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1. On April 2, 2003, the Commission released a *Memorandum Opinion and Order (MO&O)*, 68 FR 34547, June 10, 2003, in this proceeding. Pursuant to § 1.108 of the Commission's rules, on our own motion, we issue this limited reconsideration of the *MO&O* by (1) replacing paragraph 201 (which addresses applications for extension of time to construct) with the language set forth herein, and (2) clarifying our action with respect to § 21.930 of the Commission's rules, which sets forth the build-out requirements for Multipoint Distribution Service (MDS) Basic Trading Authorization (BTA) holders.

2. *Pending Applications for Extension of Time to Construct.* With respect to pending applications for extensions of time to construct, we take this action in light of information that has come to our attention since the adoption and release of the *MO&O*. Specifically, in connection with petitions for reconsideration of our decision to impose a freeze on the filing of applications for new MDS and Instructional Television Fixed Service (ITFS) stations, as well as major changes to such stations, entities have represented to us that they have developed plans in the near future to deploy high-speed wireless broadband systems under our existing rules. For example, WCA estimates that approximately thirty wireless broadband operators plan to deploy systems in approximately eighty markets in the next twelve months. In light of this information, we are concerned that our decision to seek comment on how to treat pending applications for extensions of time to construct MDS and ITFS stations may hinder the deployment of MDS and ITFS systems aimed at providing broadband services. As noted in the *NPRM/MO&O*, one of our primary goals in this proceeding is to "present a significant opportunity to provide alternatives for the provision of broadband services to consumers in urban, suburban and rural areas and to improve opportunities for distance learning and telemedicine services." Under those circumstances, we believe that it would be in the public interest to be able to act on those pending applications for extension of time to construct prior to the completion of this proceeding. We believe that acting on such applications will facilitate continued deployment of broadband services and promote innovation and

investment therein. As a result, we are no longer seeking comment in the *MO&O* on the treatment of pending applications for extensions of time to construct MDS and ITFS stations.

3. Accordingly, we delete paragraph 201 of the *MO&O* and replace it with the following language:

4. *Extension/Suspension of current performance requirements for site-based licensees.* Moreover, we also believe that it is in the public interest to suspend the construction deadline for ITFS and MDS site-based licensees and permittees that have unexpired licenses or permits that have not expired as of the release date of the *MO&O* and that have made a timely filed extension request. We emphasize that the suspension of this construction deadline for site-based licensees does not affect the requirement for such licensees to timely file a renewal application. We stress that all site-based licensees are required to timely file renewal applications or face cancellation of their licenses regardless of the pendency of this proceeding.

5. We note that we are not modifying our decision to hold in abeyance the construction build-out requirements for site-based incumbents that have licenses or permits that had not expired as of the release date of the *MO&O*. Furthermore, we continue to seek comment on whether we should change criteria for granting extension of time requests prospectively.

6. *MDS BTA Build-Out Rule.* In the *MO&O*, we "suspended" the August 16, 2003 construction deadline for MDS BTA authorization holders contained in § 21.930 of the Commission's Rules. Upon further reflection, we believe that our use of the term "suspend" did not accurately reflect our intent in this matter. Our intent was to relieve MDS BTA authorization holders of the obligation to meet the build out deadline contained in § 21.930 pending the release of a *Report and Order* in this proceeding. In order to more accurately reflect our intention, we are reinstating § 21.930 of the Commission's Rules, but stating that MDS BTA authorization holders do not have to meet the build out obligations contained in that rule pending the release of a *Report and Order* in this proceeding. We continue to seek comment on how much additional time MDS BTA authorization holders should receive to meet their build out obligations after a *Report and Order* is issued in this proceeding.

7. The actions contained herein have not changed our Initial Regulatory Flexibility Analysis (IRFA), which was set forth in the *MO&O*. Thus, no supplemental IRFA is necessary. In addition, the action contained herein

has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose no new or modified reporting and/or recordkeeping requirements or burdens on the public.

8. Pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and § 1.108 of the Commission's Rules, 47 CFR 1.108, that the *Memorandum Opinion and Order*, FCC 03-56, is modified as set forth herein.

9. Pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), that § 21.930 of the Commission's Rules, 47 CFR 21.930, is reinstated.

10. Pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and § 21.930 of the Commission's Rules, 47 CFR 21.930, that MDS BTA authorization holders need not comply with the build out requirements contained in § 21.930 of the Commission's rules pending the publishing of a *Report and Order* in this proceeding.

#### List of Subjects in 47 CFR Part 21

Communications common carriers, Communications equipment, Radio and Reporting and recordkeeping requirements.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

[CC Dockets 99-200, 96-98 and 95-116;  
FCC 03-126]

### Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission continues efforts to maximize the efficiency with which numbering resources in the North American Numbering Plan (NANP) are used. The Commission addresses issues on which we sought comment in *Numbering Resource Optimization Third Order on Reconsideration*. These actions will further promote our competition policies, promote the efficient and effective use of finite numbering resources and increase the