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Before the  
 Federal Communications Commission  
 Washington, D.C. 20554

MM Docket No. 92-304

In the Matter of:

Renewal Reporting Requirements for  
 Full Power, Commercial AM, FM and TV  
 Broadcast Stations

### REPORT AND ORDER

Adopted: August 20, 1993; Released: September 1, 1993

By the Commission:

#### I. INTRODUCTION

1. On December 30, 1992, the Commission released a *Notice of Proposed Rule Making (Notice)*<sup>1</sup> in the above-captioned proceeding. The Commission initiated this proceeding to consider whether to require licensees of certain types of broadcast stations to report on their license renewal applications the current status of their operations. In particular, the Commission proposed to modify FCC Form 303-S to require licensees of full power commercial AM, FM and TV stations to report, at the time their license renewal applications are submitted, whether their stations are on the air or have discontinued operations. As discussed below, we are adopting the proposed changes to FCC Form 303-S.

#### II. DISCUSSION

2. *Comments.* In response to the *Notice*, the National Association of Broadcasters (NAB) and National Public Radio (NPR) filed comments. No reply comments were filed. NAB supports the Commission's proposal to modify Form 303-S as stated above. NAB believes, however, that the Commission should not use the information regarding discontinued station operations to foster re-licensing of these stations, but to reduce "the surplus of radio stations throughout this country." Specifically, NAB asserts that when a station has discontinued operations, that station's license should be cancelled or denied and its underlying

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allotment deleted.<sup>2</sup> NAB states that such action would be consistent with the Commission's decision on AM improvement<sup>3</sup> and would further important policy goals.

NPR filed comments asking that, should the Commission adopt the change proposed in the *Notice*, the Commission make clear its stated intention that noncommercial stations be exempted from the new requirement. NPR specifically requests that the Commission include in the instructions for the new question a statement that the question does not apply to noncommercial broadcast stations. Without such instructions, according to NPR, it is possible that noncommercial stations will interpret the added question as applicable to them. Many such stations that are off the air in compliance with the Commission's Rules will answer the new question in the affirmative and unnecessarily prepare an attachment explaining the station's operating schedule.

4. *Decision.* When the Commission adopted the *Notice*, we were aware of more than 200 commercial AM and FM stations that had discontinued operations. In the time since adoption of the *Notice*, we have seen the number of reported silent AM and FM stations grow to more than 300. Of these stations, a number have gone silent without timely notification to the Commission as required by our Rules.<sup>4</sup> As we indicated in the *Notice*, when the Commission is unaware that a station has gone off the air, the lack of information about a station's operations impairs the Commission's ability to properly discharge its responsibility to determine whether grant of the renewal would be in the public interest. For example, if we are unaware that a station has gone off the air, we cannot assess whether the licensee has complied with our rules for doing so, whether the cessation of service is justified, and whether the licensee has developed an acceptable plan for resuming broadcast service. Such considerations persuade us that adoption of the proposed changes to Form 303-S is warranted. The information gathered will be of substantial benefit to the Commission while imposing, at most, a minor burden on licensees.

5. NAB has raised the issue of what should be done with respect to an FM allotment listed in our Rules once the license of a silent FM station has been cancelled. NAB urges that the allotments of silent stations should simply be deleted. This determination, however, is outside the scope of this proceeding, and we will not therefore address the issue herein. In any event, as indicated above, NAB has previously raised this issue in a separate petition for rule making, and that petition has been placed on Public Notice.

6. In its comments, NPR has raised legitimate concerns relating to the instructions to Form 303-S. Currently, Form 303-S contains general instructions and question-by-question guidelines. The general instructions provide basic information that is of use to the applicant, such as where and

<sup>1</sup> 8 FCC Rcd 49 (1992)

<sup>2</sup> NAB filed a petition for rule making on February 10, 1992, urging the Commission to initiate a comprehensive review of the Commission's FM allotment policies. In that petition, NAB raises, *inter alia*, the issue of deleting the allocation of silent FM stations.

<sup>3</sup> *Report and Order* in MM Docket No. 87-267, 6 FCC Rcd 6273 (1991).

<sup>4</sup> Section 73.1740(a)(4) of the Commission's Rules permits commercial AM, FM and TV licensees to limit or discontinue

operations for a period of 30 days without authority from the Commission. Licensees are required, however, to notify the Commission of limited or discontinued operations not later than the 10th day of such operation. The licensee is required to request additional time if station operations are not resumed within 30 days. In addition, Section 73.1750 requires these commercial licensees to tender their license authorizations to the Commission for cancellation when discontinuance of station operations is permanent.

