:* Violators File (records kept on individuals who have been subjects of FCC field enforcement actions)—FCC/FOB-2.

(c) *System Name:* Attorney Misconduct Files—FCC/OGC-2. This system of records is exempt pursuant to Section 3(k)(2) of the Act because it is maintained for law enforcement purposes.

(d) *System Name:* Licensees or Unlicensed Persons Operating Radio Equipment Improperly—FCC. Parts of

this system of records are exempt pursuant to Section 3(k)(2) of the Act because they embody investigatory material compiled solely for law enforcement purposes.

(e) *System Name.* Personnel Investigation Records—FCC/Central-8. Parts of these systems of records are exempt because they embody investigatory material pursuant to Sections 3(k)(2) and 3(k)(5) of the Act as applicable.

[FR Doc. 84-8871 Filed 4-3-84; 8:45 am]  
BILLING CODE 6712-01-M

**47 CFR Part 73**

[MM Docket No. 83-366; RM-4285]

**TV Broadcast Station in Santa Barbara, California; Changes Made in Table of Assignments**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF Television Channel 38 to Santa Barbara, California, at the request of William V. Johnson. The assignment could provide Santa Barbara with its second commercial television facility.

**EFFECTIVE DATE:** June 4, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau (202) 634-8530.

List of Subjects in 47 CFR Part 73  
Television broadcasting.

**Report and Order; Proceeding Terminated**

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Santa Barbara, California); MM Docket No. 83-366, RM-4285.

Adopted: March 21, 1984.  
Released: March 27, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 16919, published April 20, 1983, seeking comments on the proposed assignment of UHF Television Channel 38 to Santa Barbara, California, as that community's second commercial television channel. The *Notice* was issued in response to a petition for rule making filed by William V. Johnson ("petitioner"). Comments were filed by petitioner restating his intent to apply for the channel, if assigned. Opposing comments and reply comments were filed by Key Television, Inc. ("Key"), licensee of Station KEYT-TV, Santa

Barbara, and late-filed comments and a request for leave to file were submitted by Sunbelt Television, Inc. ("Sunbelt").<sup>1</sup>

2. Santa Barbara (population 74,414),<sup>2</sup> the seat of Santa Barbara County (population 298,694), is located approximately 135 kilometers (85 miles) northwest of Los Angeles.

3. Key based its opposition to the requested assignment on the alleged inadequacy of the petition and inaccuracies in its associated engineering showing as prepared by petitioner's consultant. Key states that the petition failed to show the areas which would be precluded from obtaining television assignments should Channel 38 be assigned to Santa Barbara and that the mileage separation showing, which consisted only of a computer printout, failed to indicate the source of the data offered or any underlying assumptions used in concluding that the assignment could be made as proposed in conformity with the Commission's rules and regulations. Key further calls into question the qualifications of the petitioner's consultant, stating that he may have been misled to believe that the act of filing for a full-service television frequency was simply a means of avoiding the Commission's current freeze on low power television applications. If this were so, it is contended that petitioner may not be fully aware of the extent of regulations which a full-service station must comply with, which are not in existence for low power operators. Key, therefore, calls into question the petitioner's expressed intent to apply for and operate a full-service station at Santa Barbara. As a final matter, Key states that a second full-service operation at Santa Barbara is not economically viable and, in light of the pendency of 30 applicants for low power TV stations on different channels, there is no demonstration of need for an additional full-service facility.

4. The qualifications and competency of petitioner's consultant are not issues which can, or should, be handled in a rule making proceeding. It is incumbent upon a petitioner to ensure that he is fully aware of the Commission mandated responsibility in operating a broadcast facility before he states an

<sup>1</sup>The late-filed comments of Sunbelt have been accepted for consideration herein as they have only confirmed the staff study showing that the channel could be assigned in compliance with § 73.610 of the Commission's Rules. In addition, Sunbelt has expressed an interest in use of the channel at Santa Barbara. The final disposition of this proceeding was not delayed due to the late filing.

<sup>2</sup>Population figures are taken from the 1980 U.S. Census.

intention to submit an application to activate a broadcast frequency.

5. The issue of whether or not a broadcast facility assigned to any particular locality would be economically viable is not one which is generally decided at the rule making stage. Rather, the issue is more properly raised at the application stage. See e.g., *Grand Junction, Colorado*, 26 R.R. 2d 513 (1973).

6. The assignment of Channel 38 at Santa Barbara can be made in conformance with the Commission's minimum distance separation and other technical criteria. The Commission does not require preclusion studies in TV assignment proceedings.

7. The concurrence of the Mexican government has been obtained since Santa Barbara is within 320 kilometers (199 miles) of the U.S.-Mexican border.

8. The Commission believes the public interest would be served by the assignment of a second commercial television allocation to Santa Barbara. Therefore, in accordance with the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.61, 0.204(b) and 0.263 of the Commission's Rules, it is ordered, That effective June 4, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Santa Barbara, California .....	3-, 14, <sup>1</sup> 20, <sup>1</sup> 32, and 38.

<sup>1</sup>Following the decision in Docket No. 10261, channels so indicated will not be available for television use until further action by the Commission.

9. It is further ordered, That this proceeding is terminated.

10. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission,  
Roderick K. Porter,  
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-8973 Filed 4-3-84; 8:45 am]  
BILLING CODE 6712-01-M

**47 CFR Part 73**

[MM Docket No. 83-495; RM-4407]

**TV Broadcast Stations in Claremore and Tulsa Oklahoma; Changes Made in Table of Assignments**

**AGENCY:** Federal Communications Commission.