



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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MEDIA BUREAU ACTION

“PERMIT-BUT-DISCLOSE” *EX PARTE* PROCEDURES ESTABLISHED FOR CEBRIDGE ACQUISITION, LLC d/b/a SUDDENLINK COMMUNICATIONS’ EMERGENCY RETRANSMISSION CONSENT COMPLAINT (CSR 7038-C) AS WELL AS FOR SINCLAIR BROADCAST GROUP, INC.’S EMERGENCY PETITION FOR DECLARATORY RULING AND FOR IMMEDIATE INJUNCTIVE RELIEF (CSR 7039-C)

On July 5, 2006, Cebridge Acquisition, LLC d/b/a Suddenlink Communications (“Suddenlink”) filed an Emergency Retransmission Consent Complaint (“Complaint”) pursuant to Sections 76.7 and 76.65 of the Commission’s rules.¹ Suddenlink’s Complaint alleges that Sinclair Broadcast Group, Inc. (“Sinclair”) violated its duty to negotiate retransmission consent in good faith for two Charleston, West Virginia television broadcast stations, WCHS-TV (ABC) and WVAH-TV (Fox) (the “Stations”). In addition, Suddenlink alleges that Sinclair has demanded that Suddenlink terminate retransmission of the Stations during a “sweeps” period in violation of Section 614(b)(9) of the Communications Act, Note 1 to Section 76.1601 of the Commission’s rules, and a ruling of the former Cable Services Bureau in *Time Warner Cable*.² By this Public Notice, we designate Suddenlink’s Complaint as CSR 7038-C.

On July 6, 2006, Sinclair filed an Emergency Petition for Declaratory Ruling and for Immediate Injunctive Relief (“Declaratory Ruling”) with the Commission arguing that Suddenlink has no authority to carry the signals of the Stations and requesting that the Commission order Suddenlink to immediately cease its carriage of those signals. On July 7, 2006, Suddenlink filed an Opposition to Sinclair’s Declaratory Ruling. By this Public Notice, we designate Sinclair’s Declaratory Ruling as CSR 7039-C.

On July 19, 2006, Suddenlink filed an Emergency Request for Designation as “Permit-But-Disclose” Proceeding, for *Ex Parte* Contacts, and Expedited Review (“Emergency *Ex Parte* Request”) requesting that the Commission designate Section 1.1206 “permit-but-disclose” *ex parte* status for its Complaint, rather than “restricted” *ex parte* status pursuant to Section 1.1208 of the Commission’s rules.³ Suddenlink asserts that this *ex parte* designation will allow informal discussions that will simplify and expedite a timely resolution of its Complaint. Also on July 19, 2006, Sinclair filed an Opposition to Suddenlink’s Emergency *Ex Parte* Request arguing that such request would permit adjudication of Suddenlink’s Complaint without affording Sinclair the right to file an opposition. Sinclair further asserts that grant of Suddenlink’s Emergency *Ex Parte* Request would permit *ex parte* contacts between the Commission and Suddenlink without affording a similar right to Sinclair.

¹ 47 C.F.R. §§ 76.7 & 76.65.

² See 47 U.S.C. § 534(b)(9); 47 C.F.R. § 76.1601, note; *Time Warner Cable*, 15 FCC Rcd 7882 (CSB 2000).

³ See 47 C.F.R. §§ 1.1206 & 1.1208.

Although a retransmission consent complaint pursuant to Section 76.65 is ordinarily treated as a “restricted” proceeding in which *ex parte* presentations are generally prohibited pursuant to Section 1.1208 of the Commission’s rules,⁴ the Commission, or its staff pursuant to delegated authority, under Section 1.1200(a), may adopt modified *ex parte* procedures in particular proceedings “where the public interest so requires.”⁵ Suddenlink’s Complaint and Sinclair’s Declaratory Ruling raise time sensitive policy issues as to the carriage of the Stations on Suddenlink’s system as well as Sinclair’s retransmission consent negotiation conduct. In view of the forgoing and in order to assure staff’s ability to discuss and obtain the information needed to resolve these issues expeditiously, as well as to reduce possible confusion and uncertainty as to the applicability of the *ex parte* rules to these two proceedings with obviously overlapping issues, adoption of modified *ex parte* procedures is appropriate.

We shall therefore treat both proceedings as “permit-but-disclose” for *ex parte* purposes and, like Sinclair’s Declaratory Ruling proceeding, subject both to the procedural requirements of Section 1.1206.⁶ We also hereby clarify any uncertainty that Sinclair may have regarding such modified procedures. The modified *ex parte* procedures permit both Suddenlink and Sinclair to make *ex parte* presentations regarding any issue arising under Suddenlink’s Complaint or Sinclair’s Declaratory Ruling. Moreover, the modified procedures adopted herein are not intended to resolve Suddenlink’s Complaint outside of the normal pleading cycle for retransmission consent complaints brought pursuant to Section 76.65 of the Commission’s rules.

Two copies of any written *ex parte* presentation made or, if oral, two copies of a written summary of such oral *ex parte* presentation, as well as a copy to the person or persons to whom the oral communication was made, must be filed in each of the proceedings with the Secretary.⁷ All filings should be clearly captioned as *ex parte* presentations and should reference the appropriate file number of each proceeding: Suddenlink (CSR 7038-C) and Sinclair (CSR 7039-C).

Copies of the Complaint and Declaratory Ruling and any subsequently filed documents in these matters are available for inspection in the Commission’s Reference Information Center:

445 12th Street, S.W.
Washington, D.C. 20554
(202) 418-7092

Alternate formats of this Public Notice (computer diskette, large print, audio recording, or Braille) are available to persons with disabilities by contacting the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-7365 (TTY).

⁴ 47 C.F.R. § 1.1208.

⁵ 47 C.F.R. § 1.1200(a).

⁶ 47 C.F.R. § 1.1206. Declaratory ruling proceedings, like that filed by Sinclair, are treated as “permit-but-disclose” proceedings pursuant to Section 1.1206. *Id.* § 1.1206(a)(3).

⁷ 47 C.F.R. § 1.1206(b)(1) & (2).

For further information, contact Steven Broeckaert of the Media Bureau, (202) 418-1075. Press inquiries should be directed to Rebecca Fisher of the Media Bureau, (202) 418-2359. TTY: (202) 418-7172 or (888) 835-5322.

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