

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of)
)
Amendment of Certain of the Commission's) GC Docket No. 10-44
Part 1 Rules of Practice and Procedure and)
Part 0 Rules of Commission Organization)

COMMENTS OF MEDIA ACCESS PROJECT

Media Access Project (MAP) respectfully submits these brief comments in response to the Commission's *Notice of Proposed Rulemaking* ("NPRM") proposing certain changes in the Commission's procedural and organizational rules. The substantial number of proceedings currently under way at the Commission preclude the submission of more detailed comments at this time. MAP hopes to participate more actively in subsequent phases of this proceeding.

MAP welcomes the Commission's willingness to undertake the somewhat thankless task of improving its administrative processes, and, broadly speaking, it supports the proposals set forth in the Commission's *NPRM*. These comments address one area where the Commission may have gone too far, and offer a suggestion as to a category of proceeding to which docket numbers should be assigned.

Sections 1.106 and 1.429

The goal of streamlining the Commission's workload by delegating authority to the staff to deal with plainly defective petitions for reconsideration is understandable and valid. However, MAP believes the Commission's proposal goes a little too far. Three of the categories which the Commission identifies for delegation involve subjective determinations that can frequently become intertwined with the merits of a petition. In these cases, MAP believes that petitioners are entitled to review by

the Commission and not by the staff.

First, it is not always clear whether an argument has been “fully” considered in a decision. Mere reference without discussion may not constitute a meaningful rejection within the meaning of the Administrative Procedure Act and parties can legitimately ask for a reasoned explanation of a Commission determination.

Second, reasonable minds can differ as to whether an argument is outside the scope of the order for which reconsideration has been sought.

Third, MAP has participated in many proceedings in which there is debate over whether new facts or arguments could have been presented previously to the decisionmaker. This is often a fact based matter relating to the presumed knowledge of the parties, the diligence with which they acted and the reasonableness of their expectation that a particular new fact would become determinative.

In these instances, it is too harsh to delegate these matters to the staff and leave petitioners without an opportunity to present their case to each of the Commissioners and their staffs.

Expanded Use of Docketed Proceedings

MAP supports the Commission’s proposal to assign docket numbers to more categories of proceedings. MAP specifically suggests that the Commission should assign a docket number to any broadcast application for renewal, assignment or transfer as to which there is a timely filed petition to deny.

CONCLUSION

As noted above, MAP looks forward to participating more actively in this proceeding in the coming weeks.

Respectfully submitted,

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