

# Reform of the FCC's *Ex Parte* Rules

## Notice of Proposed Rulemaking



February 18, 2010

# Overall Goal: Increase openness, transparency, and fairness in Commission proceedings

- The *ex parte* process allows parties in most Commission proceedings to speak directly (or have written communications) with Commission staff and decision-makers
- The *ex parte* process leads to more informed decision-making, but disclosure of such communications is critical to ensure fairness to other parties and the public

# Summaries of Oral *Ex Parte* Presentations

- **Proposal:** Require the filing of an *ex parte* notice for every oral *ex parte* presentation (even if no new information or arguments are presented)
- **Proposal:** Require the filing of a notice that summarizes all data and arguments presented (although the filer may refer to prior written filings for data and arguments that the filer has presented before)
- **Rationale:** Parties and the public will know whenever an *ex parte* contact occurs and have access to a complete and accurate summary of the presentation, to facilitate any response

# Electronic Filing of *Ex Parte* Summaries

- **Proposal:** Codify a preference for electronic filing of all notices of *ex parte* presentations
- **Proposal:** Require electronic filing of notices of permitted *ex parte* presentations made during the Sunshine Period within four hours of the presentation
- **Rationale:** Paper filing of *ex parte* presentations causes delay and reduced accessibility, which is particularly problematic during the Sunshine Period; electronic filing allows ready access

# The Sunshine Prohibition and Exceptions

- During the “Sunshine Period” (typically seven days prior to an Open Commission Meeting), *ex parte* presentations generally are prohibited, subject to certain exceptions
- **Proposal:** Seek comment on whether current exceptions should be narrowed or modified to prevent abuse and promote fairness
- **Proposal:** Start Sunshine Period Prohibition at midnight after a Sunshine Notice has issued
- **Rationale:** Current exceptions may be abused and uncertainty exists as to when the Sunshine Period Prohibition begins each month

# Disclosure Statements

- **Proposal:** Seek comment on whether to require disclosure of ownership or other information in filings at the Commission
  - Seek comment on various disclosure models, including those used by federal courts
  - Seek comment on the extent to which ownership information already available to the FCC can be used
- **Rationale:** Commission personnel and interested persons can better evaluate proposals and positions taken when they understand a party's interest in the proceeding

# Other Issues

- Seek comment on sanctions and enforcement concerning violations of the *ex parte* rules
- Seek comment on how the *ex parte* rules should work with new media
- Other minor changes to the rules

