

application undergoes a second technical analysis in order to determine whether it is grantable. Because each of these analyses requires significant resources, eliminating the duplicative step would substantially improve processing efficiency.

6. The Commission concludes that a window filing system, as enhanced by an electronic filing and processing system as proposed in our outstanding MDS rulemaking proceeding, 59 FR 63743 (Dec. 9, 1994), would serve the public interest. A window filing procedure would allow us to better control the flow of applications and it would prevent speculators from filing against applicants that had appeared on an "A" cut-off list.

7. A 60-day Public Notice period before each filing window will provide potential applicants adequate notice and opportunity to prepare their applications. As most commenters observe, this is the same period within which parties currently have to file an application in response to an "A" cut-off list. The window shall remain open for at least five business days. This period, when combined with the 60-day public notice, will provide all potential applicants time to prepare their applications.

8. Potential inefficiencies caused by the submission of a large number of applications during a national (as opposed to a regional) window are significantly diminished by our likely adoption of the electronic filing system for ITFS applications. A regional window would unfairly require educators not located within the relevant area to delay their educational plans. Finally, a national window will allow all interested parties to commence or continue their ITFS and MDS plans as soon as possible. This will provide the certainty of an imminent filing opportunity to all wireless cable entities, not just those within a restricted geographic area.

9. *Frequency.* Some commenters support a fixed schedule, arguing that this would allow educators to plan their proposals in advance of the Public Notice. They also advocate the non-discretionary opening of a window at least once each quarter, asserting that frequent filing periods are necessary to avoid unduly delaying the licensing of ITFS facilities that are essential to the growth of the wireless cable industry. However, we have never before utilized a window filing system with ITFS, and we therefore believe that we should take a more cautious approach as we structure the window filing system. The rate of the submission of applications could vary significantly in the future,

and a fixed requirement could quickly and unpredictably become counterproductive or impracticable to meet. Also, we intend to open filing windows as frequently as is consistent with our goals of efficient and expeditious processing.

10. *Amendments.* Some commenters propose that, after a filing window closes, the Commission should prohibit amendments that demonstrate eligibility, improve comparative standing, or seek rule waivers. Currently, they claim, many applicants impose an unnecessary burden on the Commission by filing such amendments, such as requests for waiver of the four-channel-per-market rule, § 74.902(d) of the Commission's rules, 47 CFR 74.902(d).

11. We agree that amendments that pertain either to improving comparative standing or to establishing eligibility, as set forth in §§ 74.913(b) and 74.932(a) of the Commission's Rules, respectively, 47 CFR 74.913(b) and 74.932(a) should not be filed outside the window period. Similarly, we shall prohibit the filing of amendments to a facility's proposed technical operations, including amendments to add any receive sites, outside the window. Such engineering amendments often require a time-consuming re-analysis by the staff of the amendment's effects on other applications and thus delay the processing of all pending applications. However, with the two exceptions noted above, such delay is not inherent in non-engineering amendments, including requests for waiver of the four-channel rule, and we will consequently permit their filing.

12. We make a narrow exception to the window filing system. NTIA rules require a party seeking a grant to have already filed its application with the Commission, and those requests are subject to an annual deadline. Accordingly, in order not to obstruct these grants, we shall allow the tendering of applications that rely upon NTIA funding during the 30 days preceding the annual deadline. They shall be considered as having been filed during the current or immediately subsequent window, whichever is appropriate.

13. In response to several commenters, we decline generally to exempt the filing of major change applications from the window filing process, and, as discussed above, we similarly decline to exempt amendments with similar effects. By definition, such changes can substantially impact both existing and proposed facilities. Accordingly, for the purpose of the window filing procedure,

they should be treated the same as applications for new facilities. However, consistent with existing practice, we shall continue to make a narrow exception for amendments to pending applications that would resolve mutually exclusive applications without creating any additional interference. We will accept such amendments at any time, and we shall provide a 30-day period for the submission of petitions to deny those amendments. We believe that this will most efficiently bring new or improved service to the public. Further, to encourage market settlements, we shall now allow licensees of existing facilities to submit at any time applications for major changes, as long as the changes are essential components of a settlement involving mutually exclusive applications.

14. The Commission declines to adopt several other exceptions that the commenters propose. These rules would significantly disrupt the new window filing system, while promoting no public interest that is not already being served by the filing procedure or other ITFS rules.

Proposals to Improve the Application Process

15. As argued by the commenters, and noted in the *Further Notice*, the goals of the proposed window filing procedure could be maximized if we at the same time enacted additional rules that would increase its efficiency. Therefore, we set forth several proposals, many initially advanced by the commenters, that were intended to improve service to the public or otherwise enhance processing efficiency. Our analysis of each of the proposals will be affected by two factors. First, as noted above, is the proposed electronic filing and processing system for ITFS applications, which would diminish the negative impact that a large number of applications has had on our processing in the past. Second, implementation of the proposals adopted herein and strict enforcement of our existing rules will, we believe, eliminate many of the inefficiencies and alleged abuses of the existing processing system.

Financial Qualifications

16. *Proposal.* Currently, applicants are required to certify their financial ability or their reliance upon NTIA funding. In response to the *Notice*, two commenters proposed to require applicants or their prospective wireless cable lessees to submit with their applications proof of their financial ability to construct. In the *Further Notice*, 59 FR 35665 (July 13, 1994) we postulated that such a