



PUBLIC NOTICE

Federal Communications Commission
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DA 09-2396

Released: November 6, 2009

MEDIA BUREAU ACTION

ESTABLISHMENT OF “PERMIT-BUT-DISCLOSE” *EX PARTE* PROCEDURES FOR MEDIACOM COMMUNICATIONS CORPORATION’S RETRANSMISSION CONSENT COMPLAINT AND PETITION FOR AN EMERGENCY ORDER GRANTING INTERIM CARRIAGE RIGHTS

(CSR-8233-C and CSR-8234-M)

On October 22, 2009, Mediacom Communications Corporation (“Mediacom”) filed a Retransmission Consent Complaint (“Complaint”) and a Petition for an Emergency Order Granting Interim Carriage Rights (“Petition for Interim Carriage”). On the same date, Mediacom filed an Emergency Request for Designation as “Permit-But-Disclose” Proceeding in connection with its Complaint and the associated Petition for Interim Carriage. On November 3, 2009, Sinclair Broadcast Group, Inc. (“Sinclair”) filed an Opposition to Emergency Request for Designation as “Permit-But-Disclose” Proceeding and for Ex Parte Contacts (“Opposition”). In its Opposition, Sinclair argues that the change in *ex parte* status will “bog down” the proceeding and that “an open discourse with all parties present, rather than a series of one-sided presentations, is the best way to insure that the Commission understands the issues.”¹ On November 5, 2009, Mediacom filed a Reply to the Opposition arguing that Sinclair’s reasons for maintaining “restricted” *ex parte* status are not persuasive.

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,² 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.”³ Mediacom’s Complaint and its Petition for Interim Carriage raise time sensitive policy issues as to the carriage of the affected stations on Mediacom’s systems. In this regard, the Commission changed the *ex parte* status of a strikingly similar dispute between the same parties in 2006 to “permit-but-disclose.”⁴ Contrary to Sinclair’s assertion, we do not believe such action “bogged down”

¹ Sinclair Opposition at 2-3.

² 47 C.F.R. § 1.1208.

³ 47 C.F.R. § 1.1200(a).

⁴ See Public Notice, DA 06-2274 (Nov. 8, 2006).

that proceeding. Moreover, the change in *ex parte* status to “permit-but-disclose” in no way prevents either party from requesting a meeting between Commission staff members and all parties, nor does it prevent the Commission from scheduling such a meeting of its own accord. In fact, Commission staff has already scheduled a status conference to be attended by both parties. In view of this and in order to assure the staff’s ability to discuss and obtain the information needed to resolve these issues expeditiously, adoption of modified *ex parte* procedures is appropriate. We shall therefore treat Mediacom’s Complaint and its Petition for Interim Carriage as “permit-but-disclose” for *ex parte* purposes subject to the procedural requirements of Section 1.1206.⁵ The modified *ex parte* procedures permit both Mediacom and Sinclair to make *ex parte* presentations regarding any issue arising under Mediacom’s Complaint or Petition for Interim Carriage.

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.⁶ All filings should be clearly captioned as *ex parte* presentations and should reference the appropriate file number of Mediacom’s proceeding (CSR-8233-C for the Complaint, and CSR-8234-M for the Petition for Interim Carriage).

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

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For further information, contact Diana Sokolow of the Media Bureau, (202) 418-0588. Press inquiries should be directed to David Fiske, (202) 418-0513.

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⁵ 47 C.F.R. § 1.1206.

⁶ 47 C.F.R. § 1.1206(b)(1)&(2).