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2016 DEC 12 P 2: 28

Accepted / Filed

By courier

DEC -9 2016

December 9, 2016

Federal Communications Commission
Office of the Secretary

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WALR-FM, Palmetto Georgia (Fac. ID 48728)
FCC File No. BRH-20111128ERH
WSRV(FM), Gainesville, Georgia (Fac. ID 59970)
FCC File Nos. BRH-20031205ACS; BRH-20111128ESM

Dear Ms. Dortch:

Cox Radio, Inc. ("Cox Radio"), by its counsel and pursuant to Section 1.3 of the FCC's Rules,¹ respectfully requests FCC grant of a limited waiver of Section 73.3526 of the Commission's rules² for Cox Radio's stations WALR-FM, Palmetto, Georgia (Facility Identification Number 48728) and WSRV(FM), Gainesville, Georgia (Facility Identification Number 59970) (collectively, the "Stations"). Specifically, Cox Radio seeks consent from the Commission to omit from the online public inspection file on the Commission's website the Stations' issues/programs lists and annual EEO public inspection file reports for prior license renewal terms.

BACKGROUND

Prior to Cox Radio's acquisition of WALR-FM and WSRV(FM) and continuing on today, an affiliate of Cox Radio has owned and operated the *Atlanta Journal-Constitution*, a daily newspaper published in Atlanta. Cox Radio has owned WALR-FM and WSRV(FM) since the late 1990s, but Cox Radio's acquisitions of the Stations were conditioned by the FCC on compliance with the Commission's Newspaper/Broadcast Cross Ownership Rule³ – a rule that the FCC and the federal appellate courts have reviewed on multiple occasions during the entire period of Cox Radio's ownership of the Stations.

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 73.3526.

³ 47 C.F.R. § 73.3555(d) (the "NBCO Rule").



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Cox Radio timely filed renewal applications for WALR-FM⁴ and WSRV(FM).⁵ Cox Radio is unaware of any objections filed against the license renewal applications. However, a decision regarding the renewal applications has been delayed because of the Commission's continued examination of the NBCO Rule. The Commission's rules therefore require WSRV(FM) and WALR-FM personnel to maintain public inspection files that date back to 1996 and 2004, respectively.

Earlier this year, the Commission expanded its requirements that public inspection files for certain broadcast radio stations be posted to the FCC's online public inspection file database.⁶ Radio stations located in the top 50 markets with five or more employees were required to begin transitioning to the Commission's online public inspection file on June 24, 2016 and must complete that transition no later than December 24, 2016.⁷ For stations with pending renewal applications, that means uploading thousands of pages of documents covering up to twenty years of materials in the stations' public inspection files. While Cox Radio has maintained physical public inspection files for each station in compliance with the Commission's rules, it submits the instant petition for waiver of the requirement to upload the issues/programs lists and annual EEO public inspection file reports from the prior license terms for WALR-FM and WSRV(FM).

ARGUMENT

Cox Radio submits that no benefit will flow to the public if the Commission forces Cox Radio to undertake the burden of uploading the issues/programs lists and annual EEO public inspection file reports for the prior license renewal terms of WSRV(FM) and WALR-FM.⁸ As previously stated, the pending renewal applications for the Stations are unopposed by any member of the public and Cox understands that consideration of the renewal applications have been deferred due to the FCC's reconsideration of the NBCO Rule. Cox Radio's public inspection file for WSRV-FM dates back two prior license renewal terms to April 1, 1996 and for WALR(FM) back one prior license renewal term

⁴ See FCC File No. BRH-20111128ERH.

⁵ See FCC File Nos. BRH-20031205ACS; BRH-20111128ESM.

⁶ Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, *Report and Order*, 31 FCC Rcd 526 (2016).

⁷ See Effective Date Announced for Expanded Online Public Inspection File Database, *Public Notice*, 31 FCC Rcd 4699 (2016).

⁸ Cox Radio notes that the Commission's EEO rules date back to 2003; therefore, Cox Radio need only upload annual EEO public file reports for the time since the EEO rules have been in effect.



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to April 1, 2004. Given the large number of reports at issue, Cox Radio estimates that it could take a full-time station employee as much as two weeks to scan each page of the extensive issues/programs lists and annual EEO public inspection file reports for the prior license renewal terms and upload them to the online public inspection files. This staff time, Cox Radio argues, is better used to allow Cox Radio staff to devote its time to better serving the public interest.

The Commission granted similar relief to television stations in an analogous position prior to their transition to the online public inspection file. In 2013, the Commission granted KTBS, LLC, the licensee of KTBS-TV, and other similarly situated stations with pending license renewal applications a waiver from uploading the issues/programs lists from the prior license renewal terms to complete the transition to the online public inspection file.⁹ In that decision, the Commission acknowledged the burden of uploading the volume of reports from prior license renewal terms and that maintaining the materials in the physical public inspection file at the main studio was a “reasonable alternative” to posting the issues/programs lists to the online public inspection file.¹⁰ The Commission extended the relief it provided to KTBS, LLC to other stations that had prior license renewal applications that were: “1) unopposed by any member of the public, and 2) deferred due to enforcement matters unrelated to the station’s obligation to air programming responsive to the needs and interests of its community or the recordkeeping related thereto.”¹¹

Granting this requested waiver will not cause harm to the public. Because the Stations are operated as part of an employment unit with other Cox radio stations in the market, the Commission has previously considered each of the EEO reports subject to the waiver request and deemed them sufficient in the context of its review of the renewal applications for the other stations. Moreover, no member of the public has filed an objection to the license renewal applications on any grounds, including the Station’s obligation to air programming responsive to the needs and interests of its community. The renewal applications are not being processed because of the FCC’s more than two decades long review of the NBCO Rule, a matter well beyond the control of Cox Radio or the Stations themselves.

Cox Radio has already uploaded all the public inspection file materials for the current license renewal term that are required to be uploaded to the Stations’ online

⁹ Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations (Waiver of Online Public Inspection File Requirements), *Memorandum Opinion and Order*, 28 FCC Rcd 446 (2013).

¹⁰ *Id.* at 449.

¹¹ *Id.*



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public inspection file.¹² Moreover, should the Commission grant the requested waiver, Cox Radio will maintain the prior pending renewal period issues/programs lists and annual EEO public file reports in its paper public inspection file and make them available for public inspection at the main studio until the Commission acts upon its pending license renewal applications.

CONCLUSION

For the foregoing reasons, Cox Radio respectfully requests the Commission grant the requested waiver, which will not result in any harm to the public.

Very truly yours,

By: 

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¹² The current license term for the Stations began on April 1, 2012.