



February 23, 2010

## MEMORANDUM TO CLIENTS

### Re: **FCC Proposes Changes to its *Ex Parte* and Procedural Rules**

The Federal Communications Commission (FCC) recently adopted two Notices of Proposed Rulemaking (NPRM), one which proposes changes to the Commission's rules regarding *ex parte* communications and a second that proposes changes to several of the FCC's procedures regarding consideration of petitions for reconsideration, docketing, electronic filing and effective dates. Below is a summary of the FCC's proposals. Both NPRMs included appendices with full drafts of the proposed rules, which we have attached to this memorandum for your reference.

#### ***Ex Parte* Proposals**

According to the Commission, the proposals in the *ex parte* NPRM are designed to improve the transparency and effectiveness of Commission decision-making. The Commission notes that complaints about *ex parte* violations are rare, but the FCC has reason to suspect that at least some *ex parte* notices fail to provide enough information about *ex parte* meetings. The NPRM requests comment on the following proposals:

- Requiring the filing of an *ex parte* notice for all oral *ex parte* presentations, regardless of whether the presentation presents new data or arguments.
- Requiring the *ex parte* notice to include a summary of all data and/or arguments presented during the presentation, or providing specific references to data and/or arguments that have already been submitted in the record.
- Giving *ex parte* notice filers two business days to submit notices as opposed to one business day to enable filers to comply with the more stringent filing requirements.
- Generally requiring *ex parte* notices and written presentations to be filed with the FCC electronically through the FCC's Electronic Comment Filing System (ECFS) unless a docket number is not available or some other impediment prevents electronic filing. The NPRM also seeks comment on whether documents filed via ECFS should be required to be in "machine readable," *i.e.*, searchable, format. Additionally, the Commission proposes to clarify that the rules already require documents that are shown or given to the Commission staff during *ex parte* meeting are to be filed.
- Requiring that notices for *ex parte* presentations during the Sunshine Period that are legally permitted by Commission waiver be filed electronically on ECFS within 4 hours

of the presentation. Additionally, the filing would need to explain in the first sentence why the *ex parte* presentation was permissible and the date and time of the presentation.

- Allowing staff to file an *ex parte* summary of a meeting attended by many parties, relieving the obligation of parties to file individual notices. The FCC notes this proposal would simply codify existing practice.
- Requiring parties taking part in an exempted *ex parte* presentation in a restricted proceeding to submit a notice similar to that required in permit-but-disclose proceedings.

In addition to these proposals, the Commission generally seeks comment on the following:

- Whether the FCC should prohibit a party from soliciting a request from staff for an *ex parte* presentation during the Sunshine Period “for the clarification or adduction of evidence, or for the resolution of issues.” Currently, section 1.1203(a)(1) and 1.1204(a)(1) allow for such conduct.
- Whether parties taking part in *ex parte* presentations should be required to submit a “disclosure statement” that would disclose information about the party’s ownership structure and other ownership interests. Because some regulated parties are already required to submit this information to the FCC (*e.g.*, broadcasters’ submission of FCC Form 323), the FCC inquires whether a party could appropriately reference a FCC or other public filing in lieu of providing a disclosure statement. The Commission also seeks comment on what disclosure requirements, if any, should be imposed on individuals who engage in *ex parte* presentations.
- How the *ex parte* rules should apply to “new media,” such as websites, blogs, Facebook and IdeaScale where comment on issues being considered by the FCC is permitted and the Commission or staff might host or have access to comments by members of the public. The Commission notes that in the past, it has specifically modified its *ex parte* rules to enable contacts with the Commission through new media.

More generally, the FCC seeks comment on whether the Commission should adopt alternatives to its current practice of allowing oral *ex parte* presentations. For example, the NPRM cites the Federal Trade Commission’s (FTC) practice of requiring transcripts of oral *ex parte* meetings (which are rare at the FTC) to be publicly released. The FCC also mentions the Nuclear Regulatory Commission’s practice of taking in oral presentations through informal public meetings. The Commission generally invites comment on these alternatives and any other alternative proposals to the current *ex parte* meeting practice at the FCC.

Additionally, the NPRM inquires whether more aggressive enforcement of the *ex parte* rules is necessary, and whether more stringent enforcement would alleviate the need to adopt any

of the NPRM's proposals. The Commission also seeks comment on what types of sanctions should be imposed for different types of *ex parte* violations.

### **Procedural Proposals**

The procedural proposals, much like the *ex parte* proposals, are intended to promote efficiency and transparency, while modernizing the FCC's operations. The NPRM requests comment on the following proposals:

#### *Petitions for Reconsideration*

- Allowing FCC staff (as opposed to the full Commission) to dismiss petitions for reconsideration that are procedurally defective or merely repeat arguments that the Commission has already rejected.
- Encouraging parties to file petitions for reconsideration electronically via ECFS.
- Allowing the FCC to, on its own motion and within 30 days, reconsider an action or rule adopted by revising or modifying the action or rule (as opposed to completely overturning the action).

#### *Docketing and Electronic Filing*

- Expanding the FCC's docketing procedures to assign docket numbers to as many proceedings as practical, thereby enabling these proceedings to use electronic filing. Specifically, the Commission seeks comment on what types of proceedings (*e.g.*, market modifications, must-carry complaints, etc.) are best suited for docketing, and what procedures are not well-suited for docketing.
- Allowing the FCC to more expeditiously terminate dockets. The FCC requests comment on how to determine if a docket is dormant and what procedures should be used to terminate a docket; for instance, whether the FCC should release a public notice identifying dockets the Commission intends to terminate.

#### *Service and Effective Dates*

- Allowing the FCC, in large proceedings where paper service of pleadings and documents is required by statute or rule, to issue a public notice with instructions on obtaining documents.
- Enacting a default effective date for rules in situations where an order does not otherwise specify an effective date. The proposed default effective date would be 30 days after publication of the rule in the *Federal Register*.

- Clarifying that when a Commission action is required by statute or regulation to take place on a holiday, the Commission is legally permitted to act on the next business day.

Comments for both NPRMs will be due 45 days after their publication in the Federal Register and Reply Comments will be due 30 days later.

We would be pleased to respond to any questions regarding these matters.

**FLEISCHMAN AND HARDING LLP**

**APPENDIX****Proposed Rules**

Part 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 1 – Practice and Procedure

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

**2. Section 1.1202 is amended by deleting paragraph (d)(6).****3. Section 1.1203 is amended by revising paragraphs (a)(4) and (b) and adding a new paragraph (c) to read as follows:**

§ 1.1203 Sunshine period prohibition.

(a) With respect to any Commission proceeding, all presentations to decisionmakers concerning matters listed on a Sunshine Agenda, whether *ex parte* or not, are prohibited during the period prescribed in paragraph (b) of this section unless:

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(4) The presentation is made by a member of Congress or his or her staff, or by other agencies or branches of the Federal government or their staffs in a proceeding exempt under § 1.1204 or subject to permit-but-disclose requirements under § 1.1206. If this presentation is of substantial significance and clearly intended to affect the ultimate decision, and is made in a permit-but-disclose proceeding, the presentation (or, if oral, a summary of the presentation) must be placed in the record of the proceedings by Commission staff or by the presenter in accordance with the procedures set forth in § 1.1206(b).

(b) The prohibition set forth in paragraph (a) of this section applies beginning at midnight following the release of a public notice that a matter has been placed on the Sunshine Agenda until the Commission:

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(c) Nothing in this section prevents a party from submitting a written *ex parte* presentation or a memorandum summarizing an oral *ex parte* presentation on the first business day of the Sunshine period prohibition to the extent that § 1.1206 or § 1.1208 requires submission of such a presentation or memorandum to reflect an *ex parte* presentation that was made on the last day before the beginning of the Sunshine period.

**4. Section 1.1204 is amended by revising paragraphs (a)(6), (a)(12)(iii), and (a)(12)(iv), and adding new paragraphs (a)(12)(v) and (a)(12)(vi) to read as follows:**

§ 1.1204 Exempt *ex parte* presentations and proceedings.

(a) \*\*\*\*\*

(6) The presentation is to or from the United States Department of Justice or Federal Trade Commission and involves a communications matter in a proceeding which has not been designated for hearing and in which the relevant agency is not a party or commenter (in an informal rulemaking or Joint board proceeding) provided that, any new factual information obtained through such a presentation that is relied on by the Commission in its decisionmaking process will be disclosed by the Commission no later than at the time of the release of the Commission's decision;

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(12) \*\*\*\*\*

(iii) The Universal Service Administrative Company relating to the administration of universal service support mechanisms pursuant to 47 U.S.C. 254;

(iv) The Number Portability Administrator relating to the administration of local number portability pursuant to 47 U.S.C. 251(b)(2) and (e); provided that the relevant administrator has not filed comments or otherwise participated as a party in the proceeding;

(v) The TRS Numbering Administrator relating to the administration of the TRS numbering directory pursuant to 47 U.S.C. 225 and 47 U.S.C. 251(e); or

(vi) The Pooling Administrator relating to the administration of thousands-block number pooling pursuant to 47 U.S.C. § 251(e).

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**5. Section 1.1206 is amended by revising paragraph (a)(12), deleting paragraph (a)(13), renumbering existing paragraph (a)(14) as (a)(13), and revising paragraph (b) to read as follows:**

§ 1.1206 Permit-but-disclose proceedings.

(a) \*\*\*\*\*

(12) A modification request filed pursuant to § 64.1001 of this chapter; and

(13) Petitions for Commission preemption of authority to review interconnection agreements under § 252(e)(5) of the Communications Act and petitions for preemption under § 253 of the Communications Act.

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(b) The following disclosure requirements apply to *ex parte* presentations in permit-but-disclose proceedings:

(1) *Written presentations.* A person who makes a written *ex parte* presentation subject to this section, including giving or showing a document to Commission staff, shall, no later than the next business day after the presentation, submit two copies of the presentation to the Commission's Secretary under separate cover for inclusion in the public record. The presentation (and cover letter) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that an original and one copy have been submitted to the Secretary or that one copy has been filed electronically, and must be labeled as an *ex parte* presentation. If the presentation relates to more than one proceeding, two copies (or an original and one copy, or one copy if filed electronically) shall be filed for each proceeding.

(2) *Oral presentations.*

(i) A person who makes an oral *ex parte* presentation subject to this section shall submit a memorandum that summarizes all data presented and arguments made during the oral *ex parte* presentation. If the oral *ex parte* presentation consisted in whole or in part of the presentation of data or arguments already reflected in that person's written comments, memoranda or other filings in the proceeding, the person who made such presentation may provide citations to such data or arguments in that person's prior comments, memoranda, or other filings in lieu of summarizing them in the memorandum. Memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. The memorandum (and cover letter, if any) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that an original and one copy have been submitted to the Secretary or that one copy has been filed electronically, and must be labeled as an *ex parte* presentation. If the presentation relates to more than one proceeding, two copies of the memorandum (or an original and one copy, or one copy if filed electronically) shall be filed for each proceeding.

NOTE 1 TO PARAGRAPH (b)(2)(i): Where, for example, presentations occur in the form of discussion at a widely attended meeting, preparation of a memorandum as specified in the rule might be cumbersome. Under these circumstances, the rule may be satisfied by submitting a transcript or recording of the discussion as an alternative to a memorandum.

(ii) The memorandum required to be submitted to the Secretary under this subpart must be submitted no later than the next business day after the presentation. In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, the memorandum shall, when feasible, be filed through the electronic comment filing system available for that proceeding. In other proceedings or if filing through the electronic comment filing system would present an undue hardship, an original and one copy must be submitted to the Secretary and also sent on paper or via electronic mail to the Commissioners and Commission employees involved in the presentation.

(iii) If the memorandum summarizing an oral presentation required to be submitted under this subpart results from an oral *ex parte* presentation that is made pursuant to an exception to the Sunshine period prohibition, the memorandum shall be submitted through the Commission's electronic comment filing system, and shall be submitted within four hours of the presentation to which it relates. The memorandum shall also identify plainly on the first page the specific exception in § 1.1203(a) on which the presenter relies. The memorandum shall also state the date and time at which the oral *ex parte* presentation was made.

(3) *Electronic Filing and Native Formats.* In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, shall, when feasible, be

filed electronically, and shall be filed in native formats (i.e., .doc, .xml, .ppt, searchable .pdf). In cases where a filer believes that the document to be filed should be withheld from public inspection, the filer should file electronically a request that the information not be made routinely available for public inspection pursuant to § 0.459, and a copy of the document with such confidential information redacted. The filer should submit the original unredacted document to the Secretary as directed in § 0.459.

(4) Notwithstanding paragraphs (b)(1) and (b)(2) of this section, in permit-but-disclose proceedings presentations made by members of Congress or their staffs or by an agency or branch of the Federal Government or its staff shall be treated as *ex parte* presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The Commission staff shall prepare a written summary of any such oral presentation and place it in the record in accordance with paragraph (b)(2) of this section and place any such written presentation in the record in accordance with paragraph (b)(1) of this section.

(5) *Notice of ex parte presentations.* The Commission's Secretary or, in the case of non-docketed proceedings, the relevant Bureau or Office shall place in the public file or record of the proceeding written *ex parte* presentations and memoranda reflecting oral *ex parte* presentations. The Secretary shall issue a public notice listing any written *ex parte* presentations or written summaries of oral *ex parte* presentations received by his or her office relating to any permit-but-disclose proceeding. Such public notices should generally be released at least twice per week.

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**6. Section 1.1208 is amended to read as follows:**

Unless otherwise provided by the Commission or its staff pursuant to § 1.1200(a) of this section, *ex parte* presentations (other than *ex parte* presentations exempt under § 1.1204(a) of this section) to or from Commission decision-making personnel are prohibited in all proceedings not listed as exempt in § 1.1204(b) or permit-but-disclose in § 1.1206(a) of this section until the proceeding is no longer subject to administrative reconsideration or review or judicial review. Proceedings in which *ex parte* presentations are prohibited, referred to as "restricted" proceedings, include, but are not limited to, all proceedings that have been designated for hearing, proceedings involving amendments to the broadcast table of allotments, applications for authority under Title III of the Communications Act, and all waiver proceedings (except for those directly associated with tariff filings). A party making an oral presentation in a restricted proceeding, on a non-*ex parte* basis, must file a summary of the presentation in the record of the proceeding using procedures consistent with those specified in § 1.1206.

**APPENDIX****Proposed Rules**

[Note: proposed revised language is indicated by shading]

Part 0 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 0 – Commission Organization

**1. The authority citation for part 0 continues to read as follows:**

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

**2. Section 0.141 is amended by revising paragraph (h) to read as follows:**

§ 0.141 Functions of the Bureau

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(h) Serves as the official FCC records custodian for designated records, including intake processing, organization and file maintenance, reference services, and retirement and retrieval of records; manages the Electronic Comment Filing System and certifies records for adjudicatory and court proceedings. Maintains manual and computerized files that provide for the public inspection of public record materials concerning Broadcast Ownership, AM/FM/TV, TV translators, FM Translators, Cable TV, Wireless, Auction, Common Carrier Tariff matters, International space station files, earth station files, DBS files, and other miscellaneous international files. Also maintains for public inspection Time Brokerage and Affiliation Agreements, court citation files, and legislative histories concerning telecommunications dockets. Provides the public and Commission staff prompt access to manual and computerized records and filing systems. Periodically reviews the status of open docketed proceedings and, in consultation with the relevant bureau or office with responsibility for a particular proceeding, closes any docket in which no further action is required or contemplated.

**3. Section 0.445 is amended by revising paragraph (a) to read as follows:**

§ 0.445 Publication, availability and use of opinions, orders, policy statements, interpretations, administrative manuals, and staff instructions.

(a) Adjudicatory opinions and orders of the Commission, or its staff acting on delegated authority, are mailed or delivered by electronic means to the parties, and as part of the record, are available for inspection in accordance with §§ 0.453 and 0.455.

Part 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

Part 1 – Practice and Procedure

**1. The authority citation for part 1 is amended to read as follows:**

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

**2. Section 1.4 is amended by revising paragraphs (a) and (j) to read as follows:**

§ 1.4 Computation of Time.

(a) *Purpose.* The purpose of this rule section is to detail the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission. It also applies to computation of time for seeking both reconsideration and judicial review of Commission decisions. In addition, this rule section prescribes the method for computing the amount of time within which the Commission must act in response to deadlines established by a Commission rule or order.

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(j) Unless otherwise provided (e.g. §76.1502(e) of this chapter) if, after making all the computations provided for in this section, the filing date falls on a holiday, the document shall be filed on the next business day. See paragraph (e)(1) of this section. If a rule or order of the Commission specifies that the Commission must act by a certain date and that date falls on a holiday, the Commission action must be taken by the next business day.

**3. Section 1.47 is amended by revising paragraph (a) to read as follows:**

§ 1.47 Service of documents and proof of service.

(a) Where the Commission or any person is required by statute or by the provisions of this chapter to serve any document upon any person, service shall (in the absence of specific provisions in this chapter to the contrary) be made in accordance with the provisions of this section. Documents that are required to be served by the Commission may be served in electronic form. In proceedings involving a large number of parties, the Commission may satisfy its service obligation by issuing a public notice that identifies the documents required to be served and that explains how parties can obtain copies of the documents.

**4. Section 1.49 is amended by adding a new paragraph (g) to read as follows:**

§ 1.49 Specifications as to pleadings and documents.

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(g) The caption of a pleading or other document filed in a docketed proceeding should reference only the docket number(s) particular to the issue(s) addressed in the document. When the document references superfluous or incorrect docket(s), the Commission may omit the document from such docket(s) and place it (only) in the correct docket(s).

**5. Section 1.106 is amended by revising the caption and paragraphs (a)(1), (b), (c), (d), (i), and (j), and by adding a new paragraph (p), to read as follows:**

§ 1.106 Petitions for reconsideration **in non-rulemaking proceedings.**

(a)(1) **Except as provided in paragraphs (b)(3) and (p) of this section,** petitions requesting reconsideration of a final Commission action **in non-rulemaking proceedings** will be acted on by the Commission. Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission. A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding. Petitions for reconsideration of other interlocutory actions will not be entertained. (For provisions governing reconsideration of Commission action in notice and comment rule making proceedings, see § 1.429. This § 1.106 does not govern reconsideration of such actions.)

\* \* \* \*

(b) \* \* \* \*

(2) Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances are present:

(i) The petition relies on facts **or arguments** which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; or

(ii) The petition relies on facts **or arguments** unknown to petitioner until after his last opportunity to present **them to the Commission, and he** could not through the exercise of ordinary diligence have learned **of the facts or arguments in question** prior to such opportunity.

(3) A petition for reconsideration of an order denying an application for review which fails to rely on new facts or changed circumstances may be dismissed by the staff as repetitious.

(c) **In the case of any order other than an order denying an application for review, a** petition for reconsideration which relies on facts **or arguments** not previously presented to the Commission or to the designated authority may be granted only under the following circumstances:

(1) The facts **or arguments** fall within one or more of the categories set forth in § 1.106(b)(2); or

(2) The Commission or the designated authority determines that consideration of the facts **or arguments** relied on is required in the public interest.

(d)(1) **A petition for reconsideration** shall state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed. The petition

shall state specifically the form of relief sought and, subject to this requirement, may contain alternative requests.

(2) A petition for reconsideration of a decision that sets forth formal findings of fact and conclusions of law shall also cite the findings and/or conclusions which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and/or conclusions should be changed. The petition may request that additional findings of fact and/or conclusions of law be made.

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(i) Petitions for reconsideration, oppositions, and replies shall conform to the requirements of §§ 1.49, 1.51, and 1.52 and shall be submitted to the Secretary, Federal Communications Commission, Washington, D.C., 20554, by mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System or other electronic filing system (such as ULS). Petitions submitted by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

(j) The Commission or designated authority may grant the petition for reconsideration in whole or in part or may deny or dismiss the petition. Its order will contain a concise statement of the reasons for the action taken. Where the petition for reconsideration relates to an instrument of authorization granted without hearing, the Commission or designated authority will take such action within 90 days after the petition is filed.

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(p) Petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the Chief(s) of the relevant bureau(s) or office(s). Examples include, but are not limited to, petitions that: (i) fail to identify any material error, omission, or reason warranting reconsideration; (ii) rely on facts or arguments which have not previously been presented to the Commission and which do not meet the requirements of subsections (b)(2), (b)(3), or (c); (iii) rely on arguments that have been fully considered and rejected within the same proceeding; (iv) fail to state with particularity the respects in which petitioner believes the action taken should be changed as required by subsection (d); (v) relate to matters outside the scope of the order for which reconsideration is sought; (vi) omit information required by these rules to be included with a petition for reconsideration, such as the affidavit required by § 1.106(e) (relating to electrical interference); (vii) fail to comply with the procedural requirements set forth in subsections (f) and (i); (viii) relate to an order for which reconsideration has been previously denied on similar grounds, except for petitions which could be granted under § 1.106(c); or (ix) are untimely.

## 6. Section 1.108 is amended to read as follows:

§ 1.108 Reconsideration on Commission's own motion.

The Commission may, on its own motion, reconsider any action made or taken by it within 30 days from the date of public notice of such action, as that date is defined in §1.4(b) of these rules. When acting on its own motion under this section, the Commission may take any action it could take in acting on a petition for reconsideration, as set forth in § 1.106(k) of this chapter.

**7. Section 1.427 is amended by revising paragraph (a) to read as follows:**

§ 1.427 Effective date of rules.

(a) Any rule issued by the Commission will be made effective not less than 30 days from the time it is published in the Federal Register except as otherwise specified in paragraphs (b) and (c) of this section. If the report and order adopting the rule does not specify the date on which the rule becomes effective, the effective date shall be 30 days after the date on which the rule is published in the Federal Register, unless the report and order affirmatively defers the setting of an effective date or a later effective date is required by statute.

**8. Section 1.429 is amended by revising the caption and paragraphs (b), (h), and (i), and by adding a new paragraph (l), to read as follows:**

§ 1.429 Petition for reconsideration of final orders in rulemaking proceedings.

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(b) A petition for reconsideration which relies on facts or arguments which have not previously been presented to the Commission will be granted only under the following circumstances:

(1) The facts or arguments relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission;

(2) The facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity; or

(3) The Commission determines that consideration of the facts or arguments relied on is required in the public interest.

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(h) Petitions for reconsideration, oppositions and replies shall conform to the requirements of §§ 1.49 and 1.52, except that they need not be verified. Except as provided in § 1.420(e), an original and 11 copies shall be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554, by mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System. Petitions submitted by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

(i) The Commission may grant the petition for reconsideration in whole or in part or may deny or dismiss the petition. Its order will contain a concise statement of the reasons for the action taken. Any order addressing a petition for reconsideration which modifies rules adopted by the original order is, to the extent of such modification, subject to reconsideration in the same manner as the original order. Except in such circumstance, a second petition for reconsideration may be dismissed by the staff as repetitious. In no event shall a ruling which denies a petition for reconsideration be considered a modification of the original order.

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(l) Petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the Chief(s) of the relevant bureau(s) or office(s). Examples include, but are not limited to, petitions that: (i) fail to identify any material error, omission, or reason warranting reconsideration; (ii) rely on facts or arguments which have not previously been presented to the Commission and which do not meet the requirements of subsection (b)(1)-(b)(3); (iii) rely on arguments that have been fully considered and rejected within the same proceeding; (iv) fail to state with particularity the respects in which petitioner believes the action taken should be changed as required by subsection (c); (v) relate to matters outside the scope of the order for which reconsideration is sought; (vi) omit information required by these rules to be included with a petition for reconsideration; (vii) fail to comply with the procedural requirements set forth in subsections (d), (e), and (h); (viii) relate to an order for which reconsideration has been previously denied on similar grounds, except for petitions which could be granted under § 1.429(b); or (ix) are untimely.