



PUBLIC NOTICE

Federal Communications Commission
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DA No. 23-687

Released: August 11, 2023

97.5 LICENSEE TX, LLC SEEKS FOREIGN OWNERSHIP RULING PURSUANT TO SECTION 310(b)(4) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

PLEADING CYCLE ESTABLISHED

MB Docket No. 23-275

Comment Date: September 11, 2023

Reply Date: September 26, 2023

97.5 Licensee TX, LLC (97.5 Licensee)¹ filed a petition for declaratory ruling requesting that the Federal Communications Commission (Commission) find, pursuant to section 310(b)(4) of the Communications Act of 1934, as amended, (Act)² and section 1.5000(a)(1) of the Commission's rules,³ that it would serve the public interest to allow 97.5 Licensee to accept foreign investment in excess of the 25% benchmarks set forth in section 310(b)(4).⁴ Specifically, 97.5 Licensee seeks a Commission ruling to (1) permit 100% aggregate foreign investment (voting and equity) in the company, and (2) specifically approve⁵ Lorena Margarita Perez Toscano, a citizen of Mexico, to hold 100% of the equity and voting interests in the licensee's controlling U.S. parent.⁶

¹ Petition for Declaratory Ruling of 97.5 Licensee TX, LLC, Application File No. 0000216454 (filed June 9, 2023) (Petition). The Petition was filed in conjunction with the application submitted by 97.5 Licensee TX, LLC seeking Commission consent to the transfer of control of the limited liability company, the licensee of KBNA-FM, El Paso, TX (Facility ID No. 67066), KAMA(AM), El Paso, TX (Facility ID No. 36948), and KQBU(AM), El Paso, TX (Facility ID No. 67065). See Application of 97.5 Licensee TX, LLC for Consent to Transfer Control, Application File No. 0000216454 (filed June 9, 2023).

² 47 U.S.C. § 310(b)(4); *Review of Foreign Ownership Policies for Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272 (2016) (*2016 Foreign Ownership R&O*).

³ 47 CFR § 1.5000(a)(1); *2016 Foreign Ownership R&O*, 31 FCC Rcd 11272.

⁴ 47 U.S.C. § 310(b)(4) (“No broadcast station or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by . . . any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.”).

⁵ Under section 1.5001(i)(1) of the Commission's rules, petitioners for a declaratory ruling are required to identify and seek specific approval for any foreign individual, entity, or group that holds or would hold, directly and/or indirectly, more than 5% of equity and/or voting interests, or a controlling interest, in the petitioner's controlling U.S. parent, subject to certain exemptions, including an exemption that increases the specific approval threshold to 10% for certain institutional investors. 47 CFR § 1.5001(i)(1).

⁶ Petition at 1.

97.5 Licensee seeks this declaratory ruling in connection with the proposed transfer of control of stations KBNA-FM, El Paso, TX (Facility ID No. 67066), KAMA(AM), El Paso, TX (Facility ID No. 36948), and KQBU(AM), El Paso, TX (Facility ID No. 67065), licensed to 97.5 Licensee. As detailed in the Petition and the related application for transfer of control, presently 97.5 Licensee (a U.S. limited liability company registered in Texas) is wholly owned by 97.5 Holdings Inc. (a U.S. corporation registered in Texas), which in turn is wholly owned (100% voting and 100% equity) by Luz Maria Rygaard, a U.S. citizen. As a result of the proposed transfer of control, ownership of 100% of the voting and 100% of the equity interest of 97.5 Holdings Inc. would be transferred to Lorena Margarita Perez Toscano, a Mexican citizen.⁷

As the proposed transfer of control would result in the ownership of 97.5 Holdings Inc. changing from 100% U.S. owned to 100% foreign owned, the Petition seeks a declaratory ruling to increase 97.5 Holdings Inc.'s aggregate foreign ownership interests from a combined pre-transfer interest of 0.0% equity and 0.0% voting, to a post-transfer aggregate foreign ownership interest of 100%, equity and voting.⁸ In addition, the Petition seeks specific approval⁹ for Lorena Margarita Perez Toscano, a Mexican citizen, to hold a 100% direct equity and voting interest in 97.5 Holdings Inc., the licensee's controlling U.S. parent.¹⁰

97.5 Licensee asserts that grant of the Petition will serve the public interest as it would further the Commission's stated goals of encouraging foreign investment in U.S. broadcast stations and the continuation of operations of such stations.¹¹ Further, 97.5 Licensee asserts that it "is, and will remain, a minority-owned broadcaster of Spanish-language radio programming to the Latino community in the El Paso, Texas region."¹² The Petition also asserts that the transferee's capital contributions and broadcast experience will enable the licensee to continue its operations and enhance its provision of locally produced, Spanish-language programming.¹³ Accordingly, the parties submit that grant of the Petition would serve the public interest.

Pursuant to Commission practice, the Petition will be referred to relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of 97.5 Licensee.¹⁴

⁷ *Id.* at 1-5.

⁸ 47 CFR §§ 1.5000(a)(1), 1.5001(h)(1).

⁹ 47 CFR § 1.5001(i).

¹⁰ *See supra* note 5.

¹¹ Petition at 5-6.

¹² *Id.* at 6.

¹³ *Id.*

¹⁴ *See Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927 (2020). *See also Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997) (*Foreign Participation Order*), recon. denied, 15 FCC Rcd 18158 (2000).

EX PARTE STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,¹⁵ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.¹⁶

Parties making oral *ex parte* presentations are directed to the Commission's *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.¹⁷ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁸ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.¹⁹

GENERAL INFORMATION

The petition for declaratory ruling referred to in this Public Notice has been accepted for filing upon initial review. The Commission reserves the right to return any filing if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Interested persons must file comments no later than **September 11, 2023**. Replies must be filed no later than **September 26, 2023**.

To allow the Commission to fully consider all substantive issues regarding the Petition in as timely and efficient a manner as possible, commenters should raise all issues in their initial filings. A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously.²⁰ Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

All filings concerning matters referenced in this Public Notice should refer to MB Docket No. 23-275, as well as the specific file number of any relevant individual application or other matters to which the filings pertain.

Submissions in this matter may be filed electronically (i.e., through ECFS) or by filing paper copies.

- *Electronic Filers*: Documents may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier or by first-class or overnight U.S.

¹⁵ 47 CFR § 1.1200(a).

¹⁶ 47 CFR § 1.1206.

¹⁷ See 47 CFR § 1.1206(b)(1).

¹⁸ See *id.*

¹⁹ 47 CFR § 1.1206(b).

²⁰ 47 CFR §§ 1.46(a), 73.3584(e).

Postal Service mail.²¹ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

One copy of each pleading must be delivered electronically, by e-mail, or if delivered as paper copy, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) Albert Shuldiner, Audio Division, Media Bureau, at albert.shuldiner@fcc.gov; (2) Christopher Clark, Audio Division, Media Bureau, at christopher.clark@fcc.gov; and (3) Brendan Holland, Audio Division, Media Bureau, at brendan.holland@fcc.gov. Any submission that is e-mailed to Albert Shuldiner, Christopher Clark, and Brendan Holland should include in the subject line of the e-mail: (1) MB Docket No. 23-275; (2) the name of the submitting party; and (3) a brief description or title identifying the type of document being submitted (e.g., MB Docket No. 23-275, [name of submitting party], Comments).

Copies of the Petition and any subsequently filed documents in this matter are available electronically through the Commission's Electronic Filing Comment System (ECFS), which may be accessed on the Commission's Internet website.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov; phone: (202) 418-0530.

For further information, contact Albert Shuldiner, Audio Division, Media Bureau, at (202) 418-2726. Press inquiries should be directed to Janice Wise, Media Bureau, (202) 418-8165 or (888) 835-5322.

This action is taken by the Chief, Media Bureau, pursuant to authority delegated by sections 0.61 and 0.283 of the Commission's rules.²²

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²¹ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, DA 20-304 (rel. Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

²² 47 CFR §§ 0.61 and 0.283.