

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

In the Matter of)
)
Expansion of Online Public File Obligations)
to Cable and Satellite TV Operators and) MB Docket No. 14-127
Broadcast and Satellite Radio Licensees)

**COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

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INTRODUCTION AND SUMMARY	1
I. ANY NEW PUBLIC INSPECTION FILE RULES SHOULD SEEK TO MINIMIZE UNDUE BURDENS ON CABLE OPERATORS AND TO CONSERVE LIMITED RESOURCES.....	2
A. The Online Public File Database for Cable Systems Should Eliminate Duplicative Uploads.....	3
B. The Commission Should Organize the Cable System Online Public File Using Information That It Has Already Obtained.....	9
C. The Commission Should Provide an Appropriate Transition to an Online Public File.....	11
D. Once A Cable System Has Transitioned to An Online Public File, the Commission Should Make Clear that a Local Public File Is No Longer Required.....	13
II. THE COMMISSION SHOULD REDUCE PUBLIC FILE BURDENS FOR SMALL CABLE SYSTEMS.....	14
CONCLUSION.....	16

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The National Cable & Telecommunications Association (NCTA)¹ hereby responds to the *Notice of Proposed Rulemaking* (“*Notice*”) in the above-referenced proceeding.²

INTRODUCTION AND SUMMARY

The *Notice* looks to expand to cable operators and other entities the current online public inspection file requirement applicable to television broadcasters. The proposal to require cable operators to post material to an online Commission database is intended to “extend the benefits of improved public access to public inspection files and, ultimately, reduce the burden on these other entities of maintaining these files.”³ Consistent with these goals, any new public inspection file rules should seek to minimize burdens on cable operators by limiting the material that operators will need to upload to the Commission database.

Given the large number of cable systems and numerous common documents that must be retained in local public files, the database should be organized in a manner that eliminates

¹ NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation’s cable television households and more than 200 cable program networks. The cable industry is the nation’s largest provider of broadband service after investing over \$230 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to more than 28 million customers.

² See *In re Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Notice of Proposed Rulemaking, 29 FCC Rcd 15943 (2014) (“*Notice*”).

³ *Id.* ¶ 1.

unnecessary duplication. Specifically, the database should be designed so that a single upload is able to populate multiple files; cable operators should be allowed to link to existing company electronic databases; and the Commission should import routine operator filings to the new online public file database. In addition, the rules should provide an appropriate transition period to avoid unduly taxing company resources. Finally, the Commission should exempt certain smaller cable systems from the online file requirement.

I. ANY NEW PUBLIC INSPECTION FILE RULES SHOULD SEEK TO MINIMIZE UNDUE BURDENS ON CABLE OPERATORS AND TO CONSERVE LIMITED RESOURCES.

Consistent with the Commission’s stated goal in this proceeding, any new regulations should be approached “in a manner that avoids unnecessary burdens.”⁴ In several respects – particularly by clarifying that proof-of-performance records need only be made available upon request of the Commission or local franchising authority – the *Notice* identifies appropriate ways to achieve that goal.

However, the Commission should do more in developing the online public file database to minimize undue burdens on cable operators. The *Notice* states that “[r]equiring cable systems to maintain a public file merely follows our policy for broadcast licensees and is necessary for similar reasons.”⁵ However, there are key differences between the broadcast and cable contexts that must be considered in designing and implementing the Commission’s database to reduce

⁴ *Id.* ¶ 15. The Commission must also avoid such burdens to honor the restrictions on unnecessary and duplicative requirements imposed by the Paperwork Reduction Act. *See* NCTA Reply Comments at 2, n.6. Unless otherwise indicated, all comments and reply comments cited herein were filed in MB Dkt. No. 14-127 on August 28, 2014, and September 8, 2014, respectively.

⁵ *Notice* ¶ 4 (quoting *In re Amendment of Part 76 of the Commission’s Rules and Regulations Relative to Obligations of Cable Television Systems to Maintain Public Inspection Files and Permit System Inspections*, Notice of Proposed Rulemaking, 45 FCC 2d 669 ¶ 2 (1974)).

further burdens on cable operators.⁶ There are more than twice as many cable systems than broadcast television stations.⁷ In addition, unlike the case with television broadcasters, because “the Commission maintains very few documents cable operators must retain in their public inspection files, most documents in the cable online file will be required to be uploaded by cable operators themselves.”⁸ Indeed, as the Commission recognizes, the rules proposed in the *Notice* will potentially strain Commission resources by “greatly increas[ing] the number of users of the file and the volume of material that must be uploaded.”⁹

For all these reasons, several additional measures should be taken that will minimize burdens on cable operators without sacrificing the goal of improving public access to public files.

A. The Online Public File Database for Cable Systems Should Eliminate Duplicative Uploads.

As we previously explained, “[i]n contrast to broadcasters, individual cable operators may have operations spanning multiple systems in one designated market area (“DMA”), with each system maintaining its own local public inspection file.”¹⁰ The public inspection files of systems served by the same cable operator, especially in the same geographic area, contain

⁶ See NCTA Comments at 3-4. In addition to differences in industry structure and public file requirements, there are differences in the statutes governing broadcast and cable. As we previously noted, “the requirement for television stations to post their public files online arose in part from the broadcast licensing process under the Communications Act – statutory provisions not applicable to cable.” *Id.* at 1-2.

⁷ Compare FCC, News Release, *Broadcast Station Totals as of December 31, 2014* (Jan. 7, 2015) (reporting 1,785 full power television stations and 431 Class A television stations), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-331381A1.pdf, with *Notice* ¶ 22, n.71 (noting that 4,629 cable systems are registered in the Commission’s database as of October 2014).

⁸ *Notice* ¶ 41.

⁹ *Id.* ¶ 22 (“In addition, we recognize that there is likely to be a heavy demand on the online file during peak political seasons, when many broadcast stations take new advertising orders and modify existing orders on a daily basis.”).

¹⁰ NCTA Comments at 3.

significant amounts of duplicative material.¹¹ Some materials, especially commercial records on children’s programs (as explained in more detail below), are duplicated in the public files of many different cable operators. Such massive amounts of duplicative material would exponentially increase the needed capacity of the Commission’s public file database for no useful reason, which could unnecessarily impair the database’s functionality.¹²

One critical way in which to reduce unnecessary duplication of efforts would be to provide the capability “to permit entities to upload documents to multiple online files using a single upload.”¹³ Such capability would also preserve limited resources (both in terms of capacity on the Commission’s database and with respect to the limited resources of cable operators). The Commission launched this capability in its electronic comment filing system (“ECFS”) years ago.¹⁴ Similar capability must be incorporated into the existing online database before thousands of additional entities are required to begin uploading documents. Likewise,

¹¹ Public file material common, or substantially the same, throughout an operator’s footprint includes “documents pertaining to a cable operator’s attributable programming interests or documents demonstrating compliance with the commercial limits in children’s television.” *Id.* at 4, n.11. Materials common across a designated market area (“DMA”) might include Equal Employment Opportunity (“EEO”) reports, documents pertaining to fulfillment of must-carry requirements, channel lineups, and political filings. *See Notice* ¶¶ 38-43 (listing the requirements and information proposed to be in the public file for cable systems).

¹² According to NAB, “[f]or the past two years, television broadcasters have faced congestion bandwidth in uploading files during peak periods.” NAB Comments at 5; *see also Notice* ¶ 22. Other Commission databases have experienced severe difficulties due to volume in recent months. *See FCC, Public Notice, Wireline Competition Bureau Will Treat As Timely Filed Any Comments Filed in Response to the Open Internet Notice of Proposed Rulemaking and the Framework for Broadband Internet Access Service Refreshing the Record Public Notice if Filed By July 18, 2014*, 29 FCC Rcd 8335 (2014) (extending the comment deadline and explaining that “[b]ecause of high volume with [ECFS], some parties are experiencing difficulties accessing ECFS”). Such challenges may continue in the near future. According to Chairman Wheeler, the Commission has “far fewer personnel in IT than comparable agencies,” it has “more than 200 incompatible, aging computer systems,” and it must “overhaul, upgrade, secure and replace IT systems that are antiquated relics.” *Hearing on the FCC’s Fiscal 2015 Budget Request Before the Subcomm. on Fin. Servs. and Gen. Gov’t of the H. Comm. on Appropriations*, 113th Cong. (2014) (statement of Tom Wheeler, Chairman, FCC at 3).

¹³ *Notice* ¶ 23; *see also id.* ¶ 23, n.78 (“Commenters also note that television stations today often have to upload the identical file into the online file individually for every station in a station group. The file does not permit this task to be accomplished using a single upload.”).

¹⁴ *See FCC, News Release, FCC Announces the Public Launch of the Electronic Comment filing System (ECFS) Version 2.0* (Oct. 14, 2009) (announcing “the ability for users to file multiple documents to multiple rulemakings in a single submission”), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-293952A1.pdf.

before new rules go into effect, the Commission should complete its work on an interface, as suggested in the *Notice*, that “would enable an entity to establish a link between its own privately-maintained electronic file database at the system or station to enable automatic synchronization with the database hosted at the FCC.”¹⁵

A second way to reduce duplication of effort would be to allow cable operators to link to their existing electronic files, rather than upload those documents into the Commission-hosted database. As we previously explained, many cable operators have developed efficient electronic approaches to managing the documents required to be included in their public inspection files.¹⁶ Such approaches should be preserved.

This is a particularly important area of consideration for the political file. Cable system political files are voluminous and need to be updated frequently.¹⁷ In fact, some cable operators report that during the “peak political seasons” they add as many as 200 documents to each system’s political file per day. Some cable operators also explain that they hire temporary employees during busy political seasons solely to upload documents to the political files for eight hours a day. Oftentimes, identical political file documentation will be duplicated in numerous systems, since political advertising buys are not restricted to the geographic boundaries of a particular cable system.

¹⁵ *Notice* ¶ 23. Such an interface could provide another alternative for compliance in the event that a cable operator does not supply a link to its own electronic database, as described herein.

¹⁶ See NCTA Comments at 4 (noting that “several cable operators already have invested in the creation of electronic systems to manage their political files”); *id.* at 7 (noting that cable operators often include channel lineups on their websites). The Commission allows cable operators to maintain electronic, rather than paper, files. See 47 C.F.R. § 76.1700(c) (stating that “[a]ll or part of the public inspection file may be maintained in a computer database”).

¹⁷ NCTA Comments at 4.

As described in the *Notice*, there are cable operators who “already post[] . . . their political files online to save costs and expedite access to this material”¹⁸ and many others have invested in internal electronic systems to manage their political files.¹⁹ In transitioning to an online file requirement, the Commission should not undermine the efforts of cable operators who have invested considerable time and money into establishing electronic political files that can be adapted for use by the public. Forcing operators to abandon existing electronic systems would be costly and produce no additional public benefit. Instead, the Commission should afford operators the option to make available, for example, a link to their existing political files (or a link to a new public-facing version of a political file) via the Commission’s database.²⁰ Such an approach would “facilitate the uploading and downloading of material,”²¹ would eliminate duplicative uploads, would reduce traffic and congestion on the Commission’s database, and would still meet the Commission’s goal of “providing convenient access to the information most likely to be of interest to the public.”²² At the same time, the rules should provide flexibility for how cable operators satisfy the political file requirement. Not all operators maintain electronic political files, and may prefer uploading paper files to the Commission online database. The database should be designed to avoid requiring duplicating paperwork from operators that choose this option.

¹⁸ *Notice* ¶ 47; see also NCTA Comments at 4, n.12.

¹⁹ See NCTA Comments at 4.

²⁰ Linking the already online material to the Commission’s system would accomplish the goal of more “political advertising transparency” and “access to those files by taking out the middlemen, physical travel, and time constraints inherent with the physical file.” See Campaign Legal Center, *et al.* Petition for Rulemaking at 6 (filed July 31, 2014).

²¹ See *Notice* ¶ 27.

²² *Id.* ¶ 47. For cable operators who would choose to provide a link to political files hosted outside of the Commission’s database, such political files would also have the benefit of being immediately available to the public in the event of an outage of the Commission’s database.

Third, the Commission should eliminate duplicative records regarding compliance with the commercial limits in children’s programs, and instead should permit operators to provide relevant documentation from program networks regarding compliance with the commercial limits only in the event of a complaint.²³ Cable operators have previously explained that the commercial limits record retention requirement is burdensome and unnecessary.²⁴ Such effects would be even more pronounced with an online posting requirement. Requiring each cable system to post identical documentation from dozens – if not hundreds – of programming networks would not benefit the public, and would occupy large amounts of database capacity on the Commission’s centralized system. This would be true for an individual cable operator operating multiple systems, which may largely carry the same satellite-delivered programming networks across its footprint. Such an effect will be compounded as all cable operators will need to upload identical certifications of compliance from the same networks. At the least, the Commission should relieve cable operators of any requirement to upload these certifications to the Commission’s database multiple times.

Fourth, cable operators should not be required to upload information on channel lineups to the online database.²⁵ Including channel line-ups in the public file is duplicative, antiquated,

²³ Section 76.1703 of the Commission’s rules requires cable systems to retain documentation in each public file demonstrating compliance with the children’s commercial limits. *See* 47 C.F.R. § 76.1703.

²⁴ *See In re 1998 Biennial Regulatory Review – Streamlining of Cable Television Services Part 76 Public File and Notice Requirements*, Report & Order, 14 FCC Rcd 4653 ¶ 18 (1999) (“1998 Biennial Review Order”). In that proceeding, the Cable Telecommunications Association (“CATA”) noted that the record retention requirement was “unduly burdensome to both cable operators and cable networks” and explained that it “may be unnecessary” in light of “very few allegations that cable operators have violated the commercial limits.” CATA Comments, filed in CS Dkt. No. 98-132, at Proposed NPRM ¶ 14 (Sept. 10, 1998). CATA noted that, while both broadcasters and cable operators are required to maintain such records, the rule is “considerably more onerous” for cable operators because they must demonstrate compliance for all of the many networks they carry, several of which “include a great number of children’s programs.” *Id.*

²⁵ *See Notice* ¶ 43.

and does not benefit consumers, who have multiple options for obtaining this information. As noted in our comments,

at least annually, cable operators provide channel lineups directly to consumers in paper format. Cable operators also include lineups on their websites. And many operators also provide this information to the Commission annually on Form 325.²⁶

Consumers looking for current channel lineup information can look to a number of sources, including on-screen electronic programming guides, guide channels, cable operator and third-party websites and apps, and paper lineups provided by cable operators. There is no indication in the record or elsewhere that consumers find the channel lineups in public inspection files to be useful at all, or that they would look to the Commission's website to locate such information. Moreover, any channel lineup that would be uploaded to a centralized online file would be difficult to keep current. The Commission should repeal the requirement to include channel lineups in the public inspection file. At the very least, the Commission should permit cable operators to provide a link via the Commission's database in lieu of uploading the information.

In sum, any requirement for cable operators to upload the same document numerous times, especially during busy filing times or peak political seasons, would deplete company resources and introduce opportunities for error, while providing no added benefit to the public.²⁷ The Commission should "tak[e] advantage of the efficiencies made possible by digital technology"²⁸ and eliminate unnecessary duplication.

²⁶ NCTA Comments at 7.

²⁷ *See, e.g.*, Missouri & California Broad. Ass'n Comments at 6 ("[M]any television stations are stuck with staffing requirements they had hoped to avoid. The problem even afflicts large groups . . . [W]hen the same, identical file must be uploaded for every station in the group, it must be individually uploaded to each station's file on-line by hand. There is no FCC facility to accomplish this task for all stations using only one upload.").

²⁸ *Notice* ¶ 15.

Along these lines, the Commission should also conserve database capacity by facilitating the removal of documents that no longer must be retained by cable systems under the Commission’s public file regulations. Specifically, before expanding its online public file rules, the Commission should provide tools within the online database to easily and efficiently bulk delete large numbers of public file documents.

B. The Commission Should Organize the Cable System Online Public File Using Information That It Has Already Obtained.

If the Commission continues to require (as proposed in the *Notice*)²⁹ that cable operators maintain public files on a per-system basis, the Commission can facilitate consumer-friendly access to the database using detailed geographic information it already has on file. Some database users may be familiar with physical system identifiers (“PSIDs”); thus, the database should also be searchable on that basis.

The *Notice* proposes requiring cable operators, “when first establishing their online public file, to provide a list of the geographic areas served by the system,” noting that the Commission “currently lacks precise information about the geographic areas served by cable systems.”³⁰ In fact, the Commission already collects geographic information about cable systems that can be used to categorize cable public inspection files in a way that would be useful to “subscribers, advertisers, candidates, and others.”³¹ Rather than requiring cable operators to provide additional geographic information about systems in the form of ZIP codes, DMAs,

²⁹ *See id.* ¶ 51.

³⁰ *Id.* ¶ 50.

³¹ *Id.*

Census Block, or Census Tract, the Commission should link the geographic information it has already compiled to make cable public files more accessible to consumers.³²

In particular, cable operators are required to file FCC Form 322, the “Cable Community Registration” for each cable system.³³ This form, filed electronically via the Commission’s Cable Operations and Licensing System (“COALS”), indicates the name of communities served by the system and the county and state in which the system is located.³⁴ As the Commission noted, cable systems are tracked by a unique PSID that remains largely unknown to consumers, making it difficult to adapt the public file database – currently designed around broadcast call signs – to cable systems.³⁵ However, using the information already collected by the Commission in each system’s registration statement, the public file database could provide consumers with a list of the public files of cable systems that serve their community.³⁶

The *Notice* recognizes that COALS contains information that the agency should link to the online public file database.³⁷ Use of the information already contained in the COALS database to provide geographic information for the public file would make sense and would conserve resources. Additional or different geographic information would be a burden for cable

³² This would be an important way that the Commission can “import to the online file information . . . to reduce the burden on operators.” *Id.* ¶ 42. By contrast, importing FCC Form 325 into the public file database would not be a particularly helpful exercise. *See id.* As explained in the *Notice*, only certain cable operators file the form for certain systems each year and information provided on the form does not match public file requirements. *See id.* In addition, often cable operators seek to designate certain information submitted on the form as proprietary – the Commission should not risk inadvertently exposing such information.

³³ *See* 47 C.F.R. § 76.1801.

³⁴ *See Instructions for FCC Form 322 Cable Community Registration, available at <http://ftp.fcc.gov/pub/Forms/Form322/322.pdf>; see also* 47 C.F.R. § 76.1801(a)(5) (requiring that the Registration Statement include the “name of the community or area served and the county in which it is located”).

³⁵ *Notice* ¶ 51.

³⁶ If the Commission concludes that ZIP code, DMA, or other geographic information is an essential input for searching its online public file database, the Commission itself should cross-reference publicly available information defining ZIP codes, DMAs, or other information with the geographic information provided by cable operators on FCC Form 322.

³⁷ *See Notice* ¶¶ 24, 25.

operators to compile and input, and is not necessary to provide consumers with an easy way to locate and access cable operator public files of interest to them.

C. The Commission Should Provide an Appropriate Transition to an Online Public File.

The *Notice* proposes several actions intended to reduce burdens on cable operators as they transition to an online public inspection file. Consistent with its approach in the television broadcaster context, the Commission proposes that public files generally be hosted online by the Commission,³⁸ that entities not be required to maintain back-up copies of all public file materials,³⁹ that specific formatting requirements for documents will not be required,⁴⁰ and that documents in the often bulky political file be required to be uploaded only on a going-forward basis.⁴¹ We also support the Commission’s proposal to ease the burden on cable operators by clarifying that certain technical information “must be maintained and made available to the Commission and franchisor upon request, but does not need to be maintained in the system’s public inspection file or uploaded to the online file.”⁴² Finally, we agree with the Commission’s proposal to exclude headend location information from the online public file requirement.⁴³

³⁸ *See id.* ¶ 25.

³⁹ *Id.* ¶ 30 (stating that “the Commission itself will creating a mirror copy of each public file daily to ensure that, if the data in the online public file are compromised, the file can be reconstituted using the back-up copy”).

⁴⁰ *See id.* ¶ 31. The *Notice* proposes “[t]o the extent that a required document already exists in a searchable format . . . entities [should be required] to upload the filing in that format to the extent technically feasible.” *Id.* The Commission should clarify that entities may upload documents in a form that cannot be later manipulated in a nefarious manner (*e.g.*, even when a document exists in an editable word processing format, a cable operator could save it as a .pdf for purposes of uploading the document to the online public file).

⁴¹ *Id.* ¶ 47 (proposing to allow cable operators to “maintain existing material in their physical political file and only upload documents to the online political file on a going-forward basis”).

⁴² *Id.* ¶ 52 (specifying that information including “proof-of-performance test data” and “signal leakage logs and repair records” is “unlikely to be of interest to the general public and does not need to be made available online”).

⁴³ *See id.* ¶ 53; *see also* NCTA Comments at 8 (noting that such information is of no interest to the general public and could raise security risks). In that regard, the text of the proposed rules mistakenly includes headend information as material that would have to be posted online. *See Notice*, App. B, proposed § 76.1700(a)(6).

The *Notice* seeks comment on compliance dates for implementation of the online public file, stating that the Commission “intend[s] to give entities sufficient time to familiarize themselves with the online public file before the effective date of any posting requirement.”⁴⁴ Given the potentially significant changes to existing operations for thousands of cable systems nationwide, cable operators will need an adequate transition period before they can begin complying with any online public file requirement. Cable operators will need to configure their compliance efforts to be compatible with the database, both with respect to training personnel, and to implement any necessary technological solutions and/or interfaces. Multiple system owners may need to change public file operations to efficiently transition to an online posting requirement. In light of these factors, and assuming the Commission adopts the proposals suggested herein, the Commission should provide cable operators at least six months post-adoption of any rules to transition to an online public file.⁴⁵ During this period, the Commission should provide training on the new database in the form of demonstrations, workshops, or other educational efforts.⁴⁶ In addition, the Commission should consider providing access to a beta

⁴⁴ *Notice* ¶¶ 28, 29. As contemplated in the *Notice*, the Commission should complete a connection between COALS and the online file database before the effective date of any cable online filing requirement. *See id.* ¶ 24.

⁴⁵ Six months should be sufficient for cable operators to comply both for documents required to be posted on a going-forward basis, and for the uploading of existing cable public file materials. Some cable operators may wish to transition earlier on a voluntary basis. The Commission should clarify that they may do so. *See, e.g., Notice* ¶ 49 (proposing that cable systems be allowed to commence use of the online political file on a voluntary basis at the same time that online political file requirements become effective for larger cable systems).

⁴⁶ *See, e.g., FCC, Public Notice, Demonstration of Online Public Inspection File Interface, 27 FCC Rcd 7595 (2012)* (explaining that,

The demonstration is part of the commitment made by the Commission to test the online public file and educate the public regarding its use. The demonstration will inform broadcasters and others of the design and content of the online file, how stations will upload information to the file, how file sharing tools like Dropbox and Box can be used for uploading, and other ways in which the FCC is working to facilitate access to its public databases.).

The Commission recently dedicated a significant amount of time to providing demonstrations and obtaining input from industry and consumers before launching its new consumer help center. *See FCC, News Release, FCC Launches New Consumer Help Center* (Jan. 5, 2015).

environment for entities to test use of the database before compliance is required. Furthermore, the Commission should undertake rigorous testing of the database, as it did before launching the database for broadcast television station use.⁴⁷

We also agree that a phase-in for the online political file requirement would help to smooth the transition for smaller cable systems.⁴⁸ For purposes of the phase-in, the Commission should define “small cable system” consistent with the definition it adopted in the CALM Act Report & Order, as “any system with fewer than 15,000 subscribers that is not affiliated with a larger operator serving more than 10 percent of all MVPD subscribers.”⁴⁹ This definition is appropriate, as the *Notice* suggests, because such systems are “most likely to face financial hardships in complying” with the new requirements.⁵⁰ Consistent with its approach for smaller television broadcast stations,⁵¹ the Commission should adopt a phase-in period of two years.

D. Once A Cable System Has Transitioned to An Online Public File, the Commission Should Make Clear that a Local Public File Is No Longer Required.

In contrast to broadcasters, no public inspection file documents will be kept at a local cable system once political files are posted online.⁵² Thus, the Commission should clarify that cable systems do not need to maintain a local public file once they have transitioned to the online

⁴⁷ See *In re Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement For Children’s Television Programming Report (FCC Form 398)*, Second Report & Order, 27 FCC Rcd 4535 ¶ 106 (2012) (“*Broadcast TV Public File Order*”) (noting that the Commission was “undertaking rigorous testing of the online public file to ensure a smooth user experience”).

⁴⁸ See *Notice* ¶ 48.

⁴⁹ See *id.* (citing *In re Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*, Report & Order, 26 FCC Rcd 17222 ¶ 54 (2011)).

⁵⁰ See *id.*

⁵¹ See *Broadcast TV Public File Order* ¶ 48.

⁵² Television broadcast stations are required to maintain certain documents at their main studio even after their public inspection files are posted online. See *Notice* ¶ 8 (noting that broadcast television stations must maintain a correspondence file at the main studio). Cable systems do not have a correspondence file requirement.

public file.⁵³ Moreover, once a cable system has fully transitioned to the online public file (including the political file), the Commission’s rules should clarify that there is no longer a need for that system to “provide information in the online public file about the location of the local public file⁵⁴ or to provide reproduced records upon a request made in person.⁵⁵ Finally, the Commission proposes to require cable operators to maintain “local back-up files for the political file.”⁵⁶ The Commission should clarify that with the phrase “local back-up files,” it does not intend to require the presence of a *physical* back-up file on a local basis.

II. THE COMMISSION SHOULD REDUCE PUBLIC FILE BURDENS FOR SMALL CABLE SYSTEMS.

The Commission has long recognized that small cable systems should not be burdened with onerous public inspection file requirements.⁵⁷ It has also explained that,

the likely usefulness of the public file process and the costs that systems (and hence subscribers) must bear to support such a process are more appropriately evaluated based on the number of subscribers in the particular community involved regardless of whether the same operator owns systems elsewhere.⁵⁸

⁵³ Notice ¶ 25 (“Specifically, we propose that these entities’ *entire* public files be hosted online by the Commission.”) (emphasis added).

⁵⁴ *Id.* ¶ 33.

⁵⁵ *See id.*, App. B, proposed § 76.1700(g) (“Copies of any material in the public inspection file shall be available for machine reproduction *upon request made in person . . .*”) (emphasis added).

⁵⁶ *See id.* We note that, in the event that a cable operator provides a link to its own electronic political file, a back-up file would not be needed since the file could be accessed at any time.

⁵⁷ *See, e.g., 1998 Biennial Review Order* ¶ 25 (providing regulatory relief from public file requirements to cable systems serving 1,000 or more subscribers but fewer than 5,000 subscribers, and maintaining regulatory relief for systems serving fewer than 1,000 subscribers); *In re Amendment of Part 76 of the Commission’s Rules and Regulations with Respect to the Definition of a Cable Television System and the Creation of Classes of Cable Systems*, Second Report & Order, 68 FCC 2d 18 ¶ 35 (1978) (exempting systems with fewer than 1,000 subscribers from public file requirements); *In re Amendment of Part 76 of the Commission’s Rules and Regulations with Respect to the Definition of a Cable Television System and the Creation of Classes of Cable Systems*, First Report & Order, 63 FCC 2d 956 ¶ 66 (1977) (noting that certain small systems should be relieved from public file requirements because, among other things, they may have limited staff and system public files may be of little interest to the public).

⁵⁸ *1998 Biennial Review Order* ¶ 25.

We agree that the Commission should continue its sound policy of “exempt[ing] cable systems with fewer than 1,000 subscribers from all online public file requirements.”⁵⁹

Similarly, the Commission should not depart from precedent by adopting an affirmative requirement applicable to certain small systems to upload documents currently only required to be made available to the public “upon request.”⁶⁰ In revising its public file rules in 1999 to provide regulatory relief for small systems, the Commission specifically recognized that provision of documents to the public “upon request” would be less burdensome than requiring a comprehensive public inspection file.⁶¹ There is no difference today – a requirement that a slate of documents be preemptively uploaded to the Commission’s centralized database is significantly more burdensome than simply providing such documents to the public upon request. The *Notice* states (with “minor exceptions”) that the Commission does not propose new or modified public file requirements in this proceeding.⁶² To be sure, for small cable systems, moving from an “upon request” regime to an affirmative requirement to upload documents to the Commission’s online public file would be a burdensome, material change in regulation. The Commission should not take such action.

⁵⁹ *Notice* ¶ 46.

⁶⁰ *See id.* ¶ 45.

⁶¹ *See 1998 Biennial Review Order* ¶ 25.

⁶² *See Notice* ¶ 18.

CONCLUSION

Consistent with its goals of improving public access to public file materials and reducing burdens, the Commission should adopt the proposals described herein. Doing so will benefit consumers, ease the transition to online public inspection files, and conserve limited Commission and company resources.

Respectfully submitted,

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