

Federal Communications Commission

§ 73.3613

WAIVER

Name of applicant.....
Call letters.....
Docket No.....

The undersigned hereby requests the FCC to consider its application and grant or deny it in accordance with the procedure prescribed in § 73.3603 of the FCC's rules and regulations. It is understood that all the terms and provisions of _____ are incorporated in this waiver.

[44 FR 38511, July 2, 1979]

§ 73.3605 Retention of applications in hearing status after designation for hearing.

(a) After an application for a broadcast facility is designated for hearing, it will be retained in hearing status upon the dismissal or amendment and removal from hearing of any other application or applications with which it has been consolidated for hearing.

(b) Where any applicants for a broadcast facility file a request pursuant to § 73.3525(a) for approval of an agreement to remove a conflict between their applications, the applications will be retained in hearing status pending such proceedings on the joint request as may be ordered and such action thereon as may be taken.

(1) If further hearing is not required on issues other than those arising out of the agreement, the proceeding shall be terminated and appropriate disposition shall be made of the applications.

(2) Where further hearing is required on issues unrelated to the agreement, the presiding officer shall continue to conduct the hearing on such other issues pending final action on the agreement, but the record in the proceeding shall not be closed until such final action on the agreement has been taken.

(3) In any case where a conflict between applications will be removed by an agreement for an engineering amendment to an application, the amended application shall be removed from hearing status upon final approval of the agreement and acceptance of the amendment.

(c) An application for a broadcast facility which has been designated for hearing and which is amended so as to eliminate the need for hearing or further hearing on the issues specified,

other than as provided for in paragraph (b) of this section, will be removed from hearing status.

[44 FR 38511, July 2, 1979]

§ 73.3612 Annual employment report.

Each licensee or permittee of a commercially or noncommercially operated AM, FM, TV, Class A TV or International Broadcast station with five or more full-time employees shall file an annual employment report with the FCC on or before September 30 of each year on FCC Form 395-B.

NOTE TO § 73.3612: Data concerning the gender, race and ethnicity of a broadcast station's workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual broadcast licensee's compliance with the equal employment opportunity requirements of § 73.2080.

[69 FR 34954, June 23, 2004]

§ 73.3613 Availability to FCC of station contracts.

Each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall provide the FCC with copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 7 days of a request by the FCC.

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed upon request as follows:

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation.

(2) Each such filing shall consist of all of the terms and conditions of such

contract, agreement or understanding, including any other paper or document incorporated by reference or otherwise.

(b) Ownership or control: Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control shall include but are not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document or instrument providing for the assignment of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or nonvoting), such as:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation, pledges, trust agreements or abstracts thereof, options to purchase stock and other executory agreements. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote of the shares; and

(G) Any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of 1 year, and all proxies, whether or not running for a period of 1 year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement

showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee if the stock covered by such proxies has been voted. However, when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, or the maintenance of current assets.

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 73.3615.

(7) Agreements providing for the assignment of a license or permit or agreements for the transfer of stock filed in accordance with FCC application Forms 314, 315, 316 need not be re-submitted pursuant to the terms of this rule provision.

(c) Personnel: (1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for

both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d) Other agreements: Subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the television vertical blanking interval and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators or other engineering personnel.

[44 FR 38512, July 2, 1979, as amended at 47 FR 21496, May 18, 1982; 50 FR 4664, Feb. 1, 1985; 50 FR 30951, July 31, 1985; 51 FR 9966, Mar. 24, 1986; 51 FR 15785, Apr. 28, 1986; 57 FR 18093, Apr. 29, 1992; 57 FR 42706, Sept. 16, 1992; 61 FR 36305, July 10, 1996; 63 FR 70050, Dec. 18, 1998; 64 FR 50646, Sept. 17, 1999; 66 FR 9972, Feb. 13, 2001; 68 FR 46358, Aug. 5, 2003; 79 FR 29006, May 20, 2014; 83 FR 757, Jan. 8, 2018; 83 FR 85558, Dec. 21, 2018]

§ 73.3615 Ownership reports.

(a) The Ownership Report for Commercial Broadcast Stations (FCC Form 323) must be filed electronically every two years by each licensee of a commercial AM, FM, or TV broadcast station and any entity that holds an interest in the licensee that is attributable pursuant to § 73.3555 (each a “Respondent”). The ownership report shall be filed by December 1 in all odd-numbered years. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323 (including all instructions for the form and schedule) that is current on October 1 of the year in which the own-

ership report is filed. The information provided on each ownership report shall be current as of October 1 of the year in which the ownership report is filed. A Respondent with a current and unamended biennial ownership report (*i.e.*, an ownership report that was filed pursuant to this subsection) on file with the Commission that is still accurate and which was filed using the version of FCC Form 323 that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report.

(b)(1) Each permittee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to § 73.3555 (each a “Respondent”) shall file an ownership report on FCC Form 323 within 30 days of the date of grant by the FCC of an application by the permittee for original construction permit. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(2) Except as specifically noted below, each permittee of a commercial AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to § 73.3555 (each a “Respondent”) shall file an ownership report on FCC Form 323 on the date that the permittee applies for a station license. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323 (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed. If a Respondent has a current and unamended ownership report on file with the Commission that was filed pursuant to paragraphs (b)(1) or (c) of this section, was submitted using the version of FCC Form 323 that is current on the date on which the ownership report due pursuant to paragraph(b)(2) is filed, and is