

Furthermore, the Broadcast Public Engineer could work with the Media Bureau's engineering staff to identify frequently made engineering errors on broadcast applications and, through public outreach, reduce the incidence of such errors going forward.

The Commission's Broadcast Public Engineer could be part of the Office of Communications and Business Opportunities ("OCBO").¹²⁴ The OCBO "develops, coordinates, evaluates, and recommends to the Commission, policies, programs, and practices that promote participation by small entities, women, and minorities in the communications industry."¹²⁵ The Broadcast Public Engineer's responsibilities would be consistent with this mandate.

The addition of the Broadcast Public Engineer position to the other Commission resources for the public would ultimately provide significant efficiencies to the Commission by reducing the number of inadequately and inaccurately completed applications filed. Accordingly, the position of Broadcast Public Engineer would not only support the public interest by furthering the mission of the OCBO to remove barriers to participation by small entities, women, and minorities, but it may also improve the Commission's processing of broadcast applications generally.

This proposal is also consistent with President Obama's stated objective of making federal agencies more open and transparent. On his very first day in office, the President issued the Transparency Memorandum, which called on the heads of federal agencies to make

¹²⁴ This Petition proposes a public engineer focused only on broadcasting. If the Commission grants this proposal, it may also want to additional public engineer positions for other communications sectors subject to Commission regulation, particularly cable, wireline and wireless.

¹²⁵ 47 C.F.R. 0.101(b)(2).

government more transparent, participatory and collaborative.¹²⁶ By enacting this proposal, the Commission would be making great strides in fulfilling this administrative goal.

17. THE COMMISSION SHOULD ISSUE A ONE-YEAR BLANKET WAIVER OF APPLICATION FEES FOR SMALL BUSINESS AND NONPROFITS

This proposal would offset the effect of the current economy and ensure a diversity of media voices in the broadcast industry by giving struggling small businesses and nonprofit stations financial assistance and a greater chance to survive.

In an effort to financially assist small businesses and nonprofits that own or are acquiring radio stations, the Commission should issue a one-year blanket waiver of application fees for such entities¹²⁷ for the following applications:

- FCC Forms 175 (Application to Participate in an FCC Auction);
- FCC Form 301 (Application for Construction Permit for Commercial Broadcast Station);
- FCC Form 302-AM (Application for AM Broadcast Station License);
- FCC Form 302-FM (Application for FM Broadcast Station License);
- FCC Form 303 (Application for Renewal License for AM, FM, TV, Translator, or LPTV Station);
- FCC Form 323 (Ownership Report for Commercial Broadcast Station);
- FCC Form 340 (Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station);

¹²⁶ Transparency Memorandum, 74 Fed. Reg. 4685 (January 26, 2009).

¹²⁷ See id. The Commission could use the Small Business Administration's definition of a small business as set forth in 13 C.F.R §121 as a gating requirement for individualized access to the Public Engineer or may determine that further gating requirements are appropriate. The Commission could also choose to define nonprofits consistent with the definition set forth in 26 U.S.C. §501(c)(3).

- FCC Form 349 (Application for Authority to Construct or Make changes in a FM Translator, or FM Booster Station);
- FCC Form 350 (Application for an FM Translator or FM Translator or FM Booster Station License); and
- Application for Special Temporary Authority.

Pursuant to Section 158(d)(2) of the Communications Act as implemented by Section 1.117(a) of the Commission's Rules, the Commission has authority to waive application fees for "good cause" where such action would "promote the public interest."¹²⁸ Good cause exists here because radio stations, in particular, have been grappling with decreasing advertising revenue, mounting debt and diminished access to capital.¹²⁹ As a result of the economic crisis the entire radio industry is struggling, forcing some radio stations to shut down.¹³⁰

¹²⁸ See 47 C.F.R. §1.1117(a) (implementing 47 U.S.C. §158(d)(2)).

¹²⁹ Heavy Debt, Fewer Ads Put Radio Stations in a Squeeze, Wall Street Journal (Nov. 10, 2008), available at http://online.wsj.com/article/SB122627806175712191.html?mod=dist_smartbrief (last visited May 23, 2009); Stephanie Clifford Radio Revenue Falls Even as Audience Grows, N.Y. Times (Nov. 25, 2008), available at http://www.nytimes.com/2008/11/26/business/media/26adco.html?_r=1&scp=1&sq=%22Radio%20Revenue%20Falls%20Even%20as%20Audience%20Grows%22&st=cse (last visited May 23, 2009).

¹³⁰ Tough Economy Shuts Down Dickinson Radio Station, NewsChannel15.com (posted Mar. 20, 2009), available at <http://www.topix.com/forum/city/only-tn/TKQ1TSR769B3JISPU> (May 23, 2009).

Although historically the FCC has only issued fee waivers on a case-by-case basis, it is in the public interest for the FCC to respond to the current economic crisis¹³¹ with a broader approach to fee waivers for financially challenged small businesses and nonprofits.

A one-year blanket fee waiver would promote diversity by providing small businesses and nonprofits partial economic relief from radio-related application filing fees without the burden of individually showing good cause, which is sorely needed in the midst of this crisis. Adopting the blanket waiver would make the application process more affordable and accessible for financially challenged small businesses and nonprofits. Therefore, the Commission should use its Section 158(d)(2) waiver authority and issue a blanket fee waiver to small business and nonprofits with respect to application filing fees.¹³² As such, the Commission should adopt this proposal in an effort to make the radio rules and application processes more affordable and accessible for financially challenged small businesses and nonprofits.

¹³¹ See President-Elect Barack Obama, Remarks at George Mason University, As Prepared for Delivery, American Recovery and Reinvestment Act (given Jan. 8, 2009) (noting that the U.S. is in the “midst of a crisis unlike any we have seen in our lifetime”).

¹³² See Transparency Memorandum, 74 Fed. Reg. at 4685.

Respectfully submitted,

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