



PUBLIC NOTICE

Federal Communications Commission
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FCC'S OFFICE OF GENERAL COUNSEL REMINDS LITIGANTS OF REQUIREMENTS TO INVOKE THE JUDICIAL LOTTERY PROCEDURE

A Commission rule, 47 C.F.R. § 1.13 (2006), specifies the requirements that a person filing a petition for review of a Commission order must satisfy to invoke the so-called judicial "lottery" procedure of 28 U.S.C. § 2112(a). Under certain circumstances, that statute establishes a system of random selection – a lottery – to determine which court will review a Commission order when petitions for review of that order are filed in at least two federal circuit courts of appeals. To assist persons seeking to invoke the judicial lottery procedure, this Public Notice outlines the requirements of Rule 1.13, which are necessary to enable the Commission to fulfill its statutory obligations to notify the Judicial Panel on Multidistrict Litigation of multiple petitions for review and to file the record of the case in the proper court.

Under Rule 1.13, a petitioner seeking to invoke the judicial lottery procedure must complete two requirements within ten days after issuance of the FCC order (*see* 47 C.F.R. §§ 1.13 (a)(2), 1.4(b)) (specifying rules for computation of time and determining the date of issuance). Failure to timely complete these requirements will prevent a petition for review from qualifying for a judicial lottery. The two requirements are:

1. **File a petition for review in a proper federal circuit court of appeals and obtain a date-stamped copy of the petition from the court, bearing the case number assigned by the court, if available.**
2. **Deliver a paper copy of your petition for review – bearing the date stamp of the circuit court of appeals and case number, if available – to the FCC's Office of General Counsel, 8th Floor, 445 12th Street, SW, Washington, D.C., within the required ten-day period.**

This Public Notice also offers the following guidance to litigants to avoid problems and to make the process go as smoothly as possible:

- Litigants are urged to contact the Office of General Counsel at 202-418-1700 in advance to notify OGC personnel that you intend to invoke the lottery procedure and to make arrangements to deliver your petition for review to the Office of General Counsel.
- Note: Access to the FCC Headquarters building is limited. Persons who are not government employees or contractors must obtain a visitor's pass from the guard desk at the 12th Street entrance, before proceeding to the Office of General Counsel on the 8th floor of the building. Again, calling the Office of General Counsel in advance can facilitate this process.
- A petition for review must be delivered to the Office of General Counsel no later than 5:30 p.m., Eastern Time, on the tenth day of the filing period.
- A stamp indicating the time and date received by the Office of General Counsel will constitute proof of filing. The best practice is to obtain this OGC time/date stamp, to avoid any question whether your petition for review was timely filed.
- Unlike most pleadings filed with the Commission, the petition for review in these limited circumstances must be delivered to the Office of General Counsel on the 8th Floor of the FCC Headquarters building. Litigants are strongly urged to hand deliver your petition for review to the Office of General Counsel – hand delivery is the preferred method and will ensure that you receive an OGC time/date stamp as proof of timely filing. Should you attempt to submit your petition for review by some other means or to some other location (for example, the Commission's Office of the Secretary, the window in the 12th Street lobby of the FCC headquarters building, or one of the Commission's off-site mail intake facilities), you run the risk that your petition will not be received by the Office of General Counsel in time to be eligible for a judicial lottery. The petition must be received by the Office of General Counsel by the deadline.

For further information contact Richard K. Welch, Acting Deputy Associate General Counsel, Litigation Division, Office of General Counsel, at 202-418-7225.