

1.1204

July 14, 1988
88-192

RECEIVED

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 1

GENERAL EXEMPTIONS

JUL 11 1996

1.1204 GENERAL EXEMPTIONS.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

EDITOR'S NOTE: Section 1.1204(a)(1)-(3) have been so completely revised by Amendment No. 88-192, that the previous wording is not shown.

(a) PROCEEDINGS IN WHICH NO EX PARTE RESTRICTIONS APPLY.

Subject to the provisions of §1.1203 (Sunshine Period Prohibition), §1.1206 (Non-Restricted Proceedings), and §1.1208(b) (Restricted Proceedings), there are no ex parte restraints or disclosure requirements in the following types of proceedings:

- (1) An adjudicative proceeding as defined in §1.1202(d) or other proceeding specified in §1.1208(c)(1)(ii) unless it
 - (i) Is formally opposed or involves a formal complaint (see §1.1202(e)); or
 - (ii) Involves mutually exclusive applications; or
 - (iii) Has been designated for hearing (see §1.1208(c)(1)(i)).
- (2) A pending petition for rule making unless it
 - (i) Involves the allotment of a channel in the radio broadcast or television broadcast services, and
 - (ii) Is formally opposed (see §1.1208(c)(2)).

NOTE.—In proceedings exempted by subsection 1.1204(a)(1) or (a)(2)(i), oral ex parte communications are permissible, but only between the Commission and the formal party involved or his representative. Any informal objectors (whether their objections are oral or written) are subject to ex parte procedures set forth in §1.1208 barring oral ex parte contacts except where confidentiality is necessary to protect these persons from possible reprisals. Oral communications between Commission staff and advisory coordinating committee members with respect to coordination of assignment of frequencies in the private land mobile services and fixed services authorized under 331 of the Communications Act are not prohibited.

- (3) A request for information which is filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, unless it is formally opposed and where the requested information is not the subject of a request for confidentiality.

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FCC/1-138
RULES SERVICE CO.

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WASHINGTON, D.C.

Federal Communications Commission

Docket No. GC 95-172 Exhibit No. 1

Presented by Rainbow Broadcasting

Disposition	}	Identified	<u>X</u>
		Received	<u>X</u>
		Rejected	

Reporter 98

Date 6-25-96

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1.1204(a)(4)

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- (4) A notice of inquiry proceeding unless the Commission states otherwise, see §1.1206(b)(2). (Added 87-94, 7/6/87)
- (5) A proceeding involving an informal complaint against a carrier under section 208 of the Communications Act (see §1.711 of the Rules) unless it has been designated for hearing. (Added 87-94, 7/6/87)
- (6) A tariff proceeding under section 203, 204, or 205 of the Communications Act unless it has been set for investigation (see §1.1206(b)(6)). This exemption from the ex parte requirements shall also extend to requests for waiver or for special permission directly associated with a particular tariff filing made pursuant to these Sections of the Act, unless the Commission states otherwise. (Revised 87-303, 10/7/87)
- (7) A proceeding conducted pursuant to section 220(b) of the Communications Act for prescription of common carrier depreciation rates prior to release of a public notice of specific proposed depreciation rates for a carrier or carriers.
- (8) A petition or request for declaratory ruling unless a formal opposition has been filed.
- (9) A rule making proceeding conducted pursuant to sections 201(a), 213(a), 221(c) or 222 of the Communications Act or sections 201(c)(2) or 201(c)(5) of the Communications Satellite Act of 1962, unless the proceeding has been formally opposed or has been set for investigation by the Commission.
- (10) A proceeding under section 221(a) of the Communications Act unless a formal request for hearing has been made by an entity specified in that section.
- (11) A proceeding under section 214(a) of the Communications Act unless a formal opposition has been filed or the proceeding has been designated for hearing.

NOTE.—In proceedings exempted by subsection 1.1204(a)(3), (a)(8), (a)(9), (a)(10), or (a)(11), oral ex parte communications without disclosure pursuant to §1.1206 are permissible, but only between the Commission and the formal party involved or his representative. Any informal objectors (whether their objections are oral or written) are subject to ex parte procedures set forth in §1.1206 requiring disclosure of such communications except where confidentiality is necessary to protect those persons from possible reprisals.

1.1202(d)

October 7, 1987
87-303

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 1

(d) ADJUDICATIVE PROCEEDING.

Any proceeding other than a rule making or a tariff proceeding involving future rates or practices, initiated upon the Commission's own motion or upon the filing of an application, a petition for special relief or waiver, or a complaint or similar pleading that involves the determination of rights and responsibilities ~~as between~~ of specific parties.

(e) FORMAL OPPOSITION OR FORMAL COMPLAINT.

- (1) A pleading opposing the grant of a particular application, waiver request, petition for special relief or other request for Commission action, or a pleading in the nature of a complaint (other than a section 208 complaint), which meets the following requirements: (Added 87-94, 7/6/87)
 - (i) The caption and text of a pleading make it unmistakably clear that the pleading is intended to be a formal opposition or formal complaint; (Added 87-94, 7/6/87)
 - (ii) The pleading is served upon the other parties to the proceeding or, in the case of a complaint, upon the person subject to the complaint; and (Added 87-94, 7/6/87)
 - (iii) The pleading is filed within the time period, if any, prescribed for such a pleading; (Added 87-94, 7/6/87)
- (2) A formal complaint under section 208 of the Communications Act if it meets the requirements of §1.721 *et seq.* of the Commission's Rules (formal complaints against common carriers). (Added 87-94, 7/6/87)

(f) SUNSHINE AGENDA PERIOD.

For purposes of this subpart, the Sunshine Agenda period is defined as the period of time that commences with release of a public notice that a matter has been placed on the Sunshine Agenda and that terminates when the Commission: (Added 87-94, 7/6/87)

- (i) ~~Releases a final order, or~~ Releases the text of a decision or order relating to the matter, or
- (ii) ~~Issues a public notice stating that the matter has been deleted from the Sunshine Agenda, or~~
- (iii) ~~Issues a public notice stating that the matter has been returned to the staff for further consideration,~~

whichever one of the above occurs first. (Added 87-94, 7/6/87)