

### **Public Inspection File**

The applicant has certified in the negative to the Online Public Inspection File (“OPIF”) Certification and wishes to provide some additional context to ensure the Commission Staff fully understands the context for certain items when reviewing the OPIF.

#### **A. 2017 Retrans / Must Carry Election Notices**

WPLG timely made its 2017 retransmission consent / must carry elections (for the 2018 – 2020 carriage period) by the October 1, 2017, deadline and sent out numerous (more than required) notifications to relevant MVPDs. Unfortunately, however, WPLG failed to timely upload those election notices to its online public file. WPLG didn’t upload them until July 2020 when the honest inadvertence was discovered in the context of preparing for the 2020 election notices (for the 2021 – 2023 carriage period).

At all relevant times—including the present—WPLG has maintained copies of its 2014 retransmission consent / must carry elections (for the 2015 – 2017 carriage period) in its OPIF, all of which specified retransmission consent. Notably, all of WPLG’s carriage elections for the 2018 – 2020 period were identical to the carriage elections made for the 2015 – 2017 period, and, thus, anyone with any questions about WPLG’s carriage elections for the 2018 – 2020 period would have had accurate information by reviewing the 2014 carriage election notices.<sup>1</sup>

In addition, during the 2018 – 2020 carriage period, WPLG did not experience a carriage impasse with any MVPD, which means that no member of the public was prejudiced by not having immediate access<sup>2</sup> to WPLG’s 2017 carriage elections. And, WPLG productively and timely negotiated retransmission consent arrangements with all relevant MVPDs, which demonstrates that all relevant MVPDs did, in fact, timely receive the 2017 carriage election notices. We respectfully submit that the delayed upload of the 2017 retransmission consent / must carry elections (for the 2018 – 2020 carriage period) was immaterial to the station’s overall compliance with the OPIF rule and did not undermine any person’s ability to have access to the information contained in those election notices. Indeed, the Commission’s recent revision of the processes and protocols relating to TV station MVPD election notices illustrates that the prior methodology may not have been the most effective or informative in the first instance. *See, e.g., In re Electronic Delivery of MVPD Communications*, Report and Order and Further Notice of Proposed Rulemaking, FCC 19-69, ¶ 4 (rel. July 11, 2019) (“Almost every commenter responding to the NPRM maintained that there are flaws in the current election notification system.”). Consequently, WPLG’s upload delay warrants no further action.

---

<sup>1</sup> The only material difference between the 2017 and 2014 carriage election notices is that the 2017 notices included an MVPD called Hotwire. But because WPLG sent an astoundingly high total of six election notices to Hotwire and successfully negotiated a carriage arrangement with that MVPD, neither Hotwire nor any of Hotwire’s subscribers/viewers suffered any prejudice due to WPLG’s late-upload of the 2017 carriage election notices.

<sup>2</sup> WPLG would have responded individually to any viewer that asked for this information.

## **B. EEO Report Uploads**

A review of WPLG's OPIF reveals that the 2013 and 2014 Public File Reports were both uploaded on September 11, 2015, which would have been nearly two years after the 2013 report was due for upload and almost one year after the 2014 report was due for upload. In the case of the 2013 report, the failure to timely upload that report occurred under the watch of another company that was previously the licensee of WPLG. In the case of the 2014 report, nearly the entire reporting period (75 percent) occurred under the watch of another company that was previously the licensee of WPLG. As such, those failures—which were corrected when discovered—should not be visited upon the company that took control of the station June 30, 2014. Indeed, the applicant's VP/General Manager was not even hired until after the applicant took control of the station from the old company.

Moreover, upon information and belief, each of those reports were timely posted to WPLG's station website where they would have been accessible by all members of the public and the Commission Staff. Thus, as a practical matter, the delays in the OPIF uploads of those reports—which were promptly corrected by the current licensee once discovered—were not prejudicial to anyone's ability to review the station's EEO performance. And WPLG's successful EEO audit performance in response to the Commission's February 24, 2016, audit letter speaks for itself: it illustrates the seriousness with which WPLG takes the Commission's EEO rule and the degree to which WPLG routinely commits resources and efforts to execute and perform its recruitment and general outreach to meet the Commission's goals to overcome and eliminate discrimination, bias, and demographic challenges in broadcast employment as embodied in the FCC's EEO rule.

Finally, the 2017 EEO public file report was uploaded one day late on October 3, 2017, which we respectfully submit is a late upload of de minimis nature (in particular because, upon information and belief, the report was timely posted to the station's own website).

## **C. Reminder Warranted for Multiple Timely-Uploaded Documents**

Finally, a cursory review of WPLG's OPIF may result in the erroneous conclusion that multiple additional documents were uploaded late, and we'd like to pro-actively address those issues as well.

As a result of the government shutdown that affected the accessibility of WPLG's OPIF (and all other OPIFs) for upload purposes in January 2019, there are three documents that might, at first glance, appear to have been uploaded late. In each case, however, the documents were timely uploaded when the government shutdown is taken into account. More specifically, the Children's Television Programming Report, the Issues/Programs List, and the children's commercial time limits certification records for Fourth Quarter 2018 were timely uploaded (all on January 28, 2019) once the government shutdown is taken into account.

In addition, the First Quarter 2020 Issues/Programs List documentation for WPLG was timely uploaded (on May 1, 2020) once the COVID-19 extension of time is taken into account (waiving the First Quarter 2020 upload deadline and providing an extension until July 10, 2020, for the upload of such documentation).

\* \* \* \* \*