

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

COMMENTS OF GRAY TELEVISION, INC.

I. INTRODUCTION AND SUMMARY.

Gray Television, Inc. (“Gray”) hereby submits its comments in response to the Public Notice issued on June 25, 2013 in the above-captioned proceeding.¹ Headquartered in Atlanta, Gray owns and operates television stations serving 30 small to mid-sized markets, ranging from WTAP(TV) in Parkersburg, West Virginia (DMA 194) to WVLT(TV) in Knoxville, Tennessee (DMA 61). With all of Gray’s stations outside the top 50 DMAs, none of its stations are currently subject to the Commission’s online political file rule.

The Commission correctly recognized in the Second Report and Order in this proceeding² that stations in small and mid-sized markets are not equipped to comply with an online political file requirement. The differences between small and large-market stations – fewer employees, fewer technological resources, less operating capital – have not changed since April 2012. Small- and mid-market stations continue to face a difficult operating environment, and the Commission must recognize that the rationale for imposing an across-the-board online political file requirement does not apply to smaller stations.

¹ *Media Bureau Seeks Comment On Online Political File and Petition for Reconsideration Filed by the Television Station Group*, Public Notice, DA 13-1440 (rel. June 25, 2013) (“Public Notice”).

² *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535 (2012)(“Second Report and Order”).

For Gray’s small- and mid-market stations, it is not true that “[o]ver time, . . . broadcasters will benefit from the lower costs of sending documents electronically to the Commission.”³ These stations operate with finite resources, and the costs involved in immediate political file uploads will be reflected in less capital – both monetary and human – available for on-air production, including local news. And importantly, these great costs come without a corresponding benefit, especially considering that the Commission itself placed little value on the online political file information exempt stations would provide.⁴

All Gray stations have uploaded the contents of their existing public files (absent the information contained in the political file) to the online public file site. Through these experiences, Gray and its stations are familiar with the burden that uploading political file documents would impose. For these reasons, Gray urges the Commission to reexamine the record and indefinitely postpone the requirement that currently exempt broadcasters be subject to online political file obligations.

³ *Id.*, ¶ 11.

⁴ *Id.*, ¶ 48 (“[T]he public will not be deprived of online access to substantial amounts of political file information ...”).

II. STATIONS IN SMALL AND MID-SIZED MARKETS WILL SUFFER EXPONENTIALLY GREATER HARM FROM AN ONLINE PUBLIC FILE REQUIREMENT.

Stations located outside the top 50 markets face a substantially different operating environment than their larger market counterparts. To survive and succeed, stations in small and mid-sized markets must make the most of their scarce resources, operating leanly and efficiently. That is why the Commission’s statement that it “do[es] not believe . . . prospective posting of the political file will impose an unreasonable burden on any television broadcaster” fundamentally misunderstands the burden that uploading political file documents would impose on Gray’s stations and others like them.⁵ Any requirement that these stations upload political documents “immediately” will cause a strain on both human and technical resources.

The Commission should not expand the online public file requirement without understanding the operational differences between stations in large markets and those in markets outside the top 50. For example, the FCC justified its implementation of the online political file requirement, in part, on the understanding that “stations are capable of, and often do, include electronic processes in their assembly of the political file.”⁶ While this may be true of large market stations, such as the Baltimore stations that the agency reviewed, it is less prevalent among stations in small and mid-sized markets. The Commission’s solution – that these documents can “be easily scanned and uploaded instead of photocopied and placed in the paper file” – also does not apply equally to smaller market stations.⁷ Many of these stations lack scanners with the capacity to quickly and efficiently scan large volumes of documents and do not have internal networks for storing the data to make it accessible to multiple station employees. Instead of “realiz[ing] savings by no longer having keep a local file on a going-forward basis” as

⁵ *Id.*, ¶ 50.

⁶ *Id.*, ¶ 36.

⁷ *Id.*

the Commission assumes,⁸ stations in these small and mid-sized markets will still need to maintain paper files for internal use while spending the additional time to scan and upload files using technology that may be inadequate for the task.

Moreover, employees in small and mid-sized markets already are accustomed to doing more with less. For example, Gray's station WSAW, located in the Wausau, Wisconsin market, handled approximately 370 original political orders during the 2012 campaign. This number did not include any revisions, preemptions, or make goods. During the 2012 campaign, the station estimates that over 30 hours per week were dedicated to managing and updating the political file. Of course, this is not the only responsibility of the station employee in charge of the political file. She also handles the traffic system, reconciles the traffic logs, assists the sales department, manages the personnel files and is the station receptionist.

The Commission's suggestion that "[p]lacing the information online will minimize disruptions in the daily operation of a station and reduce burdens placed on station staff" reflects its misunderstanding of the nature of small- and mid-market stations.⁹ Gray's experience at stations like WSAW demonstrates that the additional obligation to redact sensitive financial information and scan and update online records will increase – not reduce – burdens on station staff. Employees in small and mid-size markets wear many hats and simply cannot handle any additional regulatory compliance responsibilities. Any additional time spent scanning, storing, and uploading documents to the political file is time not spent on another critical task. And for many stations, personnel is a zero sum game. That is, any additional resources necessary to support online political file implementation are resources that will be taken from other areas, such as newsrooms.

⁸ *Id.*, ¶ 29.

⁹ *Id.*, ¶ 29.

III. THE BENEFITS OF REQUIRING STATIONS IN SMALL AND MID-SIZED MARKETS TO MAINTAIN ONLINE POLITICAL FILES DO NOT JUSTIFY THE BURDENS.

In the *Second Report and Order*, the FCC recognized that stations not currently required to upload their political files “generally have smaller political files than the affiliates in the top 50 DMAs, and therefore the public will not be deprived of online access to substantial amounts of political file information.”¹⁰ This logic remains true today. With the majority of online political file material already online from top-4, top-50 stations, the marginal benefit of additional online public file material does not justify imposing new burdens on those stations that are least capable of handling them. Until the Commission demonstrates a substantial need, the online political file requirement for currently exempt stations should be tolled.

In fact, applying the FCC’s own logic from its EEO rules, shifting political files online “would disproportionately disadvantage minorities and those living in rural areas” – the same persons served by stations in small and mid-sized markets.¹¹ No longer would these individuals be able to drive to the station to review political files. Instead, to access a station’s political file, they would need to find a location with Internet access and possess the skills to navigate the FCC’s online public file site. Until the agency concludes that Internet access is sufficiently pervasive, it cannot use the expansion of access to political files as a basis to increase the burden on broadcasters.

¹⁰ *Id.*, ¶ 48.

¹¹ *Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Second Report and Order, 17 FCC Rcd 24018, ¶¶ 95-99 (2002) (acknowledging “continuing disparities in [Internet] usage among different segments of society”); see also *2010 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, FCC 11-186 (2011) (“Our nation has not yet reached universal deployment or adoption of broadband. Too much of the country is unserved or underserved by broadband, and the average broadband speed available to consumers varies in different areas and lags behind some other nations.”).

IV. CONCLUSION.

The Commission's justification for imposing a universal online political file requirement ignores the operational realities of Gray's small- and mid-market stations. Increased regulatory obligations on these stations will tax already scarce resources and deplete assets better suited for on-air production, including newsgathering. Moreover, the marginal benefit derived from online access to these stations' political files fails to support the very real burden providing such access will impose. For these reasons, Gray urges the Commission to postpone indefinitely the requirement that currently exempt broadcast stations upload their political files.

Dated: August 29, 2013

Respectfully submitted,



Kevin P. Latek
Vice President - Law and Development
Gray Television, Inc.
4370 Peachtree Road, NE
Atlanta, GA 30319
404.266.8333