

ORIGINAL

MANIA K. BAGHDADI
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
THOMAS J. DOUGHERTY, JR.
JAMES G. ENNIS
RICHARD HILDRETH
EDWARD W. HUMMERS, JR.
FRANK R. JAZZO
BARRY LAMBERGMAN
PATRICIA A. MAHONEY
GEORGE PETRUTSAS
ROBERT D. PRIMOSCH
LEONARD R. RAISH
JAMES P. RILEY
DAVID N. ROBERTS*
MARVIN ROSENBERG
STEPHEN R. ROSS
ESTELLA SALVATIERRA
TIMOTHY R. SCHNACKE**
LONNA M. THOMPSON

*ADMITTED IN TEXAS ONLY
**ADMITTED IN KANSAS ONLY

FLETCHER, HEALD & HILDRETH

ATTORNEYS AT LAW

SUITE 400, 1225 CONNECTICUT AVENUE, N.W.

WASHINGTON, D.C. 20036-2679

(202) 828-5700

TELECOPIER NUMBER

(202) 828-5786

PAUL D.P. SPEARMAN
(1936-1982)
FRANK ROBERSON
(1936-1961)

FILE

RETIRED
RUSSELL ROWELL
EDWARD F. KENEHAN
ROBERT L. HEALD
FRANK U. FLETCHER

SPECIAL COUNSEL
JAMES L. HOFFMAN, JR.

TELECOMMUNICATIONS CONSULTANT
HON. ROBERT E. LEE

WRITER'S NUMBER
(202) 828-5760

December 19, 1991

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DEC 19 1991

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

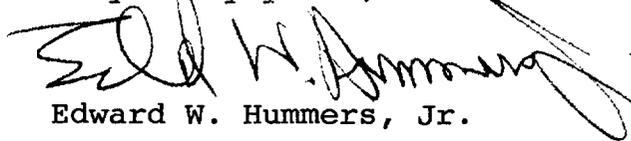
Re: Amendment of Sections 73.1690(b)(1)
and 73.1690(d) of the Rules

Dear Ms. Searcy:

Transmitted herewith, on behalf of Fletcher, Heald and Hildreth, are an original and four copies of its "Petition for Rule Making" in the above-referenced matter.

Should any questions arise concerning this matter, please communicate with the undersigned.

Very truly yours,


Edward W. Hummers, Jr.

EWH/sj
Enclosures

ORIGINAL
RECEIVED

BEFORE THE

Federal Communications Commission

DEC 19 1991

WASHINGTON, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Sections 73.1690(b)(1) and)
73.1690(d) of the Rules)
Modification of Transmission Systems)

RM-_____

To: Chief, Policy and Rules Division
Mass Media Bureau

PETITION FOR RULE MAKING

Fletcher, Heald & Hildreth, attorneys at law specializing in broadcast regulation and other areas of telecommunications law, requests the Commission to amend Sections 73.1690(b)(1) of its Rules and Regulations, 47 CFR §§ 73.1690(b)(1) and 73.1690(d), as more specifically set forth below.

1. Section 73.1690 sets forth the procedures and restrictions applying to licensee modifications of authorized broadcast system transmission facilities. Section 73.1690(b) provides, in pertinent part, as follows:

The following changes may be made only upon specific authority of the FCC. Applications requesting authorization must be filed on FCC Form 301 for commercial stations and on FCC Form 340 for noncommercial educational stations.

(1) Any change in the location, overall height of antenna structure, or directional radiation characteristics of a directional antenna system. (See § 73.45 and § 73.150, AM; § 73.316, FM; § 73,510, noncommercial educational FM; or § 73.685, TV.)

Emphasis added. Hence, under subsection (1), every television and FM station licensee must file an FCC Form 301 for a construction permit and then file a subsequent FCC Form 302 to license any change in the height of the antenna supporting structure even though there will be no change of any kind in the transmission facilities of the licensed stations.

Today, and increasingly in the future, television and FM licensees are being located on structures that support multiple licensees of various communications services. Frequently, the television and FM antennas are side mounted and not located at the top of the structure. Further, in many cases, the multipurpose structure is owned by a party other than an individual licensee. To require all television and FM licensees to file applications for construction permits and licenses when an unrelated tower change is made by a third party, subjects the Commission to the processing of unnecessary applications and subjects licensees to unnecessary engineering, legal and filing fee expenses.

The Commission need not be concerned with every change in the height of antenna supporting structures. The tower owner or proponent of the change in height of a structure, when required, notifies the FAA and obtains a determination of no hazard to air navigation. If the change affects the transmission facilities of a television or FM station (e.g., an increase or decrease in the center of radiation), Section

73.1690 otherwise requires the filing of an appropriate application. Where the change in height of a structure is made to accommodate a non-FCC licensed facility, the Commission has no interest with which it is concerned.

As a television and FM station license does specify the height above ground of the antenna supporting structure^{1/} and to update the records of the Commission's Antenna Survey Branch, the Commission may require an informal written notice of any change in height of an antenna supporting structure. Such a procedure would follow that now used by the Commission to report a change in licensee name.^{2/} As with a name change, the revision in the station license is reflected on the station license when it is subsequently otherwise issued by the Commission.

To satisfy the Commission's interests, it is requested that Section 73.1690(b)(1) be amended to read as follows:

Any change in location, height above ground of the center of radiation of a TV or FM antenna, overall height of AM antenna structure, or directional characteristics of a directional antenna system. (See § 73.45 and § 73.150, AM; § 73.316, FM; § 73,510, noncommercial educational FM; or § 73.685, TV.)

Further, it is suggested that the provision for informal

^{1/} There is a question of the need to specify the overall tower height above ground on a license.

^{2/} At one time the Commission required the filing of an FCC Form 301 application when a licensee had a corporate name change.

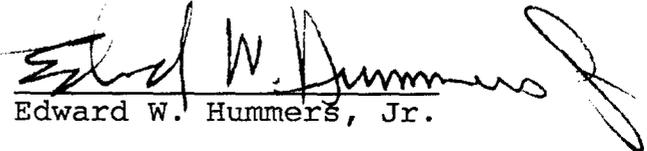
notification set forth in Section 73.1690(d) be amended to included new subsection (4) to read as follows:

(4) Change in overall television or FM antenna supporting structure height above ground including obstruction lighting.

The requested change will result in the saving of resources of the Commission and its licensees and will not compromise the Commission's regulatory responsibility or process.

Respectfully submitted,

FLETCHER, HEALD & HILDRETH

By: 
Edward W. Hummers, Jr.

December 19, 1991

Fletcher, Heald & Hildreth
1225 Connecticut Avenue, NW
Suite 400
Washington, DC 20036
(202) 828-5700