

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

In the Matter of)
)
Standardized and Enhanced Disclosure) MM Docket No. 00-168
Requirements for Television Broadcast Licensee)
Public Interest Obligations)

To: The Commission

**COMMENTS OF
FOUR COMMERCIAL AND NCE TELEVISION LICENSEES**

CHANNEL 51 OF SAN DIEGO, INC., PRIME TIME CHRISTIAN BROADCASTING, INC., BOWLING GREEN STATE UNIVERSITY, and SOUTHERN ILLINOIS UNIVERSITY (together, the “Four Commercial and NCE Licensees” or the “Licensees”), licensees of six commercial and three noncommercial educational television stations in California, Texas, New Mexico, Ohio, and Illinois, respectively,^{1/} by their attorneys, pursuant to §1.415 of the Commission’s Rules, hereby submit their Comments on selected issues raised in the *Further Notice of Proposed Rulemaking (“FNPRM”)*, FCC 11-162, released October 27, 2011, in the above-captioned proceeding.

I. Introduction

1. As veteran commercial and NCE television broadcasters, the Four Commercial and

^{1/} Channel 51 of San Diego, Inc., is licensee of Station KUSI-TV, San Diego, California; Prime Time Christian Broadcasting, Inc. is licensee of Stations KPTB-DT, Lubbock, Texas, KPCB-DT, Snyder, Texas, KFTF-DT, Farwell, Texas, KMLM-DT, Odessa, Texas, and KRPV-DT, Roswell, New Mexico; Bowling Green State University is licensee of Station WBGU-TV, Bowling Green, Ohio; and Southern Illinois University is licensee of Stations WSIU-TV, Carbondale, Illinois, and WUSI-TV, Olney, Illinois.

NCE Licensees have conducted business under the Commission’s public inspection file (“PIF”) rules (§§73.3526 and 73.3527) for more than a generation. In the *FNPRM*, the Commission seeks to “make information concerning broadcast service more accessible to the public by taking advantage of current technology, thereby improving dialogue between broadcast stations and the communities they serve, and if possible reduce the compliance burdens on broadcasters” (§1). However, as the Licensees will now demonstrate, several of the Commission’s proposals are unnecessary or extremely burdensome to broadcasters without any offsetting public interest benefit to the general public, except for “[r]esearchers [who] need access to standardized data that are aggregable and searchable in order for the data to be useful in their analyses of industry performance” (§48).

II. The PIF Should Not Become a General Research Tool

2. The Commission adopted the original PIF rules in 1965 “to make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees. See *Report and Order in Docket No. 14864*, 4 RR2d 1664, 1666 (1965). However, in the ensuing 45 years, the public has generally made little use of the PIF files for either dialogue or confrontational purposes. As a practical matter, nowadays the public rarely visits a station’s PIF, even at renewal time, and despite pre-filing and post-filing renewal on-air broadcast announcements. Hence, at the present time, broadcasters usually do not need to assign staff to supervise use of their PIF’s, prevent illegal acts (such as removal or destruction of files), or organize and re-organize documents. Stations have standard protocols for adding new documents to their PIF’s, as required by §§73.3526 and 73.3527, and removing old documents.

3. Enter the “researchers,” in the guise of a working group of Commission staff,

scholars, and consultants, who released “The Information Needs of Communities: The Changing Media Landscape in a Broadband Age” (“*INC Report*”) in June 2011. *FNPRM*, ¶5. The *FNPRM* bases many of its recommendations upon the *INC Report*. However, the Licensees urge that the *INC Report*’s motivating purpose is not to assist individual television viewers to understand and communicate better with their local TV stations, but rather to allow “governments at all levels [to] collect and publish data in forms that make it easy...to access and analyze information”. *Id.* at ¶5. Thus, the proposed online PIF’s become general research tools, instead of individual station communications mediums.

4. On the surface, this research goal may appear harmless, and is certainly *au courant*, but there are real additional personnel costs entailed in this effort to “modernize the provision of data to the public” (¶6), and there is no certainty that the theoretical media research will ever occur, even if all PIF data is placed online in standardized form. One is reminded of the Commission’s efforts in the 1980’s and 1990’s to glean useful broadcast ownership information from the annual FCC Form 323 Broadcast Ownership Reports. It was a failure, and it is unclear that the current effort to make important research use of the revised Biennial Form 323 will be more successful. In the meantime, the Licensees believe that the Commission should focus on individual use of the PIF at a station’s main studio (with some online availabilities) and not turn the PIF into a computerized research tool that does not focus on individual stations.

III. Comments on Specific *FNPRM* Proposals

5. The Licensees present the following comments on specific PIF proposals in the *FNPRM*:

- The Licensees support Commission hosting of an online PIF to the extent that such an

online PIF contains the applications and reports already required to be filed electronically in CDBS (§16). However, the Licensees disagree with the proposal that broadcasters should be required to monitor the Commission PIF files to ensure that they are complete and up-to-date (§17). The whole efficiency of having a CDBS database at the Commission, where all applications and reports are stored, is undermined if broadcasters are required to be its housekeepers. Likewise, the Licensees do not believe that broadcasters should be responsible for any omissions from individual station PIF's, since, by definition, the "missing" applications or reports are located elsewhere in the main CDBS files. Keeping copies in station online PIF's is a redundant function, and broadcasters should not be responsible for ensuring the completeness of these redundant Commission files.

- The Licensees oppose requiring stations to retain electronic copies for back-up purposes of all PIF files in the online PIF (§18). This requirement would eradicate any storage area savings, anti-redundancy, and upkeep benefits that broadcasters would realize from the presence of a station's public file in the online PIF.

- The Licensees oppose placing the Political File in the online PIF (§§22-24). Uploading relevant documents "immediately absent unusual circumstances" would be extremely burdensome to stations. The unsuitability of online treatment for this type of material is well illustrated by the *FNPRM*'s discussion of how to maintain this online file in an "organized manner," perhaps requiring subfolders and other organizing techniques.

- The Licensees fully support the Commission's proposal that letters and e-mails from the public should not be required to be placed online (§26). Privacy concerns are significant, and name or content redaction would be terribly time-consuming. Similarly, NCE donor lists should not be placed online (*Id.*).

- The Licensees oppose placing issues/programs lists online (§§29) because the lists tend to be voluminous, and program guides may be included that are not easily uploaded. Once there is a standardized reporting form, this objection may be eliminated. However, the Licensees seriously doubt the public’s interest in viewing this information, whether it be in paper form or online.

- The Licensees oppose including materials pertaining to Commission investigations and complaints in the online PIF (§§30). Such information may appeal to prurient interests and should be treated as confidential – especially until there is an adjudication on the charges. Privacy and redaction concerns abound.

- The Licensees oppose requiring stations to prepare and place online sponsorship identification information (§§33-34). Listing such information online requires the special and burdensome preparation of such lists, and the subject information does not need greater notoriety and accessibility than real-time broadcast already provides.

- The Licensees oppose placing “sharing agreements” online. This is a new requirement which goes beyond the current requirement to file time brokerage and joint sales agreements (§§35). These documents contain sensitive proprietary information, and there are not sufficient grounds to broaden the Commission’s inquiry or the public’s perusal of such documents.

- Finally, the Licensees oppose requiring on-air announcements of the existence, location, and accessibility of a station’s PIF, whether the PIF is located online or at a main studio (§§39-40). Such announcements may arouse the public’s interest in examining a PIF, but the Licensees do not believe that the Commission should attempt to stimulate such examinations. That goes beyond the Commission’s legitimate interest in encouraging more active participation in dialogue with broadcast licensees. Such dialogue does not require television viewers to play

“Sherlock Holmes” with a station’s PIF. Instead, the Commission should encourage face-to-face meetings with station executives, telephone conversations, and/or e-mail discussions to achieve productive dialogue.

6. In sum, the Licensees submit that while the Commission’s desires to bring PIF recordkeeping into the “21st Century,” transition from paper to digital technology, and “create efficiencies and reduce costs both for government and the public sector” (¶¶1 and 14) are admirable, as detailed in Paragraph 5 above many of the proposed innovations in the *FNPRM* fail to meet one or more of those goals and should not be adopted. Two of the best examples of this failure are the *FNPRM*’s efforts to force the current Political File rules and policies into an online format (see Paragraph 5 above) and to require broadcasters to retain electronic copies for back-up purposes of all PIF files in the online PIF (*id.*). Contrary to the Commission’s stated goals, these proposed measures are inefficient, excessively burdensome to broadcasters, and will increase costs to the public sector without any offsetting benefits.

The Commission can achieve its *FNPRM* objectives with a combination of online and main studio PIF requirements, and it should increase the number of PIF items that are exempt from being placed online in accordance with these Comments.

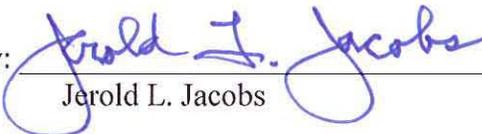
IV. Conclusion

WHEREFORE, in light of the foregoing, the Four Commercial and NCE Licensees

respectfully request that the Commission should fashion its online public file rules and policies in accordance with the above Comments.

Respectfully submitted

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