

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.624(g) of the)	MB Docket No. 17-264
Commission’s Rules Regarding Submission of)	
FCC Form 2100, Schedule G, Used to Report TV)	
Stations’ Ancillary or Supplementary Services)	
)	
Amendment of Section 73.3580 of the)	
Commission’s Rules Regarding Public Notice of)	
the Filing of Broadcast Applications)	
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	
Revision of the Public Notice Requirements of)	MB Docket No. 05-6
Section 73.3580)	

COMMENTS OF NEXSTAR BROADCASTING, INC.

Nexstar Broadcasting, Inc. (“Nexstar”), the licensee of 159 full-power and Class A television stations, respectfully submits these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking¹ pursuant to which the FCC proposes to (i) amend the ancillary services reporting rule which mandates that “each December 1, all commercial and noncommercial DTV licensees and permittees will electronically report whether they provided ancillary or supplementary services in the 12-month period ending on the preceding September 30,”² (ii) eliminate that portion of the local public notice rule (“LPN Rule”) which requires broadcasters to provide public notifications of certain filings in a local daily newspaper (or absent a local daily option, in order of preference,

¹ See *Amendment of Section 73.624(g) of the Commission’s Rules Regarding Submission of Form 2100, Schedule G, Used to Report TV Stations’ Ancillary or Supplementary Services*, Notice of Proposed Rulemaking, 32 FCC Rcd 8203 (rel. Oct. 24, 2017) (“NPRM”).

² See 47 CFR §73.624(g)(2)(i) (the “Ancillary Services Rule”); see also *Media Bureau Waives Deadline for Filing FCC Form 2100, Schedule G*, Order, DA 17-1112 (MB Nov. 15, 2017).

a local weekly newspaper, a daily newspaper published outside the local community with the “greatest general circulation in that [local] community....”), and (iii) modify that portion of the LPN Rule which requires broadcasters to publicly announce on air the filing of certain applications to eliminate the obligation to verbally announce all parties to certain applications.³

Nexstar applauds the Commission’s continuing efforts to modernize its rules and reduce the administration burdens and costs on both the Commission and its regulates in complying with outdated rules. Eliminating a requirement that a broadcaster affirmatively file paperwork that states it “did not do something” clearly saves time and resources. In addition, as the Commission is well aware, the methods by which the American public communicates and consumes information has changed dramatically since its rules were implemented.⁴ In today’s multimedia, multiplatform information environment viewers and listeners no longer turn first to newspapers to find information and requiring broadcasters to publish information in a resource that no longer serves the purpose of providing notice to allow the public to participate in the licensing process is not simply unproductive, but also an unnecessary waste of time and money. Accordingly, Nexstar urges the Commission to revise its rules to eradicate the superfluous ancillary/supplementary reporting obligations and antiquated LPN Rule obligations, both of which not only consume scarce resources but also do not serve the public interest.

³ 47 C.F.R. §73.3580.

⁴ See *Amendment of Section 73.1216 of the Commission's Rules Related to Broadcast Licensee-Conducted Contests*, Report and Order, 30 FCC Rcd 10468,10472 (2015) (the public today accesses information in ways that are dramatically different from how they did when the Contest Rule was adopted. The Internet has become a fundamental part of consumers’ daily lives and now represents the medium used most by the public to obtain information instantaneously.”); see also, *Elimination of Main Studio Rule*, Report and Order, 32 FCC Rcd 8158, 8164 (2017) (“we agree with Univision that today, ‘providing service to, interacting with, and maintaining awareness of a community is not dependent upon locating a station’s offices within certain arbitrary geographic boundaries imposed by the’ main studio rule”; “ technological innovations have eliminated the need for a local main studio, the costs of complying with the main studio rule substantially outweigh any benefits.”)

I. THE COMMISSION SHOULD LIMIT THE ANCILLARY SERVICES FILING REQUIREMENT TO THOSE BROADCASTERS WHO PROVIDE SUCH SERVICES.

As Nexstar commented in the Commission’s initial modernization proceeding, the Commission should amend the Ancillary Services Rule so that only those broadcasters required to pay a fee need to go through the effort of filing a report.⁵ Under the current rule, all DTV stations (full-power, Class A, low power and translator stations) are required to file an annual ancillary/supplementary report, on Form 2100, Schedule G, by December 1 of each year. As of September 30, 2016, there were 1,778 full power commercial and noncommercial television stations, all of which were required to file the annual ancillary/supplementary report by December 1, 2016.⁶ After analyzing those filings, the Commission reported that “fewer than 15 stations reported receiving revenues from their provision of ancillary or supplementary services in 2016,” which revenues totaled “roughly \$260,000” resulting in the Commission’s collection of roughly \$13,000 in fees.⁷ That is, in 2016, only 0.84% of all full power digital television stations had information to report and fees to submit, and more than 99% of such stations did not.

Similarly, there were approximately 6,552 total digital full-power, Class A, low power and translator stations as of December 18, 2017,⁸ which absent the Commission’s waiver of the December 1, 2017 filing deadline for the report, would have been required to file an annual ancillary/supplementary report in 2017 – an unnecessary waste of time and resources for virtually all of those stations. Moreover, based on 2016’s reporting and revenue disclosures, the likelihood that the revenues received from ancillary services will cover the agency’s cost to administer and

⁵ See *Media Bureau Opens MB Docket No. 17-105*, Public Notice, 32 FCC Rcd 3218 (rel. Apr. 27, 2017); see also Comments of Nexstar Broadcasting, Inc. (“Nexstar Comments”), MB Docket No. 17-105 at 18 (July 5, 2017).

⁶ See *Broadcast Station Totals As Of September 30, 2016*, News Release, DOC-341807A1 (MB Oct. 19, 2016).

⁷ *NPRM*, 32 FCC Rcd at 8208.

⁸ <https://enterpriseefiling.fcc.gov/dataentry/public/tv/publicFacilitySearchResults.html> using search fields “licensed”, “licensed and silent”, “full service television”, “digital Class A”, “digital Low Power”, and “digital translator”. (Last visited on Dec. 18, 2017.)

review the annual submissions, post the respective filed copies to the online public inspection files, and process the associated fees is slim at best. Conversely, requiring only those broadcasters who have provided ancillary services during the preceding period to submit the report reduces the costs to such stations and saves the Commission time and money, without compromising public service or any reporting responsibility that it may have to Congress.⁹

Accordingly, Nexstar supports the Commission's proposal to modify the Ancillary Services Rule to require only those DTV stations that actually provide feeable ancillary or supplementary services to submit Form 2100, Schedule G on an annual basis, and urges the Commission to eliminate the unnecessary and unduly burdensome filing requirement on those stations who do not provide such services.¹⁰

II. THE COMMISSION'S LPN RULE IS OUTDATED AND NO LONGER SERVES THE PUBLIC INTEREST.

Nexstar reaffirms its position that the current LPN Rule is outdated and inefficient.¹¹ The Commission adopted the LPN Rule to ensure members of a station's community were able to obtain information about the ownership and operations of the stations serving their communities. To that end, the current rule mandates that broadcasters disclose the submission of certain applications in a newspaper, while for other applications, broadcasters are required to make on-air announcements regarding the application filing, either alone or in combination with newspaper publication.¹²

To satisfy its newspaper publication obligations, a broadcaster is first required to determine which newspaper in, or nearest to, its community of license satisfies the rule – not always an easy

⁹ *NPRM*, 32 FCC Rcd at 8208.

¹⁰ Nexstar also reiterates its suggestion that the Commission consider lowering the fee for ancillary and supplementary services from five percent (5%) to one percent (1%) to encourage broadcasters to experiment with new and innovative ways to use their spectrum. Nexstar Comments at 18.

¹¹ Nexstar Comments at 15-16.

¹² 47 C.F.R. §73.3580.

task. As the Commission is well aware, newspaper circulation has declined significantly in the past decade plus. Between 2004 and 2016, 56 daily newspapers were closed or merged, with another 109 newspapers shifting to weekly rather than daily publication.¹³ In addition, weekday and Sunday print circulation decreased 10 percent and nine percent, respectively, in 2016.¹⁴

Once the broadcaster accomplishes the task of determining which newspaper meets the LPN Rule newspaper requirements for its application, it must then contact said newspaper to initiate a request for publication, negotiate where the notice will be placed, provide the required notice information and dates to publish, confirm the text and review the proposed notice for accuracy, monitor the newspaper to confirm the notice did in fact publish as required, and obtain an affidavit of publication – all of which is time consuming and costly.

Broadcasters are required to undertake all of this to comply with the rule knowing that newspaper publication does nothing to ensure that members of its community will see the notice and learn the information. In fact, the Commission tacitly confirms this with its decision to rely entirely on over-the-air broadcasts to notify communities and viewers with respect to station relocations occurring as a result of the spectrum auction. In today’s media environment, the newspaper publication portion of the LPN Rule simply does not serve the public interest.

Nexstar also urges that the Commission modify the “on-air broadcast” portion of the LPN Rule to permit broadcasters to direct viewers to a website when broadcasting an entire announcement over-the-air would be cumbersome and difficult for the viewer to comprehend. As Nexstar has experienced firsthand with recent assignment of license and/or transfer of control

¹³ See *The Rise of a New Media Baron and the Emerging Threat of News Deserts*, Penelope Muse Abernathy, 2016, at 12-14 (http://newspaperownership.com/wp-content/uploads/2016/09/07.UNC_RiseOfNewMediaBaron_SinglePage_01Sep2016-REDUCED.pdf) (last visited Dec. 26, 2017).

¹⁴ See Newspaper Fact Sheet, State of the News Media, Pew Research Center, 2016 (<http://www.journalism.org/fact-sheet/newspapers/>) (last visited Dec. 18, 2017).

applications, listing all of the officers, directors and attributable shareholders for both the assignor/transferor and assignee/transferee can take anywhere from 30 seconds to several minutes. An endless list of names that rolls by fairly rapidly does nothing to educate a local viewer. Indeed, it is highly likely that, if asked immediately after hearing such a broadcast, a viewer would not be able to name a single name announced in the notice.

Conversely, posting local public notice on a station's website not only allows the viewer to review the information in a manner that permits better comprehension, but also gives the viewer more information through a link to the actual application.

Therefore, Nexstar embraces the Commission's proposal to "afford [broadcasters] more flexibility in the means by which they can [satisfy] the notice [requirements]."¹⁵ Similar to the amendment to the contest rule which allows broadcaster's the latitude to determine how/where they provide the mandatory contest disclosures to viewers, updating the local public notice rule to eliminate the newspaper publication requirement and permit on-air broadcasts to reference additional information on a station's website will benefit the public interest by making the information more accessible. In addition, these modifications will allow broadcasters to have exclusive control of when, where and how the notice is published to its site and link to the actual application itself. This, in turn, will provide the public with the ability to review, enlarge, share and/or print the requisite notice at its convenience. Accordingly, Nexstar encourages the Commission to swiftly amend the LPN Rule to eliminate the newspaper publication obligation and permit the use of the station website for provision of more detailed information.

¹⁵ *NPRM*, 32 FCC Red at 8210.

III. CONCLUSION.

The Commission must continue its momentum to improve communication and outreach with the public and to stem the tide of wasted resources, within both the agency and the broadcast industry. For the foregoing reasons, the Commission should amend the Ancillary Services Rule to require submission of the annual report only by those stations earning feeable revenues during the applicable reporting period and modify the LPN Rule to comport with current communications methods. Modification of these rules will remove unnecessary, burdensome obligations which hinder the Commission's efficiency as well as broadcasters' ability to most effectively serve their communities.

Respectfully submitted,

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